

UNIONVILLE- CHADDS FORD SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

ADOPTED: March 16, 2015

REVISED:

<p>1. Purpose</p> <p>2. Definitions 65 P.S. Sec. 67.102</p>	<p style="text-align: center;">801. PUBLIC RECORDS</p> <p>The Board recognizes the importance of public records as the record of the district's actions and the repository of information about this district. The public has the right to access and procure copies of public records, with certain exceptions, subject to law, Board policy and administrative guidelines.</p> <p>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.</p> <p>Public record - a record, including a financial record, that is not protected by a defined 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.</p> <p>Record - information, regardless of physical form or characteristics, that documents a district transaction or activity and is created, received or retained pursuant to law or in connection with a district transaction, business or activity, including: 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>Response - the district's notice informing a requester of a granting of access to a record or the district's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.</p> <p>Requester - a legal resident of the United States, or an agency, who requests access to a record.</p>
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<p>3. Prohibitions</p>	<p>The District may not adopt a policy or guideline that:</p> <ul style="list-style-type: none"> (a) Denies a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law. (b) Places a limitation on the number of records that may be requested or made available for inspection or duplication. (c) Requires a requester to disclose the purpose or motive in requesting access to records.
<p>4. Presumption</p>	<p>A record in the possession of the District shall be presumed to be a public record. The presumption shall not apply if:</p> <ul style="list-style-type: none"> (a) The record is exempt under section 708 of the Law; (b) The record is protected by a privilege; or (c) The record is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.
<p>5. Nature of Document</p>	<p>Nothing in this Policy shall supersede or modify the public or nonpublic nature of a record or document established in Federal or State law, regulation, or judicial order or decree.</p>
<p>6. Open Records Officer</p>	<ul style="list-style-type: none"> (a) <u>Establishment.</u> In accordance with section 502(a)(1) of the Law, the District designates the Superintendent to act as the open-records officer. (b) <u>Functions.</u> <ul style="list-style-type: none"> (1) The Superintendent shall receive requests submitted to the District under the Law and this Policy, direct requests to other appropriate persons within the District or to appropriate persons in another agency, track the District's progress in responding to requests, and issue interim and final responses under the Law and this Policy. (2) Upon receiving a request for a public record or financial record, the Superintendent shall do all of the following: <ul style="list-style-type: none"> i. Note the date of receipt on the written request.

<p>7. Posting</p>	<ul style="list-style-type: none"> ii. Compute the day on which the five-day period under section 901 of the Law will expire and make a notation of that date on the written request. iii. Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for thirty (30) days or, if an appeal is filed, until a final determination is issued under section 1101(b) of the Law or the appeal is deemed denied. <p>The following information shall be posted at the District Office and on the District's website:</p> <ul style="list-style-type: none"> (a) Contact information for the open-records officer. (b) Contact information for the Office of Open Records or other applicable appeals officer. (c) A form which may be used to file a request. (d) Guidelines, policies and procedures of the District relating to the Law.
<p>8. Requests</p>	<ul style="list-style-type: none"> (a) <u>Disruptive Requests.</u> <ul style="list-style-type: none"> (1) The District may deny a requester 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 agency. (2) A denial under this subsection shall not restrict the ability to request a different record. (b) <u>Disaster or Potential Damage.</u> <ul style="list-style-type: none"> (1) The District may deny a requester access: <ul style="list-style-type: none"> i. when timely access is not possible due to fire, flood, or other disaster; or ii. to historical, ancient or rare documents, records, archives, and manuscripts when access may, in the professional judgment of the curator or custodian of records, cause physical damage or irreparable harm to the record.

<p>9. Retention of Records</p>	<p>(2) To the extent possible, the contents of a record under this subsection shall be made accessible to a requester even when the record is physically unavailable.</p> <p>(c) <u>District Discretion.</u> The District may exercise its discretion to make any otherwise exempt record accessible for inspection and copying under this Policy, if all of the following apply:</p> <p>(1) Disclosure of the record is not prohibited under any of the following:</p> <ul style="list-style-type: none"> i. Federal or State law or regulation. ii. Judicial order or decree. <p>(2) The record is not protected by a privilege.</p> <p>(3) The Board determines that the public interest favoring access outweighs any individual, agency or public interest that may favor restriction of access.</p> <p>(d) <u>District possession.</u></p> <p>(1) A public record that is not in the possession of the District but is in the possession of a party with whom the District has contracted to perform a governmental function on behalf of the District, and which directly relates to the governmental function and is not exempt under the Law, shall be considered a public record of the District in accordance with the Law.</p> <p>(2) Nothing in this Policy shall be construed to require access to any other record of the party in possession of the public record.</p> <p>(3) A request for a public record in possession of a party other than the District shall be submitted to the Superintendent. Upon a determination that the record is subject to access under the Law, the Superintendent shall assess the duplication fee established under section 1307(b) of the Law and upon collection shall remit the fee to the party in possession of the record if the party duplicated the record.</p> <p>Nothing in this Policy shall be construed to modify, rescind, or supersede any record retention policy or disposition schedule of the District established pursuant to law, regulation, policy, or other directive.</p>
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<p>10. Procedures for Access to the District's Public Records</p>	<p>(a) <u>General rule.</u> Unless otherwise provided by law, a public record or financial record shall be accessible for inspection and duplication in accordance with the Law and this Policy. A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records or financial records shall be available for access during the regular business hours of the District.</p> <p>(b) <u>Construction.</u> Nothing in this Policy shall be construed to require access to any computer either of the District or an individual employee of the District.</p> <p>(c) <u>Requests.</u> The District may fulfill verbal, written, or anonymous verbal or written requests for access to records under the Law and this Policy. However, if the requester wishes to pursue the relief and remedies provided for by the Law and this Policy, the request for access to records must be a written request.</p> <p>(d) <u>Written Requests.</u> A written request for access to records may be submitted in person, by mail, by e-mail, by facsimile or, to the extent provided by District rules, by any other electronic means. A written request must be addressed to the Superintendent. Employees of the District shall forward requests for records to the Superintendent. A written request shall be addressed to the Superintendent, Unionville-Chadds Ford School District, Kennett Square, PA 19348. The District's facsimile number is 610-347-0976. The e-mail address is openrecordsofficer@ucfsd.net. A written request shall identify or describe the records sought with sufficient specificity to enable the District to ascertain which records are being requested and shall include the name and address to which the District should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law.</p> <p>(e) <u>Electronic access.</u> In addition to the requirements of the Law, the District may make its records available through any publicly accessible electronic means. In addition to the requirements of subsection (a) above, the District may respond to a request by notifying the requester that the record is available through publicly accessible electronic means or that the agency will provide access to inspect the record electronically. If the requester is unwilling or unable to access the record electronically, the requester may, within thirty (30) days following receipt of the District's notification, submit a written request to the District to have the record converted to paper. The District shall provide access to the record in printed form within five (5) days of the receipt of the written request for conversion to paper.</p>
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<p>11. Redaction</p>	<p>(f) <u>Creation of Record.</u> When responding to a request for access, the District shall not be required to create a record which does not currently exist or to compile, maintain, format, or organize a record in a manner in which the District does not currently compile, maintain, format, or organize the record.</p> <p>If the District determines that a public record or financial record contains information which is subject to access as well as information which is not subject to access, the District's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record or financial record and cannot be separated, the District shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The District may not deny access to the record if the information which is not subject to access is able to be redacted. Information which the District redacts in accordance with this subsection shall be deemed a denial under the Law and Section 15(d) of this Policy.</p>
<p>12. Production of Certain Records</p>	<p>(a) <u>General Rule.</u> If, in response to a request, the District produces a record that is not a public record or financial record, the District shall notify any third party that provided the record to the District, the person that is the subject of the record, and the requester.</p> <p>(b) <u>Requests for Trade Secrets.</u> The District shall notify a third party of a request for a record if the third party provided the record and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information. Notification shall be provided within five (5) business days of receipt of the request for the record. The third party shall have five (5) business days from receipt of notification from the District to provide input on the release of the record. The District shall deny the request for the record or release the record within ten (10) business days of the provision of notice to the third party and shall notify the third party of the decision.</p> <p>(c) <u>Transcripts.</u></p> <p>(1) Prior to an adjudication becoming final, binding, and nonappealable, a transcript of an administrative proceeding shall be provided to a requester by the agency stenographer or a court reporter, in accordance with District procedure or an applicable contract.</p>

<p>13. Exceptions for Public Records</p>	<p>(2) Following an adjudication becoming final, binding, and nonappealable, a transcript of an administrative proceeding shall be provided to a requester in accordance with the duplication rates established in section 1307(b) of the Law.</p>
<p>14. The District's Response to Written Requests for Access</p>	<p>(a) <u>Burden of Proof.</u> The burden of proving that a record of the District is exempt from public access shall be on the District by a preponderance of the evidence.</p> <p>(b) <u>Exceptions.</u> Only records exempt from access by a requester under the Law shall be exempt from disclosure under this policy.</p>
<p>14. The District's Response to Written Requests for Access</p>	<p>(a) <u>General Rule.</u> Upon receipt of a written request for access to a record, the District shall make a good faith effort to determine if the record requested is a public record or financial record and whether the District has possession, custody, or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. All applicable fees shall be paid in order to receive access to the record requested. The time for response shall not exceed five (5) business days from the date the written request is received by the Superintendent. If the District fails to send the response within five (5) business days of receipt of the written request for access, the written request for access shall be deemed denied.</p> <p>(b) <u>Extension of Time.</u></p> <p>(1) <u>Determination.</u> Upon receipt of a written request for access, the Superintendent shall determine if one of the following applies:</p> <ul style="list-style-type: none"> i. the request for access requires redaction of a record in accordance with section 706 of the Law; ii. the request for access requires the retrieval of a record stored in a remote location; iii. a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations; iv. a legal review is necessary to determine whether the record is a record subject to access under this act; v. the requester has not complied with the District's policies regarding access to records;

- vi. the requester refuses to pay applicable fees authorized by the Law and Policy; or
- vii. the extent or nature of the request precludes a response within the required time period.

(2) Notice.

- i. Upon a determination that one of the factors listed in subsection (b) applies, the Superintendent shall send written notice to the requester within five (5) business days of receipt of the request for access under subsection (b).
- ii. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for by the Law, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.
- iii. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

(c) Denial. If the District's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

- (1) A description of the record requested.
- (2) The specific reasons for the denial, including a citation of supporting legal authority.
- (3) The typed or printed name, title, business address, business telephone number and signature of the Superintendent, on whose authority the denial is issued.
- (4) Date of the response.
- (5) The procedure to appeal the denial of access under this act.

<p>15. Filing of Appeal and Appeal Procedure</p>	<p>(d) <u>Certified Copies.</u> If the District’s response grants a request for access, the District shall, upon request, provide the requester with a certified copy of the record if the requester pays the applicable fees under section 1307 of the Law.</p> <p>(e) <u>Record Discard.</u> If the District’s response to a requester states that copies of the requested records are available for delivery at the office of the District and the requester fails to retrieve the records within sixty (60) days of the District’s response, the District may dispose of any copies which have not been retrieved and retain any fees paid to date.</p> <p>(a) <u>Authorization.</u></p> <p>(1) If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the mailing date of the District’s response or within fifteen (15) business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record or financial record and shall address any grounds stated by the District for delaying or denying the request.</p> <p>(2) Except as provided by section 503(d) of the Law, the Office of Open Records will assign an appeals officer to review the denial.</p> <p>(b) <u>Determination.</u></p> <p>(1) Unless the requester agrees otherwise, the appeals officer will make a final determination which shall be mailed to the requester and the District within thirty (30) days of receipt of the appeal filed under subsection (a).</p> <p>(2) If the appeals officer fails to issue a final determination within thirty (30) days, the appeal is deemed denied.</p> <p>(3) Prior to issuing a final determination, a hearing may be conducted. The determination by the appeals officer will be a final order. The appeals officer will provide a written explanation of the reason for the decision to the requester and the District.</p> <p>(c) <u>Direct interest.</u></p> <p>(1) A person other than the District or requester with a direct interest in the record subject to an appeal under this section may, within fifteen (15) days following receipt of actual knowledge of the appeal but no later than the</p>
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<p>16 Fees</p>	<p>date the appeals officer issues an order, file a written request to provide information or to appear before the appeals officer or to file information in support of the requester's or the District's position.</p> <p>(2) The appeals officer may grant a request under subparagraph (1) if:</p> <ul style="list-style-type: none">i. no hearing has been held;ii. the appeals officer has not yet issued his or her order; andiii. the appeals officer believes the information will be probative. <p>(3) Copies of the written request will be sent to the District and the requester.</p> <p>(d) <u>Judicial Review.</u></p> <ul style="list-style-type: none">(1) <u>General Rule.</u> Within thirty (30) days of the mailing date of the final determination of the appeals officer relating to a decision of a local agency issued under subsection (b)(1) or of the date a request for access is deemed denied, a requester or the District may file a petition for review or other document as required by rule of court with the Court of Common Pleas, as authorized by the Law.(2) <u>Stay.</u> A petition for review under this section shall stay the release of documents until a decision under subsection (1) is issued.(3) <u>Notice.</u> The District, the requester, and the Office of Open Records or designated appeals officer shall be served notice of actions commenced in accordance with this section and shall have an opportunity to respond in accordance with applicable court rules.(4) <u>Record on Appeal.</u> The record before a court shall consist of the request, the District's response, the appeal filed under this section, the hearing transcript, if any, and the final written determination of the appeals officer. <p>The District will charge fees for postage and duplication of public records in accordance with the Law and as established by the Office of Open Records. The District may waive the fees for duplication of a record, including, but not limited to, when: (a) the requester duplicates the record; or (b) the District deems that it is in the public interest to do so. Prior to granting a request for access in accordance with the Law and this Policy, the District may require a requester to prepay an estimate of the authorized if the fees required to fulfill the request are expected to exceed \$100.</p>
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<p>17. Severability</p>	<p>If any provision of this Policy shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the Policy, and the Policy shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in this Policy.</p> <p>References:</p> <p>School Code – 24 P.S. Sec. 408, 518</p> <p>Right-to-Know Law – 65 P.S. Sec. 67.101 et seq.</p> <p>Americans With Disabilities Act – 42 U.S.C. Sec. 12101 et seq.</p> <p>Accessibility to Communications, Title 28, Code of Federal Regulations – 28 CFR Sec. 35.160, 35.164</p> <p>Board Policy – 800</p>
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