# PHILADELPHIA ELECTRICAL AND TECHNOLOGY CHARTER HIGH SCHOOL

Section:

Title: Open Records Policy

Adopted:

Revised:

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| | **I. Purpose:** |
| *Pennsylvania State Univ. v. State Employees' Retirement Bd.*, 935 A.2d 530 (Pa. 2007) | The Board recognizes that the public has a right to know how the agencies within the Commonwealth uses their money. Therefore, the public has the right to access and procure copies of those school records which are public records, with certain exceptions, subject to law, Board policy and administrative regulations. Local agencies, such as the school, are permitted and required to set policy governing that access. |
| 65 P.S. § 67.102 | **II. Definitions:**<br><br>**Record** - information, regardless of physical form or characteristics, that both:<br>1) documents a school transaction or activity; and<br>2) is created, received or retained either:<br>a) pursuant to law; or<br>b) in connection with a school transaction, business or activity.<br><br>A record will include: 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.<br><br>**Financial record** - 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, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.<br><br>**Public record** - a record, including a financial record, that is not protected by a recognized privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order. |
| 65 P.S. § 67.305 | A record falling under this definition which is in the possession of the school shall be presumed to be a public record. |

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| | **Response** - the school's notice informing a requester of a granting of access to a record or the school's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.<br><br>**Requester** - a legal resident of the United States, or an agency, who requests access to a record.<br><br>**III. Authority:** |
| 65 P.S. § 67.504 | The Board shall make the school's public records available for access and duplication to a requester, in accordance with law, Board policy and administrative regulations.<br><br>**IV. Delegation of Responsibility:** |
| 65 P.S. § 67.502 | The Board shall designate an Open Records Officer. That individual shall be responsible for various tasks, including:<br><br>1. Receive, review and respond to requests submitted to the school in accordance with law, Board policy and administrative regulations.<br><br>2. School requests to other appropriate individuals in the school or in another agency.<br><br>3. Track the school's progress in responding to requests.<br><br>4. Issue interim and final responses to submitted requests.<br><br>5. Maintain a log of all record requests and their disposition.<br><br>6. Ensure school staff are trained to perform assigned job functions relative to requests for access to records.<br><br>7. Maintain a list of non-school entities performing governmental functions on behalf of the school. |
| 65 P.S. § 67.901 | Upon receiving a request for access to a record, the Open Records Officer shall:<br><br>1. Note on the written request both:<br><br>a. the date of the Open Records Officer's receipt of the request, and |

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| | b. the date five business-days later, at which point the time to respond to the request expires |
| 65 P.S. § 67.502 | 2. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled. |
| 65 P.S. § 67.502 | 3. If the written request is denied, maintain the written request for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied. |
| | **V. Guidelines:** |
| 65 P.S. § 67.701 | Requesters may only access and procure copies of the public records of the school during the regular office hours of the school's business office. |
| | A requester's right of access does not include the right to remove a record from the control or supervision of the Open Records Officer. |
| 65 P.S. § 67.506(a)(1) | The school shall not limit the number of records requested but may deny a request where a requester has made multiple requests for the same records. |
| 65 P.S. § 67.705 | When responding to a request for access, the school is not required to create a record that does not exist nor to compile, maintain, format or organize a record in a manner which the school does not currently use. |
| 65 P.S. § 67.504(b) | The school shall post at the administration office and on the school's web site, if the school maintains a web site, the following information:<br>1. Contact information for the Open Records Officer.<br>2. Contact information for the state's Office of Open Records or other applicable appeals officer.<br>3. The form to be used to file a request, with a notation that the state Office of Open Records form may also be used if the school decides to create its own form.<br>4. Board policy, administrative regulations and procedures governing requests for access to the school's public records. |
| | Request For Access |
| 65 P.S. § 67.703 | A written request for access to a public record must be submitted on |

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| | either the school's or the Pennsylvania Office of Open Records' form, physically signed by the requester and addressed to the Open Records Officer.<br><br>Written requests may be submitted to the Open Records Officer in person, by mail, or to either the Open Records Officer's designated facsimile machine, or designated e-mail address.<br><br>Requests received in the school by some other school employee or through a facsimile machines or e-mail address other than designated will be forwarded without unnecessary delay to the Open Records Officer. Such forwarded requests will not be deemed received until they are actually received by the Opens Records Officer during normal business hours.<br><br>Each request must include the following information:<br><br>1. Identification or description of the requested record, in sufficient detail that the identity of the specific individual records may be determined.<br><br>2. Medium in which the record is requested.<br><br>3. Name and address of the individual to receive the school's response. The school may request, but shall not require, an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law. The school may also require that the requester retrieve duplicated documents at the school's business office.<br><br>The School shall not accept any oral or anonymous requests for access or records.<br><br>Appropriate accommodations shall be made available for individuals with disabilities, upon request and with sufficient advance notice.<br><br>Fees |
| 65 P.S. § 67.1307 | The Board shall approve and the school shall keep current a list of reasonable fees relative to requests for public records. Such fees shall be for certification of records and for costs necessarily incurred in complying with the request, including but not limited to redaction.<br><br>Duplication fees shall be set in accordance with the directive of the Pennsylvania Office of Open Records. Further, all fees charged by the School shall be reviewed biannually by the Pennsylvania Office of Open |

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| | Records.<br><br>No fee may be imposed for review of a record to determine whether it is a public or financial record subject to access under the Open Records law.<br><br>For every request where the various fees are expected to exceed $100, the requestor shall pre-pay the expected fees in advance of any steps to gather or duplicate the requested records.<br><br>The Superintendent may waive duplication fees when the requester duplicates the record or the Superintendent deems it is in the public interest to do so.<br><br><u>Response To Request</u> |
| 65 P.S. § 67.703 | School employees shall be directed to forward requests for access to public records to the Open Records Officer. |
| 65 P.S. § 67.901 | Upon receipt of a written request for access to a record during regular business hours, the Open Records Officer shall determine if the requested record is a public record and if the school has possession, custody or control of that record. |
| 65 P.S. § 67.901 | The Open Records Officer shall evaluate the request and the records necessary to fulfill the request to determine if the specified records are open records and whether they are – in whole or in part – privileged, protected by any statute, regulation, order or decree, or qualify for any of the exceptions within the Pennsylvania Right-to-Know law. |
| 65 P.S. § 67.506(d) | In those instances where the Open Records Officer receives a request for an allegedly public record relating to a school governmental function performed by a third party and where the allegedly public record is held by the third party, the Open Records Officer shall attempt to ascertain whether the record – in whole or in part – is a public record prior to incurring costs related to the request. |
| 65 P.S. § 67.901 | The Open Records Officer shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer. |
| 65 P.S. § 67.102,<br>65 P.S. § 67.901,<br>65 P.S. § 67.902 | The initial response shall grant access to the requested record, deny access to the requested record, partially grant and partially deny access to the requested record, or notify the requester of the need for an extension of time to fully respond. |

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| 65 P.S. § 67.901 | If the school fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied.<br><br>Extension Of Time |
| 65 P.S. § 67.902 | If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, written notice shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimate of applicable fees owed when the record becomes available. |
| 65 P.S. § 67.902(b)(2) | With only notice to but without permission of the requester, and for any one of the reasons listed below, the Open Records Officer may impose a cumulative total of up to a thirty (30) day extension for a final response from the school. Such notice must occur within the initial five (5) business days from receipt of the request by the Open Records Officer and shall both indicate the request is under review and set the new date the response will be due. Failure to respond by that newly set date for response will be deemed a denial.<br><br>Permitted reasons for which the Open Records Officer may impose an extension, as above, are limited to:<br><br>1. The request requires redaction of a record.<br>2. The request requires retrieval of a record stored in a remote location<br>3. A timely response is impossible due to real and specific staffing limitations<br>4. Legal review of the request is necessary to determine if any resulting documents will be public records subject to access<br>5. The requester has not complied with board policy governing access<br>6. The requester refuses to pay applicable established fees<br>7. The extent or nature of the request precludes a response within the required time period. |
| 65 P.S. § 67.902(b)(3) | A requester may also consent in writing to an extension that exceeds thirty (30) days. Where a requester has consented to a greater than thirty (30) day extension, the Open Records Officer may fulfill the request up to the agreed date. Failure to fulfill the request by that agreed date will be deemed a denial on the date immediately following.<br><br>Granting Of Request |

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| 65 P.S. § 67.1307<br>65 P.S. § 67.902 | If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the school's business office, provide electronic access, or state where the requester may go to inspect the records or information electronically at a publicly accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required and the amount of the required prepayment where access to the records will cost in excess of one hundred dollars ($100.00), and the medium in which the records will be provided. Where the requester owes the school fees for past requests, and such delinquent fees combined with the estimate of the fees to fulfill the current request exceed $100, such delinquent fees shall be added to any present request and shall be required to be prepaid prior to gathering documents to comply with the request. |
| 65 P.S. § 67.701 | A public record shall be provided to the requester in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, where a document is retained in electronic format, the school shall not permit use of its computers for access to the record.<br><br>The Open Records Officer may respond to a records request by notifying the requester that the record is available through publicly accessible electronic means or that the school shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the school's notice, submits a written request to have the record converted to paper, the school shall provide access in printed form within five (5) business days of receipt of the request for conversion to paper. |
| 65 P.S. § 67.506 | The school shall require that every party with whom the school contracts to perform a governmental function on behalf of the school to agree in writing to comply with requests for records relating to the performance of such governmental functions and to provide the school with any such requested record in a timely manner to allow the school to comply with law. |
| 65 P.S. § 67.706 | If the Open Records Officer determines that a public record contains information both subject to and not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to an entire record if the specific denied information is able to be redacted. |

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| 65 P.S. § 67.905 | The Open Records Officer may dispose of copies made for requester if the response notifies the requester of the availability of the copies but the copies remain at the school's business office for sixty (60) calendar days, thereafter. The school will retain any fees paid to date and will invoice the requester for any fees which have not been paid to date. No credit for payments previously made shall be applied to any further requests from requester.<br><br>Notification To Third Parties<br><br>It shall be the policy of the school not to provide records that are not public records, including records from third parties. |
| 65 P.S. § 67.707 | When the school produces a record that is not a public record in response to a request, the Open Records Officer shall notify any third party that provided the record to the school, the person that is the subject of the record, and the requester. The Open Records Officer shall notify a third party of a record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.<br><br>Denial Of Request |
| 65 P.S. § 67.903 | If the Open Records Officer denies a request for access to a record, whether in whole or in part, a written response shall be sent within the specified time for response. The response denying the request shall include the following:<br><br>1. Description of the record requested.<br><br>2. Specific reasons for denial, including a citation of supporting legal authority.<br><br>3. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is issued.<br><br>4. Date of the response.<br><br>5. Procedure for the requester to appeal a denial of access. |
| 65 P.S. § 67.706 | Information that is not subject to access and is redacted from a public record shall be deemed a denial. The above procedure required for "Denial of Request" shall be followed as it relates to the redacted information. |

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| 65 P.S. § 67.1101 | If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the state's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.<br><br>Reasons for Denial |
| 65 P.S. § 67.305<br>65 P.S. § 67.706 | The request or portion of the request, if that portion may be appropriately redacted, can be reasonably described as falling within the exceptions outlined in 65 P.S. § 67.708(b). |
| 65 P.S. § 67.506(b) | The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable. |
| 65 P.S. § 67.506(a)(1) | The Open Records Officer may deny a request for access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the school. |
| 65 P.S. § 67.902(a)(5) | Requester has failed to comply with school procedures governing requests for access. |
| 65 P.S. § 67.1302 | Any time the school files an appeal to the Court of Common Pleas of an Appeals Officer's opinion, the school's Open Records Officer shall withhold the release of any records pending the outcome of that appeal. |
| 65 P.S. § 67.708(b) | **Exemptions to the definition of Public Records**:<br>Public records, and the exceptions thereto, are defined by statute. To the extent any of the below exceptions are deemed to conflict with the statute governing such exceptions, the statute shall be controlling of the meaning to be applied. Additionally, all statutory exceptions to public records apply whether included or omitted from the below.<br><br>Categories of Exemptions:<br>• Security<br>• Privacy<br>• Investigations<br>• Deliberative Documents and Drafts<br>• Employer/Employee<br>• Contracting and Insurance<br>• Education<br>• Other<br><br>**Security Exemptions:** |

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| 65 P.S. § 67.708(b)(3) | Infrastructure Security: a record that, if disclosed, would create r*easonable likelihood* of endangering safety or physical security of a building, resource, infrastructure, facility or information storage system. |
| 65 P.S. § 67.708(b)(4) | Computer Security: a record regarding computer hardware, software and networks that, if disclosed, would be r*easonably likely* to jeopardize computer security. |
| 65 P.S. § 67.708(b)(1)(ii) | Personal Security: Reasonably likely to result (rather than may potentially result) in substantial and demonstrable risk of physical harm or to personal security where the risk outweighs the public interest. |
| 65 P.S. § 67.708(b) | **Personal Privacy Exemptions:** |
| (5) | • Individually identifiable health information |
| (19) | • DNA and RNA records |
| (23) | • Individually identifiable library records |
| (28) | • Individually identifiable social service records |
| (30) | • Minor's name, home address, date of birth |
| (6)(iii) | • Identity of covert law enforcement |
| (6)(i)(C) | • Home address of a judge or law enforcement officer |
| (6)(i)(A) | • Social security number |
| (6)(i)(A) | • Driver's license number |
| (6)(i)(A) | • Personal financial information |
| (6)(i)(A) | • Home and cell phone number |
| (6)(i)(A) | • Personal e-mail address |
| (6)(i)(B) | • Marital status, beneficiary or dependent information |
| 65 P.S. § 67.708(b) | **Deliberative Documents:** |
| (9) | • Draft bills, resolutions, regulations, policy statements, directives, ordinances |
| (21) | • Draft minutes of school meetings |
| (21) | • Records of discussions held in executive sessions |
| (10) | • Internal, pre-decisional deliberative documents<br>Pre-decisional Documents must:<br>• Be internal<br>• Be pre-decisional<br>• Be deliberative<br>• Not be purely factual information<br>• Not be decisional documents<br>• Not be records presented for deliberations by quorum at meeting subject to the Sunshine Act<br>• Not be applications or requests for Commonwealth funds<br>• Not be results of public opinion research |
| 65 P.S. § 67.708(b) | **Investigative Exemption:** |
| (16) | • Except to the extent that the school's school police officers |

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| | maintain a "police blotter", any record relating to or resulting in a criminal investigation |
| (17) | • Any record relating to a non-criminal investigation, including:<br>  • Complaints submitted to the school<br>  • All investigative materials<br>  • Information which may identify a confidential source<br>  • Work papers underlying audits<br>  • Other related information<br>But not including:<br>  • Any records of school imposed fines and civil penalties<br>  • Executed settlement agreements |
| 65 P.S. § 67.708(b) | **Education Exemptions**: |
| (14) | • Unpublished lecture notes |
| (14) | • Unpublished manuscripts |
| (14) | • Research materials |
| (15)(i) | • Academic transcripts |
| (15)(ii) | • Exams and scoring keys |
| 65 P.S. § 67.708(b) | **Employer/Employee Exemptions:** |
| (7) | • Certain employee personnel records (including references and recommendations, performance ratings/reviews, applications of unsuccessful candidates, support services information, written criticisms, grievance materials, documents relating to discrimination or sexual harassment, discipline/demotion/discharge information, academic transcripts) |
| (8) | • Labor negotiations information (including documents prepared for deliberations on strategy) |
| (8) | • Certain information from arbitrations under collective bargaining agreements<br>But the exemptions shall not include:<br>  • Applications of hired employees (after redacting non-public information)<br>  • Records reflecting final action of the board concerning the demotion or discharge of an employee (after redacting non-public information)<br>  • Collective bargaining agreements<br>  • Arbitrators' final awards and orders<br>  • Employees' names, positions, salaries, actual compensation or other payments or expenses of the employee, employment contract, and length of service. |
| 65 P.S. § 67.708(b) | **Contracting and Insurance:** |
| (22) | • Analysis relating to real estate transactions until and unless the school opts to enter into the applicable contract |
| (27) | • Communications with Insurance Carriers, except the approved |

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| (26) | contracts with the carriers and any 'financial records'.<br>• Certain records relating to bids and proposals. Bids and proposals are public once the board has either awarded a bid or rejected all bids. |
| 65 P.S. § 67.708(b)<br>(11)<br>(1)(i)<br>(12)<br>(13)<br>(24) | **Other Exemptions:**<br>• Trade secrets and confidential proprietary information<br>• Disclosures that would result in the loss of federal or state funds<br>• An individual's personal notes and working papers<br>• Identity of donors<br>• Library or archival items whose donation included such restrictions |
| | <u>References:</u><br><br>School Code – 24 P.S. Sec. 408, 518<br><br>Right-to-Know Law – 65 P.S. Sec. 67.101 et seq.<br><br>Americans With Disabilities Act – 42 U.S.C. Sec. 12101 et seq.<br><br>Accessibility to Communications, Title 28, Code of Federal Regulations – 28 CFR<br><br>Sec. 35.160, 35.164 |