

MIDDLETOWN AREA SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: INSPECTION AND COPYING
OF PUBLIC RECORDS

ADOPTED: October 14, 1991

REVISED: January 25, 2010

801. INSPECTION AND COPYING OF PUBLIC RECORDS	
<p>1. Purpose 65 P.S. Sec. 67.101 et seq</p>	<p>The purpose of this policy is to establish procedures to ensure the district complies with the requirements of the Right-to-Know Law, 65 P.S. §67.101 et seq., which allows legal residents of the United States to inspect and obtain copies of public records. The Superintendent or designee is granted authority to develop administrative regulations to comply with the requirements of this policy.</p>
<p>2. Definitions</p>	<p>For purposes of this policy, the terms set forth below shall have the following meanings.</p>
<p>65 P.S. Sec. 67.102</p>	<p>Business day - shall mean a calendar day in which the administrative office of the district is open for business and does not include any school day where the administrative offices are closed due to inclement weather, holidays or emergencies.</p>
<p>65 P.S. Sec. 67.102</p>	<p>Financial record - shall mean any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee of the district, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.</p>
<p>65 P.S. Sec. 67.102</p>	<p>Public record - shall mean a record, including a financial record, of the district that: (i) is not exempt from disclosure under Pennsylvania's Right-to-Know Law; (ii) is not exempt from being disclosed under any other federal or state law, regulation, judicial order or decree; and (iii) is not protected by a privilege.</p>
<p>65 P.S. Sec. 67.102</p>	<p>Record - shall mean information, regardless of physical form or characteristics, that documents a transaction or activity of the school district and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the district. The term record includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.</p>

<p>65 P.S. Sec. 67.102</p>	<p>Requester - shall mean any person who is a legal resident of the United States, or an agency, that requests access to a record pursuant to the Right-to-Know Law.</p>
<p>65 P.S. Sec. 67.102</p>	<p>Response - shall mean granting access to a record or written notice from the district granting, denying or partially granting and partially denying access to a record.</p>
<p>3. Delegation of Responsibility 65 P.S. Sec. 67.502</p>	<p><u>Open Records Officer</u></p> <p>The Board shall designate an Open Records Officer. Until changed by a Board resolution, the Open Records Officer shall be the Business Manager.</p>
<p>65 P.S. Sec. 67.502</p>	<p>The Open Records Officer shall be responsible for the following duties in order to implement the requirements of this policy:</p> <ol style="list-style-type: none"> 1. Receive, review and respond to all written requests for access to records submitted to the district. 2. If appropriate, direct request to other persons within the district or in another agency for a response. 3. Track the district’s progress in responding to requests for access to records. 4. Issue interim and final responses to submitted requests. 5. Maintain a log of all record requests and the district’s response. 6. Ensure appropriate school district staff are trained to perform assigned job functions relative to requests for access to records.
<p>65 P.S. Sec. 67.502, 67.901, 67.1101</p>	<p>After receiving a written request for access to a public record, the Open Records Officer shall take the following steps in order to track the ongoing status of and final disposition of the district’s response:</p> <ol style="list-style-type: none"> 1. Note the date on which the written request was received by the district. 2. Compute the day on which the five (5) business day period for the district’s response will expire and make a notation of that date on the written request. 3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, at least until the request has been fulfilled.

<p>4. Guidelines</p> <p>65 P.S. Sec. 67.504, 67.505, 67.702, 67.703</p> <p>65 P.S. Sec. 67.505, 67.702, 67.703</p> <p>65 P.S. Sec. 67.702</p> <p>65 P.S. Sec. 67.703</p> <p>65 P.S. Sec. 67.703</p> <p>65 P.S. Sec. 67.506</p> <p>42 U.S.C. Sec. 12132 28 CFR Sec. 35.160, 35.164</p>	<p>4. If the written request is denied, in full or in part, maintain the written request for at least thirty (30) days or, if an appeal is filed to challenge the denial, until a final appellate determination is made.</p> <p><u>Requests For Access To Public Records</u></p> <p>Any requester seeking access to or duplication of a public record must submit a written request addressed to the Open Records Officer. All district employees are directed to forward written requests for access to public records received by them to the Open Records Officer.</p> <p>A requester must complete the Right-to-Know Request Form created by either the district or the Pennsylvania Office of Open Records when submitting a written request. Copies of the district form may be obtained by request or on the district's official web site. The written request must identify or describe the public record sought with sufficient specificity to allow the Open Records Officer to determine which record is being requested, the medium in which the record is requested, and the name and address to which the district should send its response.</p> <p>The district may, in its sole discretion, honor verbal requests or written requests not made on a Right-to-Know Request Form in cases where access can be granted immediately or granting such request serves the convenience of the district. However, such requests shall not be considered an official request requiring a district response under this policy.</p> <p>Any requester may submit a written request to the Open Records Officer on a prescribed Right-to-Know Form in person, by regular mail, by facsimile or by e-mail as set forth in the attachment to this policy.</p> <p>The Open Records Officer may not require a requester to explain the reason for the request or the intended use of the record being requested.</p> <p>The district reserves the right to deny a requester access to a public record if the requester has made repeated requests for the same record and the repeated requests are unreasonably burdensome on the district.</p> <p>When in receipt of sufficient advance notice, the district shall cooperate with requesters with disabilities to make public records available in an appropriate format.</p>
---	--

<p>65 P.S. Sec. 67.506</p>	<p><u>Requests For District Records In The Possession Of Another Party</u></p> <p>A record that is not in the possession of the district, but is in the possession of a party which the district has retained to perform a governmental function on behalf of the district, is a public record of the district when the record directly relates to the district governmental function and is not otherwise exempt from public disclosure.</p> <p>A written request for a public record in possession of a party other than the district shall be submitted to the Open Records Officer. The Open Records Officer shall process the request for such a record in the same manner as other record requests.</p>
<p>65 P.S. Sec. 67.1307</p>	<p>The Open Records Officer may assess a duplication fee to make the public record available to the requester, if the district or the party possessing the record duplicated the record in order to make it accessible for public inspection.</p>
<p>65 P.S. Sec. 67.706, 67.901</p>	<p><u>School District Response To Written Request</u></p> <p>The Open Records Officer will respond to a written request within five (5) business days after its receipt. During that period, the Open Records Officer will make a good faith effort to locate the requested record, determine if it constitutes a public record, redact any confidential portions to allow for disclosure, and prepare an appropriate response.</p> <p>The district response may take any of the following forms:</p>
<p>65 P.S. Sec. 67.701</p>	<p>1. A decision that the requested record is a public record and allowing the requester to inspect and obtain a copy of the public record, in whole or in part. If the requested record is on the district's official web site, the response should also explain how to access the information. Alternatively, the requested record may be provided with the response.</p>
<p>65 P.S. Sec. 67.901, 67.903</p>	<p>2. A partial or total written denial explaining why the requested record, or a portion of the requested record, is not a public record</p>
<p>65 P.S. Sec. 67.705</p>	<p>3. A written decision explaining the requested record does not exist.</p>
<p>65 P.S. Sec. 67.901, 67.902</p>	<p>4. A written notice explaining the request is under review and a final determination can be expected within thirty (30) calendar days from the date of the notice.</p>

<p>65 P.S. Sec. 67.903</p>	<p>A denial of a request shall be in writing and shall set forth the following information:</p> <ol style="list-style-type: none">1. A description of the record requested.2. The specific reason for the denial, including a citation of supporting legal authority.3. The name, title, address, telephone number and signature of the Open Records Officer on whose authority the denial is issued.4. The date of the response.5. An explanation of the procedure to appeal the denial.
<p>65 P.S. Sec. 67.902</p>	<p>A written notice explaining a request is under review shall set forth the reasons for the review and list a date when a final response can be expected; the listed date shall be within thirty (30) calendar days from the date of the written review notice. The district may advise that a request is under review if any of the following applies:</p> <ol style="list-style-type: none">1. The requested record requires redaction.2. The request requires the district to retrieve records that are stored in a remote location.3. The district cannot timely respond due to bona fide and specified staffing limitations.4. A legal review is necessary to determine if the record is a public record.5. The requester has not complied with district policies regarding access to records.6. The requester has failed to pay applicable fees.7. The extent or nature of the request precludes a response within the required time period.
<p>65 P.S. Sec. 67.902</p>	<p>The Open Records Officer shall render a final determination regarding a written request within thirty (30) days from the date of written notice explaining a request is under review.</p>

<p>65 P.S. Sec. 67.902</p>	<p>If the Open Records Officer does not provide the requester with a written response within the applicable time periods (whether it be the initial five (5) day period or the thirty (30) day review period), the written request is deemed denied and the requester may file an appeal within fifteen (15) business days of the expiration of the applicable time period, as provided under Filing Of Appeals in this policy.</p> <p>In addition, if the district produces a record that is not a public record in response to a written request, the Open Records Officer shall notify the third party that provided that record to the district, the person that is the subject of the record and the requester.</p> <p>In the event a requested record contains a third party's trade secret or confidential proprietary information and the interested third party filed the written statement required by the administrative regulations, the Open Records Officer shall notify the third party of the request and will follow the other procedures in the administrative regulations for processing requests for third party secret or confidential proprietary information in responding to the written request.</p> <p>The Open Records Officer may consult with legal counsel before responding to a Right-to-Know Law request.</p> <p><u>Redacting Records To Allow For Public Access</u></p>
<p>65 P.S. Sec. 67.706</p>	<p>If a requester seeks access to a record which contains both public and confidential information, the district shall grant access to the public information contained in that record and redact the confidential information that need not be disclosed under the Right-to-Know Law, if it is possible to redact the confidential information. The district may provide public information contained in a redacted record in a format of its choice that will allow for timely disclosure of public information while simultaneously protecting against the release of confidential information. If the confidential information is a critical part of the record and cannot be separated, the district shall deny access to the entire record requested.</p> <p>A person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee numbers and other confidential personal identification numbers; the name of a person's spouse or a person's marital status, a person's beneficiary or dependent information; the home address of a law enforcement officer and judges are generally not subject to public disclosure. The district will redact this information from a record that would otherwise be considered a public record.</p>

<p>65 P.S. Sec. 67.706, 67.903</p> <p>65 P.S. Sec. 67.704</p> <p>65 P.S. Sec. 67.704</p>	<p>Nothing in this section shall prohibit the district from releasing the name, position, salary, actual compensation or other payments made to a district employee or School Board member. Nothing in this section shall prohibit the district from disclosing any employment-related contracts, or the length of service of a School Board member or district employee.</p> <p>The Open Records Officer shall consult the district’s administrative regulations under this policy when deciding what information may be redacted from a public record.</p> <p>If the district redacts information from any record, this redaction constitutes a partial denial of the record request, and the Open Records Officer will provide the requester with a written response regarding the partial denial, as provided under School District Response To Written Request in this policy.</p> <p><u>Electronic Access To Public Records</u></p> <p>The district may make public records available through its official web site. When a request is made for a public record already available through the district’s web site, the Open Records Officer may respond by directing the requester to the web site. If the requester is unwilling or unable to access the district web site, the requester may within thirty (30) days of the district’s response submit a written request to have the record converted to paper. If such a request is made, the district shall provide access to the public record in printed form within five (5) days of the written request.</p> <p>The district will permit electronic access to a public record if the requester requests electronic access and the record exists in electronic form. The district is not required to permit the use of its computers for purposes of electronic access.</p> <p>If a requester makes a written request to access a public record in electronic form, and the public record exists in that medium, the district will provide access in one of the following formats:</p> <ol style="list-style-type: none"> 1. If requested, on a computer disk containing the record. 2. In an e-mail containing an attachment or link to the record. 3. In a redacted copy of an electronically-stored record, if confidential information must be redacted from that record to permit access to the public information contained in the record.
--	--

<p>65 P.S. Sec. 67.701, 67.705</p>	<p><u>Inspection Of Public Records</u></p> <p>After determining that the record requested is a public record, the district will allow inspection and duplication. The district will provide access in the medium requested if the record exists in that medium. The district need not create documents, but will provide access to public records in their existing formats. The district shall not charge a fee if a requester only seeks to inspect a public record, except where conversion from electronic to paper form is required.</p> <p>The inspection of a public record by a requester shall take place at the district administrative offices during regular business hours, unless the district designates an alternative location in advance.</p> <p>No public record shall be removed from the control or supervision of the district, with the exception of copies the district makes and delivers to a requester under the terms of this policy. In order to preserve the integrity of its public records and school facilities, the district will take reasonable steps to ensure that a requester does not alter, deface or otherwise damage public records or school facilities. Such reasonable steps may include, but are not limited to: the prohibition of eating and drinking when inspecting public records; monitoring of a requester who is inspecting public records; and immediate termination of public records inspection if the district reasonably believes the requester's conduct would result in damage to its public records or school facilities.</p> <p>A requester will comply with all district rules and procedures applicable to the public when present at school facilities. The district may ask a requester to immediately leave its school facilities if the requester engages in conduct which materially disrupts the operations of the district, accesses or attempts to access unauthorized areas of a school facility or the records system, or threatens, harasses or intimidates district staff or students.</p> <p><u>Duplication And Fees</u></p> <p>If requested, a public record will be duplicated for the requester.</p> <p>Generally, a requester seeking a duplicate of a public record is required to appear in person to do so. If the district decides it is appropriate, it may mail or otherwise deliver duplicates of public records to a requester.</p> <p>The district will charge fees consistent with the maximum charges established by any duly-promulgated regulations of the Pennsylvania Office of Open Records. The district will attach to this policy a schedule of fees, which may be revised from time to time.</p>
--	---

<p>65 P.S. Sec. 67.1101</p>	<p>If the Open Records Officer makes copies of a public record in response to a written request, and the requester fails to pick up the copies within sixty (60) days of the district notifying the requester that the copies are available, the copies may be discarded and the district may retain the fees already paid by requester.</p> <p><u>Filing Of Appeals</u></p> <p>If a requester wishes to challenge the written denial or deemed denial of a written request for a public record, the requester must file an appeal with the Pennsylvania Office of Open Records within fifteen (15) business days from the mailing date of the written denial or deemed denial. The appeal shall:</p> <ol style="list-style-type: none">1. Be in writing.2. State the reasons why the requester believes the requested record.3. Address the district's stated reasons for delaying or denying the request. <p><u>Posting Of Policy</u></p> <p>The district shall post the following information in its administrative offices in an area accessible to the public and on its official web site:</p> <ol style="list-style-type: none">1. Contact information for the district's Open Records Officers.2. Contact information for the Pennsylvania Office of Open Records.3. A copy of the district form that may be used to file a request.4. A copy of this policy, with appendices, and the administrative regulations.
---------------------------------	---

References:

School Code – 24 P.S. Sec. 408, 518

Right-To-Know Law – 65 P.S. Sec. 67.101 et seq.

Americans With Disabilities Act – 42 U.S.C. Sec. 12101 et seq.

Accessibility to Communications, Title 28, Code of Federal Regulations – 28 CFR
Sec. 35.160, 35.164

Board Policy – 800