

SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

ADOPTED: April 15, 1993

REVISED: December 3, 2008

# DONEGAL SCHOOL DISTRICT

<p>1. Purpose 65 P.S. Sec. 67.101 et seq</p> <p>2. Definitions</p> <p>65 P.S. Sec. 67.102</p>	<p style="text-align: center;">801. PUBLIC RECORDS</p> <p>The purpose of this policy is to establish procedures to ensure the district complies with the requirements of the Right-to-Know Law, 65 P.S. § 67.101 <i>et seq.</i>, which allows legal residents of the United States to inspect and obtain copies of public records.</p> <p>For purposes of this policy, the terms set forth below shall have the following meanings:</p> <p><b>Business day</b> 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.</p> <p><b>Financial Record</b> 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 district, including the individual’s name and title; and a financial audit report excluding the audit’s underlying work papers.</p> <p><b>Public Record</b> 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.</p> <p><b>Record</b> shall mean information, regardless of physical form or characteristics, that documents 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 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.</p> <p><b>Requester</b> shall mean any person who is a legal resident of the United States or an agency that requests access to a record pursuant to the Right-to-Know Law.</p>
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<p>3. Delegation of Responsibility 65 P.S. Sec. 67.502</p> <p>65 P.S. Sec. 67.502</p> <p>65 P.S. Sec. 67.502, 67.901, 67.1101</p>	<p><b>Response</b> shall mean granting access to a record or written notice from the district granting, denying or partially granting and partially denying access to a record.</p> <p><u>Open Records Officer</u></p> <p>The School Board shall designate an Open Records Officer. Until changed by a School Board resolution, the Open Records Officer shall be the district Business Manager.</p> <p>The Open Records Officer shall be responsible for the following duties in order to implement the requirements of this policy:</p> <ol style="list-style-type: none"> <li>1. Receive, review and respond to all written requests for access to records submitted to the district.</li> <li>2. If appropriate, direct request to other persons within the district or in another agency for a response.</li> <li>3. Track the district’s progress in responding to requests for access to records.</li> <li>4. Issue interim and final responses to submitted requests.</li> <li>5. Maintain a log of all record requests and the district response.</li> <li>6. Ensure appropriate school district staff are trained to perform assigned job functions relative to requests for access to records.</li> </ol> <p>After receiving a written request for access to a public record, the Open Records Officer shall take the following steps in order to track the ongoing status of and final disposition of the district response:</p> <ol style="list-style-type: none"> <li>1. Note the date on which the written request was received by the district.</li> <li>2. Compute the day on which the five (5) business day period for the district response will expire and make a notation of that date on the written request.</li> <li>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.</li> <li>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.</li> </ol>
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<p>65 P.S. Sec. 67.506</p>	<p>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.</p>
<p>42 U.S.C. Sec. 12132 28 CFR Sec. 35.160, 35.164</p>	<p>The district shall cooperate with individuals with disabilities to make public records available in an appropriate format, upon request and with sufficient advance notice.</p> <p><u>Requests For District Records In The Possession Of Another Party</u></p>
<p>65 P.S. Sec. 67.506</p>	<p>A 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 on behalf of the district, is a public record of the district when the record directly relates to the district governmental function and is not otherwise exempt from public disclosure.</p> <p>A written request for a public record in possession of a party other than the district shall be submitted to the Open Records Officer. The Open Records Officer shall process the request for public record in the possession of another party in the same manner as other requests.</p> <p>The Open Records Officer may assess a duplication fee to make the public record available to the requester, if the party possessing the record duplicated it in order to make it accessible for public inspection.</p>
<p>65 P.S. Sec. 67.901</p>	<p><u>School District Response To Written Request</u></p> <p>The Open Records Officer will respond to a written request within five (5) business days after receipt. During that period, the Open 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.</p> <p>The district response may take any of the following forms:</p> <ol style="list-style-type: none"> <li>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 provided with the response.</li> </ol>

<p>65 P.S. Sec. 67.901, 67.903</p>	<ol style="list-style-type: none"><li>2. A written denial explaining why the requested record is not a public record thus resulting in the denial of the request, in whole or in part.</li><li>3. A written decision explaining the requested record does not exist.</li><li>4. 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.</li></ol> <p>A denial of a request shall be in writing and shall set forth the following information:</p> <ol style="list-style-type: none"><li>1. A description of the record requested.</li><li>2. The specific reason for the denial, including a citation of supporting legal authority.</li><li>3. The name, title, address, telephone number and signature of the Open Records Officer on whose authority the denial is issued.</li><li>4. The date of the response.</li><li>5. An explanation of the procedure to appeal the denial.</li></ol>
<p>65 P.S. Sec. 67.901, 67.902</p>	<p>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 thirty (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:</p> <ol style="list-style-type: none"><li>1. The requested record requires redaction.</li><li>2. The request requires the district to retrieve records that are stored in a remote location.</li><li>3. The district cannot timely respond due to bona fide and specified staffing limitations.</li><li>4. A legal review is necessary to determine if the record is a public record.</li><li>5. The request does not comply with the district policies regarding access to records.</li><li>6. The requester has failed to pay applicable fees.</li></ol>

<p>65 P.S. Sec. 67.1101</p> <p>65 P.S. Sec. 67.707</p> <p>65 P.S. Sec. 67.707</p> <p>65 P.S. Sec. 67.706</p>	<p>7. The extent or nature of the request precludes a response within the required time period.</p> <p>The Open 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.</p> <p>If the Open 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 in the <u>Filing Of Appeals</u> section of this policy.</p> <p>In addition, if the district produces a record that is not a public record in response to a written request, the Open Records Officer shall notify any third party that provided that record to the district, the person that is the subject of the record and the requester.</p> <p>The Open Records Officer shall also notify a third party of a record request if the requested record contains a trade secret or confidential proprietary information and follow the procedures set forth in the administrative regulations when responding to the written request.</p> <p>The Open Records Officer may consult with legal counsel to address the district response to a Right-to-Know Law request.</p> <p><u>Redacting Records To Allow For Public Access</u></p> <p>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. If the confidential information is an integral part of the record and cannot be separated, the district shall deny access to the record.</p> <p>A person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee numbers or other confidential personal identification numbers; the name of a person's spouse; marital status, beneficiary or dependent information;</p>
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<p>65 P.S. Sec. 67.701, 67.704</p>	<p>the home address of a law enforcement officer or judge are generally not subject to public disclosure, and therefore will normally be redacted from a record otherwise considered a public record.</p> <p>Nothing in this section shall preclude the release of the name, position, salary, actual compensation or other payments made to a district employee or School Board member, employment contract, employment-related contracts or the length of service of a School Board member or district employee.</p> <p>The Open Records Officer shall consult the district's administrative regulations under this policy when deciding what information may be redacted from a public record.</p> <p>If the district redacts information from any record, the redaction will be treated as a partial denial of the record request, and the Open Records Officer will provide the requester with a written response regarding the partial denial, as provided in the <u>School District Response To Written Request</u> section of this policy.</p> <p><u>Electronic Access To Public Records</u></p> <p>The district may make public records available by publicly accessible electronic means through its official website. When a request is made for a record made available in this manner, the Open Records Officer may respond by notifying a requester that the public record is available on the district website. If the requester is unwilling or unable to access the district website, the requester may within thirty (30) days of the district's response submit a written request to have the record converted to paper. If such a request is made, the district shall provide access to the public record in printed form within five (5) days of the written request.</p> <p>The district will permit electronic access to a public record if the requester requests electronic access and the record exists in electronic form. The district is not required to permit the use of its computers for purpose of electronic access.</p> <p>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 (1) of the following manners as decided by the district:</p> <ol style="list-style-type: none"><li>1. Provide a computer disk containing the record in electronic form.</li><li>2. Respond with an e-mail containing an attachment or electronic link to the record.</li></ol>
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3. Provide a redacted copy of an electronically-stored public record, if confidential information must be redacted from that record to permit access to the public information.

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.

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.

<p>65 P.S. Sec. 67.1307</p>	<p>The district will charge fees consistent with the maximum charges established by any duly-promulgated regulations of the Pennsylvania Office of Open Records. The district will attach to this policy the schedule of fees, which may be revised from time to time.</p>
<p>65 P.S. Sec. 67.905</p>	<p>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.</p>
<p>65 P.S. Sec. 67.1101</p>	<p>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.</p>
<p>65 P.S. Sec. 67.504, 67.505</p>	<p>If the Open Record Officer makes copies of a public record in response to a written request, and the requester fails to pick up the copies within sixty (60) days of the district response advising the copies are available for delivery, the copies may be discarded and the district may retain the fees already paid by requester.</p> <p><u>Filing Of Appeals</u></p> <p>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 Pennsylvania 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.</p> <p><u>Posting Of Policy</u></p> <p>The district shall post the following information in its administrative offices in an area accessible to the public and on its official website:</p> <ol style="list-style-type: none"> <li>1. Contact information for the district's Open Records Officer.</li> <li>2. Contact information for the Pennsylvania Office of Open Records.</li> <li>3. A copy of the district's form which may be used to file a request.</li> <li>4. A copy of this policy, the administrative regulations, the district's request form, and applicable fees.</li> </ol>

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

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