

## PUBLIC RECORDS AND RELEASE OF INFORMATION

<i>Policy Reference(s):</i>	I.02; I.05; II.08; III.09
<i>Responsible Department(s):</i>	Open Records Office; General Counsel
<i>Approval Date:</i>	8/1/2016
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In accordance with Pennsylvania’s Right-to-Know-Law, the College will make public records available for access and duplication to requesters in the manner provided below.

### DEFINITIONS

**Financial record**—any account, voucher or contract dealing with the receipt or disbursement of funds or the acquisition, use or disposal of services, supplies, materials, equipment or other property; 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, which 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 law or state law or regulation or judicial decree or order.

**Record**—any recorded information, regardless of physical form or characteristics, that documents a transaction or activity of the College and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the College. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and any data-processed or image-processed document.

**Response**—granting of access to a record or the College’s written notice to a requester granting, denying or partially granting or partially denying access to a requested record.

**Requester**—a legal resident of the United States, or an agency, who requests access to a record.

### DUTIES OF THE OPEN RECORDS OFFICER

The College’s Open Records Officer shall be responsible to:

- Receive written requests for access to records submitted to the College;
- Review and respond to written requests in accordance with law, Board Policy and College Regulations and Procedures;
- Direct requests to other appropriate officials in the College or in another agency;
- Track the College’s progress in responding to requests;
- Issue interim and final responses to submitted requests;
- Maintain a log of all record requests and their disposition; and
- Ensure College staff are trained to perform assigned job functions relative to requests for access to records, as applicable.

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

- Note the date of receipt of the written request;
- Compute and note the day on which the five (5) day period for response will expire;
- Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled; and
- 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.

## **GUIDELINES**

- Requesters may access and procure copies of the College's public records during regular business hours.
- 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.
- The College will not limit the number of records requested.
- When responding to a request for access, the College 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 College does not currently use.
- Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.

## **NOTICES**

The College will post the following information on its website:

- Contact information for the Open Records Officer.
- Contact information for Pennsylvania's Office of Open Records or other applicable appeals officer.
- The form (Appendix F) to be used to file a request, with a notation that the state Office of Open Records form may also be used.
- Copies of this Regulation and any other procedures applicable to making a request for access to the College's public records.

## **REQUEST FOR ACCESS**

A written request for access to a public record shall be submitted on the required form and addressed to the College's Open Records Officer. Written requests may be submitted to in person, by mail or to the College's designated Right to Know email address.

Each request must include the following information:

- Identification or description of the requested record, in sufficient detail.
- Medium in which the record is requested.
- Name and address of the person to receive the College's response.

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

## **FEES**

The College may establish and keep current a list of reasonable fees relative to requests for public records, which shall be consistent with the fee structure established by the Pennsylvania Office of Open Records. If established, the list will be made available on the College's website and disseminated to requesters. Also, as it relates to fees for requests for public records:

- The College will not impose a fee for review of a record to determine whether the record is subject to access under law.
- Prior to granting access, the College may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.00 USD.
- The College may waive duplication fees when the requester duplicates the record or the College deems it is in the public's interest to do so.

## **RESPONSE TO REQUEST**

College employees are required to forward requests for access to public records to the Open Records Officer. 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 College has possession, custody or control of that record.
- 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.
- Ensure the initial response:
  - i. grants access to the requested record;
  - ii. denies access to the requested record;
  - iii. partially grants and partially denies access to the requested record;
  - iv. notifies the requester of the need for an extension of time to fully respond; or
  - v. requests more detail from the requester to clearly identify the requested material.

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

## **EXTENSION OF TIME**

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 the 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 the 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 provided 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.

If the requester agrees to the date extension, the request shall be deemed denied on the day following the date specified in the notice if the College has not provided a response by the date.

## **GRANTING OF REQUEST**

If the Open Records Officer determines that the request be granted, the response shall:

1. Inform the requester that access is granted and either include information on the regular business hours of the College office, provide electronic access or state where the requester may go to inspect the records electronically at a publicly accessible site.
2. 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 \$100.00 USD and the medium in which the records will be provided.
3. 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 College will not be 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 College shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the College's notice, submits a written request to have the record converted to paper, the College shall provide access in printed form within five (5) days of receipt of the request for conversion to paper.

A public record that the College does not possess, but is possessed by a third-party with whom the College has contracted to perform a governmental function, and which directly relates to that governmental function, shall be considered a public record of the College. When the College contracts with such a third-party, the College shall require the contractor to agree in writing to comply with requests for such records and to provide the College with the requested record in a timely manner to allow the College to comply with law.

If the Open Records Officer determines that a public record contains information both subject to and not subject to access, s/he shall grant access to the information subject to access and deny access to the information that is not subject to access. The Open Records Officer will 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.

If the Open Records Officer responds to a requester that a copy of the requested record is available for delivery at the College's offices, and the requester does not retrieve the record within sixty (60) days of the College's response, the College shall dispose of the copy and retain any fees paid to date.

### **NOTIFICATION TO THIRD-PARTIES**

When the College 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 College, the person that is the subject of the record and the requester.

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 regulations.

### **DENIAL OF REQUEST**

If the Open Records Officer denies a request for access to a public 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:

- Description of the record requested.
- Specific reasons for denial, including a citation of supporting authority.
- Name, title, business address, business telephone number and signature of the Open Records Officer on whose authority the denial was issued.
- Date of the response.
- 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 the same record and the repeated requests have placed an unreasonable burden on the College.

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.

### **APPEAL OF DENIAL**

If a written request for access to a public record is denied or deemed denied, the requester may file an appeal with Pennsylvania's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.