

SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

ADOPTED: January 12, 2009

REVISED:

MOUNTAIN VIEW SCHOOL DISTRICT

801. PUBLIC RECORDS	
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, and limitations, and as subject to law, Board policy, and administrative regulations.
2. Definitions 65 P.S. Sec. 67.102	<p>Agency - any Commonwealth, local, judicial or legislative agency. The district is included as a local agency.</p> <p>Aggregated data - a tabulation of data which relates to broad classes, groups, or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories.</p> <p>Exceptions - records which are not subject to disclosure under the Right-to-Know Law due to statutorily provided exemptions and reasonable interpretations thereof.</p> <p>Office of Open Records - an Office of the Commonwealth of Pennsylvania, established by law, which provides opportunity for appeal of district denials under the Right-to-Know Law.</p> <p>Open Records Officer - an agent or employee of the district who is appointed, hired, or assigned to receive requests submitted to the agency under this Act, direct requests to other appropriate persons within the agency or to appropriate persons in another agency, track the agency's progress in responding to requests and issue interim and final responses in this act.</p> <p>Public record - a record that is not protected by a defined privilege, is not exempt from being disclosed under one of the exemptions, is not confidential, is not proprietary information, and/or is not protected under any other federal, state, or local law or regulation, judicial decree, or order.</p> <p>Record - information, regardless of physical form or characteristics, that documents 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</p>

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	<p>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 informing a requester of a granting of 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, who requests access to a record.</p> <p>Third party - an entity which has created or holds records on behalf of, or in lieu of, the district.</p> <p>3. Authority 65 P.S. Sec. 67.302, 67.305, 67.504, 67.701</p> <p>The Board shall make the district's public records available for access and duplication to a requester, in accordance with law, Board policy and administrative regulations.</p> <p>The district shall be entitled to promulgate regulations, forms, and practices, pursuant to the law and Board policy.</p> <p>4. Delegation of Responsibility 65 P.S. Sec. 67.502</p> <p>The Board shall designate an Open Records Officer, who shall be responsible to:</p> <ol style="list-style-type: none">1. Receive written requests for access to records submitted to the 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 to third-parties, as required.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, for the duration as provided by law.7. Ensure district staff is trained to perform assigned job functions relative to requests for access to records.
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<p>65 P.S. Sec. 67.502, 67.901, 67.1101</p>	<p>Upon receiving a request for access to a record, the Open Records Officer shall:</p> <ol style="list-style-type: none"> 1. Note the date of receipt on the written request. 2. Compute and note on the written request the day on which the five-day period for response will expire. 3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled. 4. If the written request is denied, maintain the written request for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.
<p>5. Guidelines 65 P.S. Sec. 67.701</p>	<p>Requesters may access and procure copies of the public records of the district during the regular business hours of the administration offices.</p> <p>A requester's right of access does not include the right to remove a record from the control or supervision of the district.</p>
<p>42 U.S.C. Sec. 12132 28 CFR Sec. 35.160, 35.164</p>	<p>Information shall be made available to individuals with disabilities in an appropriate format, upon request and within the reasonable capacity of the district. All requests must allow the district sufficient advance notice to consider and fulfill the request.</p>
<p>65 P.S. Sec. 67.302, 67.703</p>	<p>The district shall not limit the number of records requested or demand a reason for the request.</p>
<p>65 P.S. Sec. 67.705</p>	<p>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 which the district does not currently use.</p>
<p>65 P.S. Sec. 67.506</p>	<p><u>Disruptive Requests</u></p> <p>An agency may deny a requester access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the agency.</p> <p>A denial under this subsection shall not restrict the ability to request a different record.</p>

65 P.S.
Sec. 67.506

Unavailable Records

The Open Records Officer, or designee, may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent reasonable, a record's contents may be made accessible even when the record is physically unavailable.

Contact And Posted Information

The district's contact information for all Right-to-Know inquiries is:

Superintendent, Open Records Officer
Mountain View School District
1748 State Route 106
Kingsley, PA 18826

Contact for the Pennsylvania Office of Open Records is:

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

65 P.S.
Sec. 67.504,
67.505

The district also shall post at the administration office and on the district's web site, if the district 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 district decides to create its own form.
4. Board policy, administrative regulations and procedures governing requests for access to the district's public records.

<p>65 P.S. Sec. 67.504, 67.505, 67.703</p>	<p><u>Request For Access</u></p> <p>A written request for access to a public record shall be submitted on the required form(s) and addressed to the Open Records Officer. Oral requests will not be honored.</p>
<p>65 P.S. Sec. 67.701, 67.703</p>	<p>Written requests may be submitted to the district in person, by mail, to a designated facsimile machine, and to a designated e-mail address.</p> <p>Each request must include the following information:</p>
<p>65 P.S. Sec. 67.703</p>	<ol style="list-style-type: none"> 1. Identification or description of the requested record, in sufficient detail, such that the record(s) may be identified with specificity. 2. Medium in which the record is requested. 3. Name and address of the individual to receive the district's response. <p>Failure to provide this information may result in a denial, deemed denial, or delay in response.</p>
<p>65 P.S. Sec. 67.703</p>	<p>The 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. However, the requester may offer an explanation for his/her request; this may facilitate a more timely and specific response.</p>
<p></p>	<p><u>Fees</u></p>
<p>65 P.S. Sec. 67.1307</p>	<p>Except for the duplication fee established by the state, the Board shall approve a list of reasonable fees relative to requests for public records. The district shall maintain a list of applicable fees and disseminate the list to requesters. Duplication fees shall be twenty-five cents (\$0.25) per page.</p>
<p>65 P.S. Sec. 67.1307</p>	<p>No fee may be imposed for review of a record to determine whether the record is subject to access under law.</p>
<p>65 P.S. Sec. 67.1307</p>	<p>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.</p>
<p>65 P.S. Sec. 67.1307</p>	<p>The Superintendent, or designee, may waive duplication fees when the requester duplicates the record or the Superintendent deems it is in the public interest to do so. Such waiver of fees is solely at the discretion of the Superintendent, or designee, and</p>

	<p>waivers of fees shall be considered on a case-by-case basis. A waiver of fees in one (1) instance shall not create a precedent, pattern, or practice for waiver of any other fees and does not create future entitlement to fee waivers for that or any other entity.</p> <p><u>Response To Request</u></p> <p>65 P.S. Sec. 67.502, 67.702</p> <p>District employees shall be directed to immediately forward requests for access to public records to the Open Records Officer.</p> <p>65 P.S. Sec. 67.901</p> <p>Upon receipt of a written request for access to a record, the Open Records Officer, or designee, shall determine if the requested record is a public record and if the district has possession, custody or control of that record.</p> <p>65 P.S. Sec. 67.901</p> <p>The Open Records Officer, or designee, shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer, or designee. This five (5) day calculation starts on the day following the day the request is actually received by the Open Records Officer, or designee. The five (5) days also encompasses only business weekdays; weekends and governmental holidays are not counted for the five (5) or thirty (30) day timeframes, as provided herein and below.</p> <p>The initial response shall either grant access to the requested record; deny access to the requested record; partially grant and partially deny access to the requested record (either through selective permission and/or redaction); 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.</p> <p>65 P.S. Sec. 67.901</p> <p>If the district fails to respond to a request within five (5) business days of receipt by the Open Records Officer, or designee, the request for access shall be deemed denied.</p> <p><u>Extension Of Time</u></p> <p>65 P.S. Sec. 67.901, 67.902</p> <p>If the Open Records Officer, or designee, determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, and/or because more time is needed to assess the request, 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.</p>
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	<p>One (1) thirty-day extension does not require the consent of the requester. A requester may consent in writing to an extension in time that exceeds thirty (30) days. If consent is withheld for an additional extension and/or if the response is not given by the specified date, then it shall be deemed denied on the day following that date.</p> <p><u>Granting Of Request</u></p> <p>If the Open Records Officer, or designee, determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the administration office, provide electronic access, or state where the requester may go to inspect the records or information electronically at a publically accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required if in excess of \$100, and the medium in which the records will be provided.</p> <p>65 P.S. Sec. 67.701</p> <p>A public record shall be provided to the requester in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the district is not required to permit use of its computers to a requester.</p> <p>65 P.S. Sec. 67.701, 67.704</p> <p>The Open Records Officer, or designee, may respond to a records request by notifying the requester that the record is available through publicly accessible electronic means and/or that the 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 in printed form within five (5) days of receipt of the request for conversion to paper, and an appropriate fee will be assigned.</p> <p>65 P.S. Sec. 67.506</p> <p>A public record that the district does not possess but is possessed by a third 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.</p> <p>65 P.S. Sec. 67.706</p> <p>If the Open Records Officer, or designee, determines that a public record contains information both subject to and not subject to access, the Open Records Officer, or designee, shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer, or designee, shall redact from the record the information that is not subject to access. The Open Records Officer, or designee, shall not deny access to a record if information is able to be redacted and the record is otherwise public.</p>
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<p>65 P.S. Sec. 67.905</p>	<p>If the Open Records Officer, or designee, responds to a requester that a copy of the requested record is available for delivery at the administration office and the requester does not retrieve the record within sixty (60) days of the district's response, the district shall dispose of the copy and retain any fees paid to date.</p>
	<p><u>Notification To Third Parties</u></p>
<p>65 P.S. Sec. 67.707</p>	<p>When the district produces a record that is not a public record in response to a request, the Open Records Officer, or designee, shall notify any third party who provided the record, in addition to the requester, that the record is intended for publication.</p>
<p>65 P.S. Sec. 67.707</p>	<p>The Open Records Officer, or designee, shall notify a relevant third party of a record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.</p>
	<p><u>Denial Of Request</u></p>
<p>65 P.S. Sec. 67.901, 67.903</p>	<p>If the Open Records Officer, or designee, denies a request for access to a record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request, within the thirty (30) day extension provided by statute, or within an extended time, exceeding thirty (30) days, as agreed upon between the district and the requester. The response denying the request shall include the following:</p>
	<ol style="list-style-type: none"> 1. Description of the record requested. 2. Specific reasons for denial, including a citation of supporting legal authority. 3. Name, title, business address, business telephone number, and signature of the Open Records Officer, or designee, on whose authority the denial is issued. 4. Date of the response. 5. Procedure for the requester to appeal a denial of access.
	<p><u>Exceptions</u></p>
	<p>In addition to other bases for denial, the Right-to-Know law provides for specific grounds for denial called exceptions. These statutory exceptions include, but are not limited to, the records regarding the following:</p>
	<ol style="list-style-type: none"> 1. Loss of Funds/Physical Harm/Personal Security.

2. Public Safety.
3. Safety/Security of Facilities.
4. Computer Systems Security.
5. Personal Medical Information.
6. Personal Identification Information – Personal information that does not fall within the exception includes the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement, and length of service of a public official or district employee.
7. Certain Employee Information – including but not limited to letters of reference; performance ratings/reviews; employment applications of individuals who are not hired; written employee criticisms; grievance materials (including documents related to discrimination or sexual harassment); information used in employee discipline determinations that does not result in employee discipline; academic transcripts.
8. Labor Relations/Negotiations/Arbitration – This exemption does not apply to a final or executed contract or agreement between the parties in a collective bargaining agreement, or to the final award or order of the arbitrator in a dispute or grievance procedure.
9. Pre-decisional Drafts – disclosure of the draft of a bill, resolution, regulation, statement of policy, management directive, ordinance, or their amendments, prepared by or for the district.
10. Pre-decisional Deliberations.
11. Personal Notes/Working Papers.
12. Records Disclosing the Identity of an Individual Donor to the District – unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named district public official or employee, including lists of potential donors compiled by the district to pursue donations, donor profile information, or personal identifying information relating to a donor.
13. Unpublished Academic Works.

<p>65 P.S. Sec. 67.706, 67.903</p> <p>65 P.S. Sec. 67.1101</p>	<p>14. Academic Records – disclosure of academic transcript, examinations, examination questions, scoring keys or answers to examinations, including licensing and other examinations relating to the qualifications of an individual, examinations given in district schools, and examinations given in institutions of higher education.</p> <p>15. Records Relating to Criminal and Non-criminal Investigations.</p> <p>16. Emergency Communications.</p> <p>17. Draft Minutes – disclosure of draft minutes of any School Board meeting, until the next regularly scheduled Board meeting, minutes of an executive session, and any record of discussions held in executive sessions.</p> <p>18. Records Related to Real Estate Appraisals/Feasibility Studies – This exemption does not apply once the decision is made to proceed with the lease, acquisition, or disposal of real property or an interest in real property, the purchase of public supplies, or a construction project.</p> <p>19. Library Circulation or Donor-Protected Records.</p> <p>20. Records Identifying Archeological Sites or Endangered Species.</p> <p>21. Documents Pertaining to the Procurement of Goods or Services Prior to the Award of a Contract for Such Goods/Services.</p> <p>22. Insurance Communications – This exemption does not apply to a contract with an insurance carrier, administrative service organization or risk management office, or to financial records relating to the provision of insurance.</p> <p>23. Information Relating to Minors – disclosure of a record identifying the name, home address or date of birth of a child seventeen (17) years of age or younger.</p> <p>Information that is not subject to access as a redaction from a public record shall be deemed a denial for that portion that is precluded from disclosure.</p> <p>If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the state’s Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer’s response or deemed denial.</p>
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This policy will take effect as of the effective date of the law, January 1, 2009. Prior to 2009, all policies and practices will be followed as prescribed by earlier law, regulations, district policies and practices.

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

