

Administrative Procedures for Public Records

(Attachment for Policy No. 801)

Purpose

The Board of Education is committed to transparency in the governance and the administration of The School District of Philadelphia (“District”). The purpose of these procedures is to establish the process for the public to exercise the right to inspect or procure copies of public records in the possession, custody, or control of the District in accordance with Board policy and the Pennsylvania Right-to-Know Law (“RTKL”).

Definitions

For purposes of these administrative procedures, terms are defined as follows:

Business day: Monday through Friday during regular business hours, except those days when the District administrative office is closed for all or part of the day due to a federal/state/city holiday; a natural or other disaster; or due to the Request or direction of local, state, or federal law enforcement agencies or officials.

Business hours: For purposes of assessing the date of receipt of a Request, the regular business hours are 8:00 a.m. to 5:00 p.m. on business days. Regular business hours are subject to change.

Notice of Extension: The Open Records Officer’s letter informing a Requester that the District is extending its deadline for up to thirty (30) calendar days to respond to a Request.

Open Records Officer: The official or employee of the District designated to receive and respond to Requests submitted to the District under the RTKL.

Public record: A record in the possession, custody, or control of the District, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions set forth in the RTKL, or under any other federal or state law or regulation, or judicial decree or order.

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.

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.

Request: A written request for access to records of the District addressed to the Open Records Officer and sufficiently identifying or describing the records sought.

Requester: A legal resident of the United States, or an agency, who requests access to a record.

Procedures

A Requester may access and procure copies of the public records of the District during regular business hours utilizing the process set forth below.

Requesting Records

The [standard Request form](#)¹ from the Pennsylvania Office of Open Records shall be accepted for submission of Requests. The Open Records Officer may refuse to honor Requests not submitted on that form, anonymous requests or oral Requests. If a Requester wishes to pursue the relief and remedies provided for in law, the Request for access to records must be a written Request.

Written Requests may be submitted to the District's Open Records Officer in person, by mail, to a designated facsimile machine, or to a designated email address. This information is posted on the District's [RTKL webpage](#).²

To trigger the District's obligation to respond a Request must:

- 1) Be directed to the Open Records Officer and
- 2) Contain at least the following information:
 - a) Name of Requester,
 - b) Address of Requester,
 - c) A description of the Records sought providing sufficient specificity to allow the District to ascertain what records are being requested, and
 - d) Medium in which the record is Requested (electronic or hard copy).

If the written Request is not addressed to the Open Records Officer, employees who receive the Request are required to forward the Request to the Open Records Officer. It is within the District's discretion to determine whether a Request that is not addressed to the District's Open Records Officer is a Request requiring the District's response.

Date of Receipt

Any Request that is received after the close of business hours or on a day the administrative offices are closed shall be deemed to have been received by the Open Records Officer on the

¹ The Standard Request Form is available at <https://www.openrecords.pa.gov/RTKL/Forms.cfm>

² The District's RTKL webpage is available at <https://www.philasd.org/generalcounsel/#rtkl>

following business day. If the administrative offices are closed early for any reason, the business hours for that day end when the office is closed.

Upon receiving a Request, the Open Records Officer shall note the date of receipt on the Request, if necessary, and compute and note the day on which the five-day period for response will expire.

Response to a Request

Upon receipt of a written Request for access to a record, the Open Records Officer will make a good faith effort to determine if the requested record is a public record and if the District has possession, custody, or control of that record.

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.

The initial response may be a Notice of Extension or may grant access to the requested record, deny access to the requested record, or partially grant and partially deny access to the requested record.

If the District fails to respond to a Request within five (5) business days of receipt, the Request shall be deemed denied.

Extension of Time

If the Open Records Officer determines that an extension of time is required to respond to a Request, a written Notice of Extension shall be sent within five (5) business days of receipt of the Request. A Requester may consent in writing to an extension that exceeds thirty (30) calendar days.

Notification to Third Parties

Records in Possession of Third Party Contractors

A record that the District does not possess but is possessed by a third party with whom the District has contracted to perform a non-ancillary governmental function and which directly relates to that governmental function shall be considered a record of the District.

The Open Records Officer shall notify the third party of the Request and require that the third party submit responsive records to the Open Records Officer. Third party contractors may provide an objection to public disclosure; however, such objection must contain the legal and

factual grounds for denial. The Open Records Officer retains the discretion to independently review grounds for denial asserted and determine whether the asserted exemptions apply.

Confidential Proprietary or Trade Secrets

The Open Records Officer shall notify a third party of a Request if the third party provided the record to the District and included a written statement signed by a representative of the third party that the Requested record contains a trade secret or confidential proprietary information. The third party shall have five (5) business days from receipt of notification to provide an objection to public disclosure; however, such objection must contain the legal and factual grounds for denial. The Open Records Officer retains the discretion to independently review grounds for denial asserted and determine whether the asserted exemptions apply.

Exercise of Discretion to Release

When the District exercises its discretion under Section 506(c) of the RTKL, prior to public disclosure of that record the Open Records Officer shall notify any third party that provided the record to the District, the person that is the subject of the record, and the Requester.

Granting of a Request

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 the Requested records (either in hard copy or electronic format) with the response, inform the Requester that the records are available for inspection subject to the scheduling of a time for inspection, direct the Requester to a publicly accessible electronic website to access the information, or advise the Requester that a duplication fee must be paid prior to dissemination of the records. The Open Records Officer shall redact from any record the information that is not subject to access.

A Requester's right of access to inspect a record does not include the right to remove a record from the control or supervision of the Open Records Officer or custodian. Further, the District is not required to permit access to its computers or computers of individual employees.

When responding to a Request, the District 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 District does not currently use.

If the Open Records Officer responds to a Requester that a copy of the Requested record is available for delivery at the administration office and the Requester does not retrieve the record within sixty (60) days of the District's response, the District shall retain any fees paid to date and may deny any future requests until any outstanding duplication fees are remitted.

Denial of a Request

When the Open Records Officer denies a Request, whether in whole or in part, a written response shall include the following:

1. Description of the record(s) requested;
2. Specific reasons for denial, including a citation of supporting legal authority;
3. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is issued;
4. Date of the response; and
5. Procedure for the Requester to appeal a denial of access.

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 District.

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 such a record is physically unavailable.

If a written Request for access to a record is denied or deemed denied, the Requester may file an appeal with the Pennsylvania Office of Open Records within the time period established by law.

Fees

A Requester may obtain copies of public records upon payment to the District of the established fee. Duplication fees are established by the Office of Open Records.

No fee may be imposed for review of a record to determine whether the record is subject to access under law, unless otherwise provided by law.

Prior to granting access, the District may require prepayment of estimated fees as permitted by law.

The District may waive duplication fees when the Requester duplicates the record or the District deems it is in the public interest to do so.

The District reserves the right to impose additional fees if it incurs costs for complying with a Request; such additional fees, when charged, must be reasonable and in accordance with the

RTKL. This includes, but is not limited to, fees for enhanced electronic access and certified copies of documents.

Appeals

If a Request is denied (in whole or in part) or deemed denied, the Requester may file an appeal within fifteen (15) business days of the deemed denial or mailing date of the District's denial, whichever occurs first.

Maintenance Schedule

The Open Records Officer shall review these procedures annually and update as necessary.