

SECTION: OPERATIONS

TITLE: Public Record

CATASAUQUA AREA SCHOOL DISTRICT

ADOPTED: May 12, 2003
 REVISED: November 10, 2005
 REVIEWED: November 10, 2005
 REVISED: December 4, 2008

822. PUBLIC RECORDS		1
1. Purpose	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 regulations.	2 3 4 5 6 7 8
2. Definitions 65 Pa. Stat. Ann. § 67.102	<p>Financial record - any account, voucher or contract dealing with the receipt or disbursement of funds by the District or the District's 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 District, including the individual's name and title; and a financial audit report (but not including the work papers underling an audit).</p> <p>Public record - a record of the District, including a financial record, that is not exempt from being disclosed under one of the exemptions in the Right-to-Know Law, 65 PA. STAT. ANN. § 67.101 <i>et seq.</i>, or under other federal or state law or regulation, or judicial order or decree, and which is not protected by the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege, or other privilege recognized by a court interpreting the laws of the Commonwealth of Pennsylvania.</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 granting a requester 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 (as defined in the Right-to-Know Law), who requests access to a record.</p>	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36

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3. In General

65 Pa. Stat. Ann.
§§ 67.302,
67.305, 67.504,
67.701

The Board shall make the District’s public records available for access and duplication by a requester in accordance with the procedures, restrictions, limitations, and other provisions of the Right-to-Know Law, 65 PA. STAT. ANN. § 67.101 *et seq.*, and other applicable laws, regulations, Board policy and administrative regulations, while protecting the confidentiality of materials which do not constitute “public records,” such as materials whose access or publication is prohibited, restricted, or forbidden by state or federal law, regulation, or court order, or otherwise not required to be disclosed under the Right-to-Know Law. The provisions of the Right-to-Know Law, as in effect on January 1, 2009 and as they may be amended from time to time hereafter are incorporated into this policy by reference. This policy supplements the statute, and in the event of any conflict between this Policy and the Right-to-Know Law as it may be amended from time to time, this Policy shall be deemed amended to the extent necessary to eliminate the conflict.

4. Delegation of
Responsibility

The Board hereby designates the Superintendent as the District’s Open Records Officer. In the absence of the Superintendent, the Superintendent’s designee shall serve as the temporary Open Records Officer to the extent action needs to be taken during the absence of the Superintendent. The Open Records Officer shall consult with the Solicitor as necessary to assist in complying with the law regarding disclosure of public records and protection of confidential information.

65 Pa. Stat. Ann.
§ 67.502

The Open Records Officer shall be responsible to:

1. Receive written requests for access to records submitted to the district.
2. Review and respond to written requests in accordance with law, Board policy and administrative regulations.
3. Direct requests to other appropriate individuals in the district or in another agency.
4. Track the district’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.
7. Ensure district staff are trained to perform assigned job functions relative to requests for access to records.

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65 Pa. Stat. Ann.
§§ 67.502,
67.901, 67.1101

Upon receiving a request for access to a record, the Open Records Officer shall:

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. 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.

5. Guidelines
65 Pa. Stat. Ann.
§ 67.701

Requesters may access and procure copies of the public records of the district during the regular business hours of the administration offices.

A requester’s right of access does not include the right to remove a record from the control or supervision of the Open Records Officer.

65 Pa. Stat. Ann.
§ 67.302
65 Pa. Stat. Ann.
§ 67.705

The district shall not limit the number of records requested.

When responding to a request for access, 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 in which the district does not currently compile, maintain, format, or organize the record.

42 USC § 12132,
28 CFR §§
35.160, 35.164
65 Pa. Stat. Ann.
§§ 67.504,
67.505

Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.

The district shall post at the administration office and on the district’s Internet web site the following information:

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 uniform form of the state Office of Open Records may also be used if the Open Records Officer establishes a special form for the district.
4. Board policy, administrative regulations and procedures governing requests for access to the district’s public records.

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6. Request for Access

65 Pa. Stat. Ann. §§ 67.504, 67.505, 67.701, 67.703

A written request for access to a public record shall be submitted on the uniform form provided by the state Office of Open Records or on any form promulgated by the Open Records Officer. The written request shall be addressed to the Open Records Officer.

Written requests may be submitted to the district in person at the District Administration Office, 201 North Fourteenth Street, Catasauqua, PA 18032, or by mail to the District Administration Office at the above address, by facsimile machine to 610-264-5618, or by e-mail addressed to office@cattysd.org.

Any District employee who receives a verbal request for access to records shall not make the records available to the requester unless the employee has already been specifically authorized by the Open Records Officer to make records of that exact category of information available without further authorization. Otherwise, the District employee shall inform the requester that he/she must submit a written request to the Open Records Officer.

Each request must include the following information:

1. Identification or description of the requested record, with sufficient specificity to enable the Open Records Officer to ascertain which records are being requested.
2. Medium in which the record is requested.
3. Name and address of the individual to receive the district's response.

The district shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

7. Fees

65 Pa. Stat. Ann. § 67.1307

Fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means, and other means of duplication shall be as established from time to time by the state Office of Open Records. If a record is only maintained electronically or in other nonpaper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media, unless the requester specifically requests for the record to be duplicated in the more expensive medium.

The Open Records Officer may waive duplication fees when the requester duplicates the record or the Open Records Officer deems it is in the public interest to do so.

Fees for postage or other delivery shall be equal to the actual cost of mailing or other delivery.

The fee for official certification of copies when such certification is at the behest of the requester and for the purpose of legally verifying the public record shall be Ten Dollars (\$10.00).

Any other reasonable costs necessarily incurred by the District in complying with a request shall be charged to the requester at the cost reasonably incurred by the District. The fee for supervision of a requester who elects to inspect records in person rather than obtain a duplicate of the records, and the fee for labor costs incurred by the District in responding to a request (other than labor incurred for duplication of a record) shall be the equal to the number of hours expended multiplied by the hourly cost of the employee to the District (including benefits and taxes). The Open Records Officer shall inform the requester of the hourly rate(s) when responding to the request.

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

Prior to granting access, the district may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.

8. Response to Request

District employees shall immediately forward requests for access to public records to the Open Records Officer.

65 Pa. Stat. Ann. §§ 67.502, 67.702, 67.901

Upon receipt of a written request for access to a record, the Open Records Officer shall 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 to the request 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 shall grant access to the requested record; deny access to the requested record; partially grant and partially deny access to the requested record; notify the requester of the need for an extension of time to fully respond; or request more detail from the requester to clearly identify the requested material.

If the district fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied.

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9. Extension of Time

65 Pa. Stat. Ann. §§ 67.901, 67.902

If the Open Records Officer determines that an extension of time is required to respond to a request for one of the reasons set forth in 65 PA. STAT. ANN. § 902(a), written notice shall be sent to the requester within five (5) business days after receipt of the request. The notice shall indicate that the request for access is being reviewed, the reason for the review, a reasonable date when the response is expected, and an estimate of applicable fees owed when the record becomes available.

The consent of the requester is not required for an extension of up to thirty (30) days after the initial five (5) business day response period for one of the reasons set forth in 65 PA. STAT. ANN. § 902(a). If the response is not given by the specified date, it shall be deemed denied on the day following that date.

A requester may consent in writing to an extension that exceeds thirty (30) days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Open Records Officer has not provided a response by that date.

10. Granting of Request

65 Pa. Stat. Ann. §§ 67.506, 67.701, 67.704, 67.706, 67.905, 67.1307

If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the administration office, provide electronic access, or state where the requester may go to inspect the records or information electronically at a publicly accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required in a specified amount if access to the records will cost in excess of \$100, and the medium in which the records will be provided.

The Open Records Officer, in his/her reasonable discretion, may agree to deliver copies of the public records to which access is granted to the requester in a manner requested by the requester if the requester prepays all fees, including the delivery charges. The Open Records Officer need not agree to use any delivery method not generally used by the District.

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 the medium in which it exists. However, the district is not required to permit use of its computers.

The Open Records Officer may respond to a records request by notifying the requester that the record is available through publicly accessible electronic means or that the district shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the district's notice, submits a written request to have the record converted to paper, the district shall provide access to the record in printed form within five (5) days of receipt of the request for conversion to paper.

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 and which directly relates to that governmental function shall be considered a public record of the district. When the district contracts with such a third party, the district shall require the contractor to agree in writing to comply with requests for such records and to provide the district with the requested record in a timely manner to allow the district to comply with law. Transcripts of an administrative proceeding shall be provided in accordance with 65 PA. STAT. ANN. § 707(c).

If the Open Records Officer determines that a public record contains information that is subject to access as well as information that is not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to a record if the information which is not subject to access is able to be redacted.

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 dispose of the copy and retain any fees paid to date.

11. Notification to Third Parties

When the district produces a record that is not a public record in response to a request, the Open Records Officer shall notify any third party that provided the record to the district, the person that is the subject of the record, and the requester.

65 Pa. Stat. Ann. § 67.707

The Open Records Officer shall notify a third party of a record request 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. In that event, the procedures set forth in 65 PA. STAT. ANN. § 707(b) shall apply.

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<p>12. Denial of Request</p> <p>65 Pa. Stat. Ann. §§ 67.506, 67.706, 67.901, 67.1101</p>	<p>If the Open Records Officer denies a request for access to a record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request. 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. The typed or printed name, title, business address, business telephone number of the Open Records Officer on whose authority the denial is issued, and the signature of the Open Records Officer 4. Date of the response. 5. The procedure for the requester to appeal a denial of access. <p>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.</p> <p>The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster. The Open Records Officer may deny a request for access to historical, ancient or rare documents, records, archives, and manuscripts when access may cause physical damage or irreparable harm to the record, in the professional judgment of the curator or custodian of the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.</p> <p>Information that is not subject to access and is redacted from a public record shall be deemed a denial.</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 Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer'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 and shall address any grounds stated by the Open Records Officer for delaying or denying the request.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p>