

SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

ADOPTED: FEBRUARY 24, 2009

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 IU's actions and the repository of information about this IU. The public has the right to access and procure copies of public records, with certain exceptions, exemptions, and limitations, and as subject to law, Board policy, and administrative regulations.</p> <p>Agency – any Commonwealth, local, judicial, or legislative agency. The IU is included as a local agency.</p> <p>Aggregated Data -- A tabulation of data which relate to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories.</p> <p>Exceptions – Records which are not subject to disclosure under the Right to Know Law due to statutorily provided exemptions and reasonable interpretations thereof.</p> <p>Office of Open Records – an Office of the Commonwealth of Pennsylvania, established by law, which provides opportunity for appeal of IU denials under the Right to Know Law.</p> <p>Open Records Officer – an agent or employee of the IU who is appointed, hired, or assigned to receive requests submitted to the agency under this act, direct requests to other appropriate persons within the agency or to appropriate persons in another agency, track the agency's progress in responding to requests and issue interim and final responses under this act.</p>
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<p>3. Authority 65 P.S. Sec. 67.302, 67.504, 67.701</p> <p>4. Delegation of Responsibility 65 P.S. Sec. 67.502</p>	<p>Public Record - a record that is not protected by a defined privilege, is not exempt from being disclosed under one of the Exemptions, is not confidential, is not proprietary information, and/or is not protected under any other federal, state, or local law or regulation, judicial decree, or order.</p> <p>Record - information, regardless of physical form or characteristics, that documents an IU transaction or activity and is created, received or retained pursuant to law or in connection with an IU 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>Requester - a legal resident of the United States or an agency who requests access to a record.</p> <p>Response - the IU's notice informing a requester of a granting of access to a record or the IU's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.</p> <p>Third Party – an entity which has created or holds records on behalf of, or in lieu of, the IU.</p> <p>The Board shall make the IU's public records available for access and duplication to a requester, in accordance with law, Board policy, and administrative regulations.</p> <p>The IU shall be entitled to promulgate regulations, forms, and practices, pursuant to the law and Board Policy.</p> <p>The Board shall designate an Open Records Officer, who shall be responsible to:</p> <ol style="list-style-type: none"> 1. Receive written requests for access to records submitted to the IU. 2. Review and respond to written requests in accordance with law, Board policy, and administrative regulations.
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<p>65 P.S. Sec. 67.502, 67.901, 67.1101</p> <p>5. Guidelines</p> <p>42 U.S.C. Sec. 12132, et. seq.; 28 C.F.R. Sec. 35.160, 35.164, et. seq.</p> <p>65 P.S. Sec. 67.701</p>	<ol style="list-style-type: none"> 3. Direct requests to other appropriate individuals in the IU or to third-parties, as required. 4. Track the IU's progress in responding to requests. 5. Issue interim and final responses to submitted requests. 6. Maintain a log of all record requests and their disposition, for the duration as provided by law. 7. Ensure IU staff is trained to perform assigned job functions relative to requests for access to records. <p>Upon receiving a request for access to a record, the Open Records Officer, or designee, shall:</p> <ol style="list-style-type: none"> 1. Note the date of receipt on the written request. 2. Compute and note on the written request the day on which the five-day period for response will expire. 3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled. 4. 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. <p>Requesters may access and procure copies of the public records of the IU during the regular business hours of the administration offices.</p> <p>A requester's right of access does not include the right to remove a record from the control or supervision of the IU.</p> <p>Information shall be made available to individuals with disabilities in an appropriate format, upon request and within the reasonable capacity of the IU. All requests must allow the IU sufficient advance notice to consider and fulfill the request.</p> <p>The IU shall not limit the number of records requested or demand a reason for the request.</p>
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<p>65 P.S. Sec. 67.506</p>	<p>When responding to a request for access, the IU 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 IU does not currently use.</p> <p><u>Disruptive Requests</u></p> <p>An agency 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.</p> <p>A denial under this subsection shall not restrict the ability to request a different record.</p>
<p>65 P.S. Sec. 67.506</p>	<p>The Open Records Officer, or designee, 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 reasonable, a record's contents may be made accessible even when the record is physically unavailable.</p> <p><u>Contact and Posted Information</u></p>
<p>65 P.S. Sec. 67.502, 67.504, 67.505</p>	<p>The IU's contact information for all Right to Know inquiries is:</p> <p>Open Records Officer NEIU 19 1200 Line St. Archbald PA 18403</p> <p>Contact for the Pennsylvania Office of Open Records is: Commonwealth of Pennsylvania Office of Open Records Commonwealth Keystone Building 400 North Street, Plaza Level Harrisburg, PA 17120-0225</p>

	<p>The IU also shall post at the administration office and on the IU's web site, if the IU maintains a web site, the following information:</p> <ol style="list-style-type: none">1. Contact information for the Open Records Officer.2. Contact information for the state's Office of Open Records or other applicable appeals officer.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 IU decides to create its own form.4. Board policy, administrative regulations and procedures governing requests for access to the IU's public records. <p><u>Request for Access</u></p> <p>65 P.S. Sec. 67.504, 67.505, 67.702, 67.703</p> <p>A written request for access to a public record shall be submitted on the required form(s) and must be addressed to the Open Records Officer. Oral requests will not be honored.</p> <p>Written requests may be submitted to the IU in person, by mail, to a designated facsimile machine, and to a designated e-mail address.</p> <p>65 P.S. Sec. 67.701, 67.703</p> <p>Each request must include the following information:</p> <ol style="list-style-type: none">1. Identification or description of the requested record, in sufficient detail, such that the record(s) may be identified with specificity.2. Medium in which the record is requested.3. Name and address of the individual to receive the IU's response. <p>Failure to provide this information may result in a denial, deemed denial, or delay in response.</p> <p>65 P.S. Sec. 67.703</p> <p>The IU shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law. However, the Requester may offer an explanation for his or her request; this may facilitate a more</p>
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	<p>timely and specific response.</p> <p><u>Fees</u></p> <p>65 P.S. Sec. 67.1307 Except for the duplication fee established by the state, the Board shall approve a list of reasonable fees relative to requests for public records. The IU shall maintain a list of applicable fees and disseminate the list to requesters.</p> <p>65 P.S. Sec. 67.1307 No fee may be imposed for review of a record to determine whether the record is subject to access under law.</p> <p>65 P.S. Sec. 67.1307 Prior to granting access, the IU may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.</p> <p>65 P.S. Sec. 67.1307 The Superintendent, or designee, may waive duplication fees when the requester duplicates the record or the Superintendent deems it is in the public interest to do so. Such waiver of fees is solely at the discretion of the Superintendent, or designee, and waivers of fees shall be considered on a case-by-case basis. A waiver of fees in one instance shall not create a precedent, pattern or practice for waiver of any other fees and does not create future entitlement to fee waivers for that or any other entity.</p> <p><u>Response to Request</u></p> <p>65 P.S. Sec. 67.502, 67.702 IU employees shall be directed to immediately forward requests for access to public records to the Open Records Officer.</p> <p>65 P.S. Sec. 67.901 Upon receipt of a written request for access to a record, the Open Records Officer, or designee, shall determine if the requested record is a public record and if the IU has possession, custody or control of that record.</p> <p>65 P.S. Sec. 67.901 The Open Records Officer, or designee, 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</p>
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	<p>If the Open Records Officer, or designee, 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 administration office, provide electronic access, or state where the requester may go to inspect the records or information electronically at a publically accessible site. The response shall include: (1) a copy of the fee schedule in effect, (2) a statement that prepayment of fees is required if in excess of \$100, and (3) the medium in which the records will be provided.</p>
<p>65 P.S. Sec. 67.701</p>	<p>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, the IU is not required to permit use of its computers to a Requester.</p>
<p>65 P.S. Sec. 67.701, 67.704</p>	<p>The Open Records Officer, or designee, may respond to a records request by notifying the requester that the record is available through publicly accessible electronic means and/or that the IU shall provide access to inspect the record electronically. If the Requester, within thirty (30) days following receipt of the IU's notice, submits a written request to have the record converted to paper, the IU shall provide access in printed form within five (5) days of receipt of the request for conversion to paper, and an appropriate fee will be assigned.</p>
<p>65 P.S. Sec. 67.506</p>	<p>A public record that the IU does not possess but is possessed by a Third Party with whom the IU has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a public record of the IU. When the IU contracts with such a third party, the IU shall require the contractor to agree to comply with requests for such records and to provide the IU with the requested record in a timely manner to allow the IU to comply with law.</p>
<p>65 P.S. Sec. 67.706</p>	<p>If the Open Records Officer, or designee, determines that a public record contains information both subject to and not subject to access, the Open Records Officer, or designee, shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer, or designee, shall redact or remove from the record the information that is not subject to access. The Open Records Officer, or designee, shall not deny access to a record if information</p>

<p>65 P.S. Sec. 67.905</p> <p>65 P.S. Sec. 67.707</p> <p>65 P.S. Sec. 67.707</p> <p>65 P.S. Sec. 67.901, 67.903</p>	<p>is able to be redacted and the record is otherwise public.</p> <p>If the Open Records Officer, or designee, 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 IU's response, the IU shall dispose of the copy and retain any fees paid to date.</p> <p><u>Notification to Third Parties</u></p> <p>When the IU produces a record that is not a public record in response to a request, the Open Records Officer, or designee, shall notify any third party who provided the record, in addition to the Requester, that the record is intended for publication.</p> <p>The Open Records Officer, or designee, shall notify a relevant 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.</p> <p><u>Denial Of Request</u></p> <p>If the Open Records Officer, or designee, denies a request for access to a record, whether in whole or in part, a written response shall be sent within the timeframe provided by this Policy: within five (5) business days of receipt of the request, within the thirty (30) day extension provided by statute, or within an extended time, exceeding thirty (30) days, as agreed upon between the IU and the Requester. The response denying the request shall include the following:</p> <ol style="list-style-type: none"> 1. Description of the record 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, or designee, on whose authority the denial is issued. 4. Date of the response. 5. Procedure for the requester to appeal a denial of access.
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<p>65 P.S. Sec. 67.708</p>	<p><u>Exceptions</u></p> <p>In addition to other bases for denial, the Right to Know Law provides for specific grounds for denial called Exceptions. These statutory Exceptions may include, but are not limited to, the records regarding the following:</p> <ol style="list-style-type: none"> 1. <u>Loss of Funds/Physical Harm/Personal Security</u> 2. <u>Public Safety</u> 3. <u>Safety/Security of Facilities</u> 4. <u>Computer Systems Security</u> 5. <u>Personal Medical Information</u> 6. <u>Personal Identification Information</u> – (Personal information that do <u>not</u> fall within the exception includes the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement, and length of service of a public official or district employee.) 7. <u>Certain Employee Information</u> – including but not limited to letters of reference; performance ratings/reviews; employment applications of individuals who are not hired; written employee criticisms; grievance materials (including documents related to discrimination or sexual harassment); information used in employee discipline determinations that does not result in employee discipline; academic transcripts. 8. <u>Labor Relations/Negotiations/Arbitration</u> – This exemption does not apply to a final or executed contract or agreement between the parties in a collective bargaining agreement, or to the final award or order of the arbitrator in a dispute or grievance procedure. 9. <u>Predecisional Drafts</u> – disclosure of the draft of a bill, resolution, regulation, statement of policy, management directive, ordinance, or their amendments, prepared by or for the Intermediate Unit. 10. <u>Predecisional Deliberations</u> 11. <u>Personal Notes/Working Papers</u>
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	<p>12. <u>Records Disclosing the Identity of an Individual Donor to the IU</u> – unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named Intermediate Unit public official or employee, including lists of potential donors compiled by the Intermediate Unit to pursue donations, donor profile information, or personal identifying information relating to a donor.</p> <p>13. <u>Unpublished Academic Works</u></p> <p>14. <u>Academic Records</u> – disclosure of academic transcripts, examinations, examination questions, scoring keys or answers to examinations, including licensing and other examinations relating to the qualifications of an individual, examinations given in Intermediate Unit schools, and examinations given in institutions of higher education.</p> <p>15. <u>Records Relating to Criminal and Noncriminal Investigations</u></p> <p>16. <u>Emergency Communications</u></p> <p>17. <u>Draft Minutes</u> – disclosure of draft minutes of any School Board meeting until the next regularly scheduled Board meeting, minutes of an executive session, and any record of discussions held in executive sessions.</p> <p>18. <u>Records Related to Real Estate Appraisals/Feasibility Studies</u> – This exemption does not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property, the purchase of public supplies, or a construction project.</p> <p>19. <u>Library Circulation or Donor-Protected Records</u></p> <p>20. <u>Records identifying Archeological Sites or Endangered Species</u></p> <p>21. <u>Documents Pertaining to the Procurement of Goods or Services Prior to the Award of a Contract for Such Goods/Services</u></p> <p>22. <u>Insurance Communications</u> – This exemption does not apply to a contract with an insurance carrier, administrative service organization or risk management office, or to financial records relating to the provision of insurance.</p> <p>23. <u>Information Relating to Minors</u> – disclosure of a record identifying the name, home address or date of birth of a child seventeen (17) of age or younger.</p>
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<p>65 P.S. Sec. 67.706, 67.903</p> <p>65 P.S. Sec. 67.1101</p>	<p>Information that is not subject to access as a redaction from a public record shall be deemed a denial for that portion that is precluded from disclosure.</p> <p>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.</p> <p>This policy will take effect as of the effective date of the law, January 1, 2009. Prior to 2009, all policies and practices will be followed as prescribed by earlier law, regulations, IU policies and practices.</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 C.F.R. Sec. 35.160, 35.164</p> <p>Board Policy – 801</p>
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