



SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

ADOPTED: December 19, 1996

REVISED: November 19, 2002
December 16, 2008

	801. PUBLIC RECORDS
1. Purpose 2. Definitions 65 P.S. Sec. 67.102	The Joint Operating Committee recognizes the importance of public records as the record of the school actions and the repository of information about this school. The public has the right to access and procure copies of public records, with certain exceptions, subject to law, Joint Operating Committee policy and administrative regulations. Financial record - any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers. Public record - a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order. Record - information, regardless of physical form or characteristics, that documents a school transaction or activity and is created, received or retained pursuant to law or in connection with a school transaction, business or activity, including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data-processed or image-processed document. Response - the school's notice informing a requester of a granting of access to a record or the school's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record. Requester - a legal resident of the United States, or an agency, who requests access to a record.

3. Authority 65 P.S. Sec. 67.302, 67.305, 67.504, 67.701	The Joint Operating Committee shall make the school's public records available for access and duplication to a requester, in accordance with law, Joint Operating Committee policy and administrative regulations.
4. Delegation of Responsibility 65 P.S. Sec. 67.502	The Joint Operating Committee shall designate an Open Records Officer, who shall be responsible to: 1. Receive written requests for access to records submitted to the school. 2. Review and respond to written requests in accordance with law, Joint Operating Committee policy and administrative regulations. 3. Direct requests to other appropriate individuals in the school or in another agency. 4. Track the school'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 school staff are trained to perform assigned job functions relative to requests for access to records.
65 P.S. Sec. 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. 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.
5. Guidelines 65 P.S. Sec. 67.701	Requesters may access and procure copies of the public records of the school during the regular business hours of the administration offices.

65 P.S. Sec. 67.302	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 P.S. Sec. 67.705	The school shall not limit the number of records requested.
65 P.S. Sec. 67.705	When responding to a request for access, the school 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 school does not currently use.
42 U.S.C. Sec. 12132 28 CFR Sec. 35.160, 35.164	Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.
65 P.S. Sec. 67.504, 67.505	The school shall post at the administration office and on the school's web site, if it maintains a 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 state Office of Open Records form may also be used if the school decides to create its own form. 4. Joint Operating Committee policy, administrative regulations and procedures governing requests for access to the school's public records.
65 P.S. Sec. 67.504, 67.505, 67.703	<u>Request For Access</u> A written request for access to a public record shall be submitted on the required form(s) and addressed to the Open Records Officer. Written requests may be submitted to the school in person, by mail, to a designated facsimile machine, or to a designated e-mail address.
65 P.S. Sec. 67.701, 67.703	Each request must include the following information: 1. Identification or description of the requested record, in sufficient detail.

65 P.S. Sec. 67.703	2. Medium in which the record is requested. 3. Name and address of the individual to receive the school's response. The school shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.
65 P.S. Sec. 67.1307	<u>Fees</u> Except for the duplication fee established by the state, the Joint Operating Committee shall approve a list of reasonable fees relative to requests for public records. The school shall maintain a list of applicable fees and disseminate the list to requesters.
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.
65 P.S. Sec. 67.1307	Prior to granting access, the school may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.
65 P.S. Sec. 67.1307	The Director may waive duplication fees when the requester duplicates the record or the Director deems it is in the public interest to do so.
65 P.S. Sec. 67.502, 67.702	<u>Response To Request</u> School employees shall be directed to immediately forward requests for access to public records to the Open Records Officer.
65 P.S. Sec. 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 school has possession, custody or control of that record.
65 P.S. Sec. 67.901	The Open Records Officer shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer. The initial response 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.

65 P.S. Sec. 67.901	If the school fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied.
65 P.S. Sec. 67.901, 67.902	<u>Extension Of Time</u> If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, written notice shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimate of applicable fees owed when the record becomes available. Up to a thirty (30) day extension for one (1) of the listed reasons does not require the consent of the requester. 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.
65 P.S. Sec. 67.701	<u>Granting Of Request</u> 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 publically 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. 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 school is not required to permit use of its computers.
65 P.S. Sec. 67.701, 67.704	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 school shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the school's notice, submits a written request to have the record converted to paper, the school shall provide access in printed form within five (5) days of receipt of the request for conversion to paper.

65 P.S. Sec. 67.506	A public record that the school does not possess but is possessed by a third party with whom the school has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a public record of the school . When the school contracts with such a third party, the school shall require the contractor to agree in writing to comply with requests for such records and to provide the school with the requested record in a timely manner to allow the school to comply with law.
65 P.S. Sec. 67.706	If the Open Records Officer determines that a public record contains information both subject to and 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 information is able to be redacted.
65 P.S. Sec. 67.905	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 school's response, the school shall dispose of the copy and retain any fees paid to date.
65 P.S. Sec. 67.707	<u>Notification To Third Parties</u> When the school 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 school, the person that is the subject of the record, and the requester.
65 P.S. Sec. 67.707	The Open Records Officer shall notify a 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. <u>Denial Of Request</u>
65 P.S. Sec. 67.901, 67.903	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: 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 on whose authority the denial is issued. 4. Date of the response.

65 P.S. Sec. 67.506 65 P.S. Sec. 67.506 65 P.S. Sec. 67.706, 67.903 65 P.S. Sec. 67.1101	5. Procedure for the requester to appeal a denial of access. The Open Records Officer may deny a request for access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the school. The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable. Information that is not subject to access and is redacted from a public record shall be deemed a denial. 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. References: School Code – 24 P.S. Sec. 408, 518 Right-to-Know Law – 65 P.S. Sec. 67.101 et seq. Americans With Disabilities Act – 42 U.S.C. Sec. 12101 et seq. Accessibility to Communications, Title 28, Code of Federal Regulations – 28 CFR Sec. 35.160, 35.164 Joint Operating Committee – 800
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RULES AND REGULATIONS
GOVERNING THE RELEASE OF PUBLIC RECORDS
UNDER THE PENNSYLVANIA RIGHT-TO-KNOW LAW

These Rules and Regulations are intended to aid in compliance with the Pennsylvania Right-to-Know Law, Act 3 of 2008. These Rules and Regulations shall apply to requests for records made after December 31, 2008.

I. GENERAL

- A. The Erie County Technical School shall provide public records in accordance with Act 3 of 2008 and with these rules and regulations. In the event of a conflict between the rules and regulations and the Act, the Act shall apply.
- B. Requests for access to a public record may not be denied due to the intended use of the public record by the requester.
- C. A record in the possession of the Erie County Technical School shall be presumed to be a public record. The presumption shall not apply if:
 - 1. the record is exempt from access;
 - 2. the record is protected by a privilege; or
 - 3. the record is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.
- D. Definitions

All terms not otherwise defined within these Rules and Regulations and to be defined by Act 3 of 2008.

- 1. The term "financial record" includes any of the following:
 - a. Any account, voucher or contract dealing with:
 - (i) the receipt or disbursement of funds by an agency; or
 - (ii) an agency's acquisition, use or disposal of services, supplies, materials, equipment or property.
 - b. The salary or other payments or expenses paid to an officer or employee of an agency, including the name and title of the officer or employee.
 - c. A financial audit report. The term does not include work papers underlying an audit.
- 2. The term "personal financial information" includes 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.
- 3. "Privilege" means the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, or other privilege recognized by a court interpreting the laws of this Commonwealth.
- 4. The term "public record" means a record, including a financial record, of the Erie County Technical School that:
 - a. is not exempt under section 708 of Act 3 of 2008;
 - b. is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
 - c. is not protected by a privilege.

5. "Record" means information, regardless of physical form or characteristics, that documents a transaction or activity of the Erie County Technical School and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the Erie County Technical School. The term 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.
6. "Requester" includes a person that is a legal resident of the United States and requests a record pursuant to this act. The term includes an agency.

II. OPEN-RECORDS OFFICER

A. Appointment of Open-Records Officer

1. From time to time, as necessitated by a vacancy in the office, the Erie County Technical School shall appoint an official or employee to serve as the Erie County Technical School Open-Record Officer by Resolution.

B. Functions of Open-Records Officer

1. Receive requests for public records submitted to the Erie County Technical School.
2. Direct requests to other appropriate persons within the Erie County Technical School or in another agency.
3. Track the progress in responding to requests.
4. Issue interim and final responses to requests in a compliant fashion.

C. Responsibilities

1. Upon receiving a request for a public record, an open records-officer shall:
 - a. Note the date of receipt of the request
 - b. Compute when the five-day response time will expire and make note of such on the written request
 - c. Provide for the disposition of requests and responses.

III. POSTING

- A. Postings required by Act 3 of 2008 will be made at the (Head Office of the Agency) and on the Erie County Technical School website, www.ects.org. A copy of the required posting is available in the appendix to this document.

IV. REQUEST AND ANSWER PROCESSING

A. Form of Requests

1. Requesters may submit requests that are either written or oral.
2. A written request for records may be submitted:
 - (a) In person
 - (b) By mail
 - (c) By email
 - (d) By facsimile
3. Written requests may be submitted:
 - (a) On the Erie County Technical School Request for Open Records Form, as found in the appendix and available on the Erie County Technical School website, www.ects.org, from the Open-Records Officer or at the main office.
 - (b) On the Uniform Form developed by the Pennsylvania Office of Open Records.
 - (c) In writing by the requester, so long as such request complies with Subsection 4 of this section.
4. Requests for access to Public-Records:
 - (a) Are to be addressed to the Open-Records Officer;
 - (b) Should identify or describe the records sought with sufficient specificity to enable the Erie County Technical School to ascertain which records are being requested; and
 - (c) Shall include the name and address to which the Erie County Technical School should address its response.

B. Duties Upon Receipt of Requests:

1. All Erie County Technical School employees are to forward requests for records to the Open-Records Officer.
2. The Open-Records Officer shall:
 - (a) Note the date of receipt of the request on the written request; and

- (b) Compute the day on which the five-day period for the initial response will expire and note the date on the written request.

3. Initial Agency Response

- (a) Upon receiving a request, the open records officer shall make a good faith effort to:
 - (i) Determine whether the requested record is a public record and within control of the Erie County Technical School; and,
 - 1. If the Open-Records Officer determines that the request includes a record that is not in the possession of the Erie County Technical School, but is in the possession of a party with whom the Erie County Technical School has contracted to perform a governmental function on its behalf, and if the requested record relates to the governmental function and is not otherwise exempt under Act 3 of 2008; then the Open-Records Officer shall make arrangements with the Third Party Contractor to obtain the record.
 - (ii) Respond as promptly as possible.

(b) Written Agency Response

- (i) The Erie County Technical School shall provide the initial written response within five business days from the receipt date of the request.
 - 1. The initial written response may grant, deny, partially grant and partially deny, or claim an extension of time in which to respond.
- (ii) Extensions of time
 - 1. An Open-Records Officer may claim an extension of time is necessary to properly respond to the request for public records if one or more of the following apply:
 - The request must be redacted.
 - The record is stored in a remote location and must be retrieved.
 - Bona fide and specified staffing limitations prevent a timely response.

- Legal review is necessary to determine if the record is subject to access.
 - The requester has not complied with the agency's access policies or refuses to pay applicable fees.
 - The extent or nature of the request precludes a response within the required time period.
2. The extension of time shall not be in excess of 30 days following the five business days for the initial response.
 3. Written notice of a claim of extension of time shall state that the record is being reviewed, the reason for the review and the date that the response will be provided in accordance with subparagraph 2 above.

(iii) Denial of Requests

1. An agency may deny access to a record when:
 - A requester has made repeated requests for the same record, placing an unreasonable burden on the agency;
 - Timely access of the record is not possible due to flood, fire, or other disaster; or,
 - Physical damage may occur to a historical, ancient or rare record.
2. Erie County Technical School may deny access to a record if one of the enumerated exceptions contained in Section 208 of Act 3 of 2008 applies, and the Erie County Technical School can show, by the preponderance of the evidence, that the exemption applies.
3. Written Denials shall be issued, whether in whole or in part, and shall include:
 - A description of the record requested;
 - Specific reasons for the denial, including a citation of supporting legal authority;

- The name, title, business address, business telephone number and signature of the open-records officer who denied the request;
- Date of the response; and,
- The procedure to appeal the denial of access.

V. MISCELLANEOUS

A. Creation of Record.

- (1) When responding to a request for access, the Erie County Technical School shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the Erie County Technical School does not currently compile, maintain, format or organize the record.

B. Medium Records are to be provided to a Requester.

- (1) A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.

C. Redaction.

- (1) If the Erie County Technical School determines that a public record or financial record contains information which is subject to access as well as information which is not subject to access, the Erie County Technical School response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record or financial record and cannot be separated, the agency shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The agency may not deny access to the record if the information which is not subject to access is able to be redacted. Information which the Erie County Technical School redacts in accordance with this subsection shall be deemed a denial.

D. Requests for Certain Records.

- (1) General rule.-- If, in response to a request, the Erie County Technical School produces a record that is not a public record, or financial record, the Erie County Technical School shall notify any third party that provided the record to the agency, the person that is the subject of the record and the requester.

- (2) Requests for trade secrets.—The Erie County Technical School shall notify a third party of a request for a record if the third party provided the record and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information. Notification shall be provided within five business days of receipt of the request for the record. The third party shall have five business days from receipt of notification from the agency to provide input on the release of the record. The Erie County Technical School shall deny the request for the record or release the record within ten business days of the provision of notice to the third party and shall notify the third party of the decision.
- E. Document Retention.
- (1) Documentation of requests for public records is to comply with the Erie County Technical School records retention schedule.
- F. Fees
- (1) Fees for postage may not exceed the actual cost of mailing.
 - (2) 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 established by the Pennsylvania Office of Open Records.
 - (3) The Erie County Technical School may impose a reasonable fee for official certification of copies of the records at the request of the requester.
 - (4) Conversion to paper. - If a record is only maintained electronically or in other non paper 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.
 - (5) If the fees are expected to exceed \$100.00, all fees must be prepaid prior to granting a request for access.

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RIGHT- TO -KNOW LAW

You have the right to request access to the Erie County Technical School public records. Request for public records are to be made to the Open Records Officer. Requests may be submitted in person, by mail, by email, or by facsimile. Requests may be oral or written, and may be made using the Erie County Technical School Public Records Request Form. The form is available from the Open-Records Officer, in the main office, or online at <http://www.ects.org/>. Additionally, requests may be made using the Pennsylvania Office of Open Records Uniform Request Form, available at www.openrecords.state.pa.us.

Regulations, policies and procedures of the Erie County Technical School are available from the Open-Records Officer, in the main office or online at <http://www.ects.org/>.

The Erie County Technical School Open-Records Officer may be contacted at:

Name: Paul D. Fritz
Address: 8500 Oliver Rd, Erie, PA 16509
Phone: 814-464-8600
Fax Number: 814-464-8626
Email: openrecords@ects.org

The Pennsylvania Office of Open Records may be contacted at:

Address: Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225

Phone: 717-346-9903 Email: openrecords@state.pa.us



Public Record Request Form

Requester Name: _____

Requester Mailing Address: _____

Phone: (____) _____ Email: _____

Please identify or describe the records sought: _____

(Please attach an additional sheet of paper if necessary)

Please note the format you would like the records to be in, such as in paper or electronic format. If you desire access in an electronic format, please list which format.

(Records will be provided in the format requested, if it exists in that format; otherwise it will be provided in the format in which it exists.)

I am requesting that:

- ☐ the identified records be mailed to me at the address provide. I understand certain duplication and postage fees apply.
- ☐ the records be made available for inspection at the offices of Erie County Technical School during regular business hours.
- ☐ the records be forwarded to me electronically.
- ☐ certified copies of the records be made available to me. I understand that fees for providing certification of records apply.

Date Request Submitted: _____

Signature of Requester: _____

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For Open-Records Officer Use Only

Date of Receipt: _____

5 Day Response Date: _____



**Open-Records Officer
Tracking Form**

1. Request received by Open Records Officer from:

- ☐ Requester
☐ Staff member: _____

2. Requester Contact Information:

Name: _____

Address: _____

Phone: (____)_____ Email _____

3. Request is :

- ☐ Oral. If so, see attached document.
☐ Written. If so, attach this form to written request.

4. Individual assigned this request is a: ☐ Staff Member
☐ Contractor

Name: _____

Title: _____

Company: _____

Address: _____

Phone: (____)_____ Email _____

5. Date Request received: _____

6. Five Day Response Due: _____ Sent: _____

- Five Day Response: ☐ Granted Access
☐ Claimed Extension
☐ Denied.
☐ Partial Grant, Partial Denial

7. If Extension Claimed, Thirty Day Response Due: _____ Sent: _____

Thirty Day Response: ☐ Granted Access
 ☐ Denied.
 ☐ Partial Grant, Partial Denial

8. If Denied, Date of Denial: _____

9. If Granted, Date Records Provided/Reviewed by Requester: _____

10. All applicable fees collected: _____ Amount: _____

11. If Appealed, Date of Appeal: _____

Date Appealed finalized: _____

Disposition: _____

12. Description of records granted access to: _____
