

HASD Administrative Regulations (2008)
Right-to-Know Law

Administrative Regulations
Exceptions to Public Records

These administrative regulations are adopted in order to guide the Public Records Officer in determining whether a requested record constitutes a public record that is subject to disclosure under the Right-to-Know Act, or whether certain information contained in a public record may be redacted before the record is made available for public inspection or duplication.

I. Definitions

For purpose of these regulations the terms set forth below shall have the following meanings:

“Administrative Proceedings” shall mean a district proceeding whose outcome is required to be based on a record or documentation prescribed by law or which a statute or regulation is particularized in application to individuals. The term includes an appeal.

“Aggregated data” shall mean 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.

“Confidential proprietary information” shall mean commercial or financial information received by the district (i) which is privileged or confidential; and (ii) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

“Financial record” shall mean any of the following: (i) any account, voucher or contract dealing with the district’s receipt or disbursement of funds or the district’s acquisition, use or disposal of services, supplies, materials, equipment or property; or (ii) the salary of other payments or expenses paid to an officer or employee of the district, including the name and title of the officer or employee; or (iii) a financial audit report, but excluding work papers underlying an audit.

“Personal financial information” shall mean an individual’s personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual’s personal finances.

“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 Act (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.

“Privilege” shall mean the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, or other privileges recognized by a court interpreting the laws of this Commonwealth.

“Record” shall mean information, regardless of physical form or characteristics, that document 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 school 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.

“Social services” shall mean cash assistance and other welfare benefits, medical, mental and other health care services, vocational services and training, occupational training, educational services, counseling services, workers’ compensation services and unemployment services, foster care services, services for individuals with disabilities and services for victims of crime and domestic violence.

“Trade secret” shall mean information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that: (i) derives independent economic value, actual or potential, from being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software obtained by the district under a licensing agreement prohibiting disclosure.

II. Public Access to Records

District records are subject to disclosure under the Right-to-Know Act unless the entire record, or certain information contained therein, is expressly exempted from disclosure by one of the exceptions set forth in Pennsylvania’s Right-to-Know Act, or other state or federal law that prohibit such public access.

Section III of the administrative regulations summarizes the non-financial records that are exempt from the public disclosure requirements of the Right-to-Know Act.

Section IV of the administrative regulations summarize the financial records and aggregate data that are exempt from the public disclosure requirements of the Right-to-Know Act.

The Public Records Officer is responsible for determining whether a record, in whole or in part, is a public record subject to disclosure. The Public Records Officer shall consult these administrative regulations and confer with the district solicitor as needed to determine whether disclosure of a record is required by law.

III. Non-Financial Records Exempted from Public Disclosure

The administrative regulations organize the public disclosure exemptions set forth in the Right-to-Know Act into the following sub-categories:

- A. Business/Financial Matters
- B. Curriculum & Academic Materials
- C. Facilities and School Buildings
- D. Employee Information
- E. Investigative Materials
- F. Labor Relations Information

- G. Pre-Decisional Deliberations
- H. Privileged Communications with Professionals
- I. Real Estate
- J. Students
- K. Technology/Computer Information
- L. Miscellaneous
- M. Exemptions generally not applicable to public schools

These sub-categories do not appear in the Right-to-Know Act, and are intended to serve only as an organizational guide for the Public Records Officer when determining if a record, in whole or in part, is exempt from the disclosure under the law.

Information or records falling within the exemptions set forth below do not need to be disclosed in order to respond to a request to access a record. In certain instances, the record may be available for public inspection after the exempted information is redacted. In other instances, the entire record may be exempt from disclosure.

The Public Records Officer shall review the exceptions set forth in Section IV of the regulations when entertaining a request for a financial record or aggregated data.

A. Business/Financial Matters

- 1) *Insurance Communications* – disclosure of record or information relating to a communication between the district and its insurance carrier, administrative service organization or risk management office. § 708(b)(27).
- 2) *Loss of State of Federal Funds* – when the disclosure of a record would result in the district’s loss of state or federal funds. § 708(b)(1)(i).
- 3) *Pre-Award Bid Information* – disclosure of a proposal to the district’s procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder’s or offeror’s economic capability; or the identity of members, notes and other records of district proposal evaluation committee under 65 Pa. C.S.A. Ch. 13A. § 708(b)(26). (**Important Note:** This exception does not apply if the successive bidder is awarded a contract).
- 4) *Trade Secret/Confidential Proprietary Information* – disclosure of a record that constitutes or reveals a trade secret or confidential proprietary information. § 708(b)(11). (**Important Note:** Whenever a record submitted by a third party to the district contains a trade secret or confidential proprietary information, the third party must submit a written statement signed by an official representative in order for this exception to apply. If this exception applies, the Public Records Officer shall notify the third party when a request is made to inspect the record in compliance with Section IV of these regulations).

B. Curriculum & Academic Materials

- 1) *Academic Records* – disclosure of academic transcripts, examinations, examination questions, scoring keys and answers to examinations, including licensing and other examinations relating to the qualifications of an individual; examinations given in the School District. § 708(b)(15)(ii).

- 2) *Personal Notes/Working Papers* – disclosure of notes and working papers prepared by or for a district official or employee used solely for that official’s or employee’s own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose. § 708(b)(12).
- 3) *Unpublished Academic Works* – disclosure of unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material. § 708(b)(14).
- 4) *Trade Secret/Confidential Proprietary Information* – disclosure of a record that constitutes or reveals a trade secret or confidential proprietary information. § 708(b)(11). (**Important Note:** Whenever a record submitted by a third party to the district contains a trade secret or confidential proprietary information, the third party must submit a written statement signed by an official representative in order for this exception to apply. If this exception applies, the Public Records Officer shall notify the third party when a request is made to made to inspect the record in compliance with Section V of these regulations).

C. Facilities and School Buildings

- 1) *Public Safety* – when the disclosure of a record maintained by the district in connection with local law enforcement or other public safety activity would be reasonably likely to jeopardize or threaten public safety or preparedness of public protection activity. § 708(b)(2).
- 2) *Security of Facilities* – when the disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of a building or facility, which may include, but not be limited to:
 - a. documents or data to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act;
 - b. building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems; structural elements; technology; communication; electrical; fire suppression; ventilation; water; wastewater; sewage and gas systems. § 708(b)(3)(ii)-(ii).

D. Employee Information

- 1) *Medical Information* – when the disclosure of a record of an individual’s medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program; enrollment in workers’ compensation and unemployment compensation that would disclose individually identifiable health information. § 708(b)(5).
- 2) *Personal Identification Information* – disclosure of the following personal information is prohibited under this policy:
 - a. A record containing an individual’s Social Security number; driver’s license; driver’s license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee number or other confidential personal identification number.
 - b. A spouse’s name, marital status, beneficiary or dependent information.
 - c. The home address of the school resource officer. § 708(b)(6)(A)-(C).
- 3) *Employee Records (records generally found in a personnel file)* – disclosure of the following records relating to an employee:
 - a. Letter of reference or recommendation to the character or qualifications of an identifiable individual, unless it was prepared in relations to the appointment to public office.
 - b. A performance rating, review or evaluation.
 - c. The results of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency.
 - d. Employment application of an individual who is not hired by the School District.
 - e. Workplace support services information.
 - f. Written criticism of a district employee.

- g. Grievance material, including documents relating to discrimination or sexual harassment.
 - h. Information regarding discipline, demotion, or discharge contained in a personnel file, except information that applies to the district's final action that results in demotion or discharge.
 - i. An academic transcript of an employee. **§ 708(b)(7)(i)-(ix).**
- 4) *Physical Harm/Personal Security* –when the disclosure of a record would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. **§ 708(b)(1)(ii).**
- 5) *Social Services* – disclosure of a record or information identifying an individual who applies for or receives social services or otherwise relates to an individual's eligibility to receive social services. **§ 708(b)(28).**

E. Investigative Materials

- 1) *Non-Criminal Investigations* - disclosure of a record relating to an investigation done by the district, including but not limited to:
- a. Complaints submitted to the district.
 - b. Investigative materials, notes, correspondence and reports.
 - c. A record that includes the identity of a confidential source, including individuals subject to Pennsylvania's Whistleblower Law.
 - d. A record that includes information made confidential by law.
 - e. Work papers underlying an audit.
 - f. A record that, if disclosed, would do any of the following:
 - i. Reveal the institution, progress or result of an agency investigation, except for the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification, or similar authorization issued by the district or an executed settlement agreement unless the agreement is determined to be confidential by a court.
 - ii. Deprive a person of the right to an impartial adjudication.
 - iii. Constitute an unwarranted invasion of privacy.
 - iv. Hinder the district's ability to secure an administrative or civil sanction.
 - v. Endanger the life or physical safety of an individual. **§ 708(b)(17)(i)-(vi).**

F. Labor Relations Information

- 1) *Grievances* – disclosure of grievance material alleging violations of a collective bargaining agreement, including an exhibit entered into evidence at an arbitration proceeding, a transcript of an arbitration or the opinion. **(Important Note:** This prohibition does not apply to the final award or order of an arbitrator in a dispute or grievance procedure). **§ 708(b)(8)(ii).**
- 2) *Labor Negotiations* – disclosure of a record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related fact-finding and/or arbitration proceedings. **(Important Note:** This exemption does not apply to a final and executed contract or collective bargaining agreement between the parties). **§ 708(b)(8)(i).**

G. Pre-Decisional Deliberations

- 1) *Draft documents* – disclosure of a draft of a bill, resolution, regulation, statement of policy, management

directive, ordinance or amendment prepared by or for the district. § 708(b)(9).

2) *Draft Minutes* – disclosure of draft minutes of any school board meeting until the next regularly scheduled meeting of the board. § 708(b)(21)(i)-(ii).

3) *Internal, pre-decisional deliberations* – disclosure of records reflecting the internal, pre-decisional deliberations by and between the district, its school board members and/or employees relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in pre-decisional deliberations. (**Important Note:** This exception does not apply to records presented to the School Board for deliberation purposes at a public meeting, applications for state funds or results of public opinion surveys or polls). § 708(b)(10)(i)-(ii).

H. Privileged Communications with Professionals

1) *Attorney-Work Product* – disclosure of a record reflecting district consultations with its attorney or other professional advisors regarding information or strategy in connection with litigation or issues on which identifiable complaints are expected to be filed.

2) *Attorney-Client Privilege* – disclosure of a record reflecting confidential communications between the district and the district’s solicitor or special counsel providing a legal opinion or discussing a particular legal matter.

3) *Confidential Student Communication* – disclosure of a record reflecting confidential communications between a student and a school nurse, guidance counselor or other district protected by 42 Pa. C.S.A. § 8550.

I. Real Estate

1) *Real Estate Appraisals* – disclosure of the contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by the district relative to the following:

a. The leasing, acquiring or disposing of real property or an interest in real property.

b. The purchase of public supplies or equipment included in the real estate transaction.

c. **Important Note:** This exception shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or an interest in real property or the purchase of public supply or construction project. § 708(b)(22).

J. Students

1) *Academic Records* – the disclosure of an academic transcript of a student. § 708(b)(15)(i).

2) *Education Records* – the disclosure of a student’s education records to non-school personnel is generally prohibited unless prior written consent is obtained from a student’s parent (or the student, if the student is 18 years of age) under the federal Family Education Right to Privacy Act (“FERPA”). 20 U.S.C. § 1232g; 34 C.F.R. Part 99.

3) *Medical Information* – the disclosure of a record of a student’s medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program. § 708(b)(5).

4) *Minors* – disclosure of a record identifying the name, home address or date of birth of a child (17) years of age or younger. § 708(b)(30).

5) *Personal Identification Information* – disclosure of the following personal information is prohibited under this policy: a record containing an individual’s Social Security number; driver’s license; driver’s license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; student number or other confidential personal identification number. § 708(b)(6)(A)-(C).

6) *Physical Harm/Personal Security* – when the disclosure of a record would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or the personal security of a student. § 708(b)(1)(ii).

7) *Social Services* – disclosure of a record or information identifying an individual who applies for or receives social

services or otherwise relates to an individual's eligibility to receive social services. § 708(b)(28).

K. Computer/Technology Information

- 1) *Computer Systems* – when the disclosure of a record regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security. § 708(b)(4).
- 2) *Trade Secret/Confidential Proprietary Information* – when the disclosure of a record constitutes or reveals a trade secret or confidential proprietary information. § 708(b)(11). (**Important Note:** Whenever a record submitted by a third party to the district contains a trade secret or confidential proprietary information, the third party must submit a written statement signed by an official representative in order for this exception to apply. If this exception applies, the Open Records Officer shall notify the third party when a request is made to inspect the record in compliance with Section V of these regulations).
- 3) *Safety* – when the disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of an information storage system, which may include, but not be limited to: documents or data relating to computer hardware; source files; software; and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act. § 708(b)(3)(i).

L. Miscellaneous

- 1) *Archival material* – disclosure of valuable or rare books or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution. § 708(b)(24).
- 2) *Donor information* – disclosure of records that identify an individual who lawfully makes a donation to the district unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the district, including lists of potential donors compiled by the district to pursue donation, donor profile information or personal identifying information relating to a donor. § 708(b)(13).
- 3) *Library Records* – disclosure of library circulation and order records of an identifiable individual or group of individuals is not required. § 708(b)(23).
- 4) *Correspondence with a General Assembly member* – disclosure of correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services. § 708(b)(29). (**Note:** This exception does not apply to correspondence between a member of the General Assembly and lobbyist).

M. Exemptions generally not applicable to School Districts

- 1) *National Security or Public Safety Concerns* – (i) disclosure of a record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity; (ii) disclosure of a record designated as classified by state or federal military authorities; and (iii) disclosure of record which creates a reasonable likelihood of endangering the safety of a physical security of a building, public utility, resource, infrastructure, facility, information storage system or significant special event, from a terrorist act, or is otherwise deemed critical infrastructure by the federal government. § 708(b)(2)-(3).
- 2) *Criminal Investigations* – disclosure of an agency record relating to or resulting in a criminal investigation. § 708(b)(16). (**Important Note:** This exemption does not apply to information contained in a police blotter or a traffic report maintained by a law enforcement agency).
- 3) *Emergency Dispatch Records* – disclosure of records, in whole or in part, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. § 708(b)(18). (**Note:** This exception does not prevent the release of a 911 recording, or transcript thereof, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.)

- 4) *DNA and RNA Records* – disclosure of DNA and RNA records § 708(b)(19).
- 5) *Autopsy Records* – disclosure of an autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of the postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. § 708(b)(20). (**Important Note:** This exception does not limit the reporting of the name of the deceased individual and the cause and manner of death)
- 6) *Identification of archeological sites/endangered species* – disclosure of a record identifying the location of an archeological site or endangered or threatened plant or animal species if not already known to the general public. § 708(b)(25).

IV. Financial Records and Aggregate Data Exempt from Public Disclosure

If the Public Records Officer receives a request for a financial record or aggregate data, only the exceptions set forth in this section shall be considered when responding to the request:

- 1) *Financial records* – financial records shall be made available for public disclosure, except the following information may be **redacted** from the financial record:
 - a. *Loss of State of Federal Funds* – when the disclosure of the information would result in the district’s loss of state or federal funds. § 708(b)(1)(i).
 - b. *Physical Harm/Personal Security* –when the disclosure of the information would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. § 708(b)(1)(ii).
 - c. *National Security or Public Safety Concerns* – (i) disclosure of a record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity; (ii) disclosure of a record designated as classified by state or federal military authorities; and (iii) disclosure of record which creates a reasonable likelihood of endangering the safety of a physical security of a building, public utility, resource, infrastructure, facility, information storage system or significant special event, from a terrorist act, or is otherwise deemed critical infrastructure by the federal government. § 708(b)(2)-(3).
 - d. *Computer Systems* – when the disclosure of a record regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security. § 708(b)(4).
 - e. *Medical Information* – when the disclosure of a record of an individual’s medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program; enrollment in workers’ compensation and unemployment compensation that would disclose individually identifiable health information. § 708(b)(5).
 - f. *Personal Identification Information* – disclosure of the following personal information is prohibited under this policy:
 - i. A record containing an individual’s Social Security number; driver’s license; driver’s license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee number or other confidential personal identification number.
 - ii. A spouse’s name, marital status, beneficiary or dependent information.
 - iii. The home address of the school resource officer. § 708(b)(6)(A)-(C).
 - g. *Criminal Investigations* – disclosure of an agency record relating to or resulting in a criminal

investigation. **§ 708(b)(16)**. (**Important Note:** This exemption does not apply to information contained in a police blotter or a traffic report maintained by a law enforcement agency).

h. *Non-Criminal Investigations* - disclosure of a record relating to an investigation done by the district, including but not limited to:

i. Complaints submitted to the district.

ii. Investigative materials, notes, correspondence and reports.

iii. A record that includes the identity of a confidential source, including individuals subject to Pennsylvania's Whistleblower Law.

iv. A record that includes information made confidential by law.

v. Work papers underlying an audit.

vi. A record that, if disclosed, would do any of the following:

- Reveal the institution, progress or result of an agency investigation, except for the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification, or similar authorization issued by the district or an executed settlement agreement unless the agreement is determined to be confidential by a court.
- Deprive a person of the right to an impartial adjudication.
- Constitute an unwarranted invasion of privacy.
- Hinder the district's ability to secure an administrative or civil sanction.
- Endanger the life or physical safety of an individual. **§ 708(b)(17)(i)-(vi)**.

2. *Aggregate data* – aggregate data shall generally be made available for public disclosure, except the following records shall be exempt from public disclosure:

a. *Loss of State of Federal Funds* – when the disclosure of aggregate data would result in the district's loss of state or federal funds. **§ 708(b)(1)(i)**.

b. *Physical Harm/Personal Security* –when the disclosure of aggregate data would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.

§ 708(b)(1)(ii).

c. *National Security or Public Safety Concerns* – (i) disclosure of a record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity; (ii) disclosure of a record designated as classified by state or federal military authorities; and (iii) disclosure of record which creates a reasonable likelihood of endangering the safety of a physical security of a building, public utility, resource, infrastructure, facility, information storage system or significant special event, from a terrorist act, or is otherwise deemed critical infrastructure by the federal government. **§ 708(b)(2)-(3)**.

d. *Computer Systems* – when the disclosure of aggregate data regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security. **§ 708(b)(4)**.

e. *Medical Information* – when the request seeks the disclosure of aggregate data regarding an individual’s medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program; enrollment in workers’ compensation and unemployment compensation that would disclose individually identifiable health information. § 708(b)(5).

V. Response to a request for a record containing trade secrets or confidential proprietary information of a third party.

If the Public Records Officer reasonably believes that a requested record contains a trade secret or confidential proprietary information of a third party, the following procedures shall be used when responding to the request:

- 1) The Public Records Officer shall determine if the third party provided the district with a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary at the time the record was submitted;
- 2) If the such written statement was submitted, the Public Records Officer shall notify the third party within 5 business days of its receipt of the request;
- 3) The third party shall have 5 business days from the notification by the Public Records Officer to provide input on the release of record;
- 4) The Public Records Officer shall grant or deny the request for record, in compliance with the requirements of the policy, within 10 business days of its notification to the third party; and
- 5) The Public Records Officer shall notify the third party of the decision regarding the request for the record. § 707(b).

VI. Response to a request for a transcript of an administrative proceeding

If the Public Records Officer receives a request for a transcript of an administrative proceeding, the following procedures shall be used when responding to the request:

- 1) The Public Records Officer shall determine if the transcript of the administrative proceeding is exempt from public disclosure:
 - a. As a general rule, a transcript from a proceeding adjudicating the rights of a student (i.e. expulsion hearing or special education due process hearing) or an employee (i.e. dismissal hearing) will be exempt from public disclosure – and the disclosure of such transcripts shall not be made without consulting the district’s solicitor; and
 - b. Transcripts of public hearings (i.e. Act 34 hearing, Charter School Law proceedings) are subject to public disclosure.
- 2) If a transcript is subject to public disclosure, the district shall either make its own copy of the transcript available for public disclosure or forward the request to the court stenographer who transcribed the proceedings if the district have a copy of the transcript. § 707(c).

Right-to-Know Policy (2008)

Hazleton Area School District

Inspection and Copying of Public Records

I. Purpose

The purpose of this policy is to establish procedures to ensure the district complies with the requirements of the Right-to-Know Act, 65 P.S. § 66.1 *et seq.*, which allows residents of the United States to inspect and obtain copies of public records.

II. Definitions

For purposes of this policy, the terms set forth below shall have the following meanings:

“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.

“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 School District, including the individual’s name and title; and a financial audit report excluding the audit’s underlying work papers.

“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 Act (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.

“Record” shall mean information, regardless of physical form or characteristics, that document 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 school 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.

“Requester” shall mean any person who is a resident of the United States and requests access to a record pursuant to the Right-To-Know Act.

“Response” shall mean access to a record or written notice from the district granting, denying or partially granting and partially denying access to a record.

III. Public Records Officer

The School Board designates the Accounting Finance Manager to act as the district's Public Records Officer.

The Public Records Officer shall be responsible for the following duties in order to implement the requirements of this policy:

- 1) Receive all written requests for access to records submitted to the district.
- 2) Direct request to other appropriate 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 responses.
- 6) Ensure appropriate school district staff are trained to perform assigned job functions relative to request for access to records.

After receiving a written request for access to a public record, the Public Records Officer shall take the following steps in order to track the ongoing status of and final disposition of the district's response:

- 1) Note the date on which the written request was received by the school 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.
- 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 determination is issued regarding the appeal.

The district shall post the following information on its official website to implement this policy and comply with the Right-to-Know Act:

- 1) Contact information for the district's Public Records Officer.
- 2) Contact information for the State Office of Open Records.
- 3) A copy of the district's form which may be used to file a request.
- 4) A copy of this policy, its administrative regulations and the district's request form.

IV. Requests for Access to Public Records

Any requester seeking access to or duplication of a public record must submit a written request addressed to the Public Records Officer. All district employees are directed to forward written requests for access to public records to the Public Records Officer, if they are inadvertently directed to them.

A requester must complete the Right-to-Know Request Form created by either the district or the State Office of Open Records when submitting a written request. Copies of the district's form may be obtained on the district's official website. The written request must identify or describe the public record sought with sufficient specificity to allow the Public Records Officer to determine which record is being requested, and the name and address to which the

district should send its response.

The district may, in its sole discretion, honor verbal requests for public records in cases where access can be allowed immediately. However, a verbal request shall not be considered an official request requiring a district response under this policy.

Any requester may submit a written request to the Public Records Officer using one of the prescribed Right-to-Know Request Forms in the following manner:

In person: At the district administrative offices **HASD Administration Building, 1515 West 23rd Street, Hazle Township, PA 18202-1647** on any business day during the regular business hours.

By regular mail: Sent to the attention of the Public Records Officer at the district administrative offices at **HASD Administration Building, 1515 West 23rd Street, Hazle Township, PA 18202-1647**.

By facsimile: Sent to the attention of the Public Records Officer at the following facsimile number **(570) 459-6156**. A written request sent via facsimile will not be considered submitted until a complete and legible copy of the facsimile is received by the Public Records Officer.

By e-mail: Sent to the attention of Public Records Officer at **hasdrtk@hasdk12.org**. An e-mail will not be considered submitted until a complete accessible copy of that e-mail is received by the Open Records Officer.

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, the record has already been provided to the requester and the repeated requests have placed an unreasonable burden on the district.

V. School District Response to Written Request

The Public Records Officer will respond to a written request within five (5) business days after its receipt. During that period, the Public 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.

The district response may take any of the following forms:

- 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 website the response should also explain how to access such information. Alternatively, the requested record may be provide with the response.
- 2) A written denial explaining why the requested document is not a public record thus resulting in the denial of the request, in whole or in part.
- 3) 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.

A denial of a request shall be in writing and shall set forth the following information:

- 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 Public Records Officer on whose authority the

- denial is issued;
- 4) the date of the response; and
- 5) an explanation of the procedure to appeal the denial.

A written notice explaining a request is under review shall set forth the reasons for the review and advise of the date when a final response can be expected, which date shall be within 30 calendar days from the date of the notice. The district may advise that the request is under review if any of the following applies:

- 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 request does not comply with the district policies regarding access to records;
- 6) the requester has failed to pay applicable fees; or
- 7) the extent or nature of the request precludes a response within the required time period.

The Public 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.

If the Public Records Officer does not provide the requester with a written response within the designated time periods, the written request may be deemed denied and the requester may file an appeal within fifteen (15) business days of the expiration of the designated time period, as provided by Section XI of this policy.

The Public Records Officer may consult with the district's solicitor to address the district's response to a Right-to-Know Act request.

VI. Redacting Records to Allow for Public Access

If a requester seeks access to a record determined to contain both public and confidential information, the district shall grant access to the public information contained in that record and redact the confidential information if it is possible to redact the confidential information. The district, in its sole discretion, may provide public information contained in a redacted record in a format of its choice, which will allow for timely disclosure of public information while simultaneously protecting against the release of confidential information which is not required to be disclosed under the Act. If the confidential information is an integral part of the record and cannot be separated, the district shall deny access to the record.

Personal identification numbers, financial information, home, cellular or personal telephone numbers, personal e-mail addresses, spouse and/or dependent information, and Social Security numbers of individuals are generally not subject to public disclosure, and therefore will normally be redacted from a record otherwise considered a public record.

The Public Records Officer shall consult the district's administrative guidelines under this policy when deciding what information may be redacted from a public record.

If the district redacts information from any record, the redaction will be treated as a partial denial of the record request, and the Public Records Officer will provide the requester with a written response regarding the partial denial, as provided in Section V of this policy.

VII. Denial of Public Access to Certain Records

In certain instances, a record will be exempt from the public disclosure requirements of the Right-to-Know Act.

The Public Records Officer shall consult the district's administrative guidelines under this policy when deciding whether or not a record constitutes a public record that must be available to the public.

If a record request is denied, the Public Records Officer will provide the requester with a written response regarding the denial, as provided in Section V of this policy.

VIII. Electronic Access to Public Records

The district shall make public records available through publicly accessible electronic means when they exist in that medium. When electronic access is sought for a public record, the district will apprise a requester when a requested record is available through publicly accessible electronic means and advise where the public record may be reviewed and downloaded. If the public record is only maintained electronically and is not publicly available, the district will make a paper copy available for inspection upon request subject to payment of the applicable fee.

The district will permit electronic access to a public record if it is routinely available only by electronic means, or if the requester requests electronic access and the record exists in electronic form. A public record will not be considered "routinely available only by electronic means" if the district maintains a readily available paper copy of that record for requester review.

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 to the record in one of the following manners as decided by the district:

- 1) Provide a computer disk containing the record in electronic form;
- 2) Respond with an e-mail containing an attachment or electronic link to the record; or
- 3) Provide a paper copy of an electronically-stored public record, if confidential information must be redacted from that record to permit access to the public information.

IX. Inspection of Public Records

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 the formats in which they exist. 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.

The inspection of a public record by a requester shall take place at the district administrative offices during regular business hours; unless an alternative location is designated in advance by the district.

Except for copies made and delivered to a requester pursuant to this policy, no public record shall be removed from the control or supervision of the district. 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; employee monitoring of a requester while inspecting public records; and

the immediate termination of the inspection of public records if the district reasonably believes the requester's conduct would result in damage to its public records or school facilities.

A requester is required to 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 school facilities, accesses or attempts access to unauthorized areas of the school facilities or records, or threatens, harasses or intimidates district staff or students.

X. Duplication and Fees

A public record will be duplicated for the requester, if duplication is requested.

Generally, a requester seeking to obtain a duplicate of a public record is required to appear in person to do so. In appropriate cases, the district may decide, in its sole discretion, to mail or otherwise deliver duplicate copies of public records to a requester.

The fees set forth in this policy shall not exceed the maximum charges established by any duly-promulgated regulations of the State Office of Open Records. The district reserves the right to revise these fees from time to time to ensure they comply with the maximum charges allowed by law.

The district will charge the following fees when a requester seeks to obtain a copy and for conversion of an electronic record to paper:

- 1) Printing copy of non-paper record – 25¢ per page.
- 2) Photocopying – 25¢ per page.
- 3) Certified copy – \$5 per record to certify a public record. Please note that certification fees do not include notarization fees.
- 4) Electronic copy of record – Electronic copies will be provided by means of computer disk. For transfer of an electronic file to a computer disk, the charge is \$1 for the disk plus \$7.25 per hour with a minimum charge of \$7.25. The district reserves the right to apply the same fee for e-mail of record when request is made for access in electronic form and solely for its convenience the district chooses e-mail transmission in lieu of providing a disk.
- 5) Redaction – No fee
- 6) Specialized Documents – Actual cost.
- 7) Mailing copy of record – If a request is made for mailing and the district chooses to mail the copy instead of personal pickup, the requester will pay the actual cost of shipping or postage.
- 8) Facsimile transmission – If a request is made for facsimile transmission and the district chooses to provide facsimile transmission instead of personal pickup, the requester will pay 25¢ per page.

The total sum owed shall be paid before the public record is given to the requester. If the duplication or transmission of a public record will cost one hundred dollars (\$100) or more, that fee must be paid in advance of the request being processed.

The district, in its sole discretion, may decide to waive fees associated with the reproduction or delivery of public records if it deems it is in the public interest to do so.

XI. Filing of Appeals

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 State Office of Open Records within fifteen (15) business days from the date

of the written denial or deemed denial. The appeal shall be in writing and state the grounds upon which the requester asserts that the requested record is a public record and shall address any grounds stated by the district for delaying or denying the request.

XII. Posting of Policy

A copy of this policy and its administrative regulations shall be conspicuously posted in the district administrative offices in an area accessible to the public and on the district's official website.