

## 1113 Right to Know Policy

### PURPOSE

The purpose of this policy is to inform the public of their right to access certain types of public documents and the process for accessing said documents. In addition, it functions as a guide for the Pennsylvania Virtual Charter School (“Charter School”) staff throughout this process.

### POLICY

In accordance with the Right-to-Know Law, Act 3 of 2008, the Board of Trustees of the Charter School hereby establishes the following:

1. Right-to-Know Law Policy,
2. Right-to-Know Law Request for Access to Records Form, and
3. Right-to-Know Law Request Fee Structure.

The Board of Trustees hereby directs that the Right-to-Know Law Policy, Right-to-Know Request for Access to Records Form and Right-to-Know Law Request Fee Structure be posted at the Charter School’s main administrative office and, if the Charter School maintains an Internet website, on the Charter School’s Internet website together with the following:

1. Contact information for the Open Records Officer (may be included in the Right-to-Know Law Policy);
2. Contact information for the Office of Open Records or other applicable appeals officer (may be included in the Right-to-Know Law Policy); and
3. Any additional Administrative Procedures or regulations that may be developed consistent with this Policy and the Right-to-Know Law.

The Board further appoints the Charter School’s [CEO \[A1\]](#) as the Open Records Officer.

This Policy, Form and Fee Structure included herein, hereby replace and supersede all prior Policies, Forms and/or Fee Structures related to the Right-to-Know Law in effect at the Charter School.

In accordance with the Right-to-Know Law, Requesters may elect to access the Official Records Request Form available through the Office of Open Records.

The Board of Trustees of the Charter School directs the appointed Open Records Officer to implement procedures necessary to effectuate this Policy and to adhere to the requirements of the Right-to-Know Law.

### **I. Definitions**

The following **bolded** terms are defined within the Right-To-Know Law as to requests for records submitted to the Charter School:

**Record** - information, regardless of physical form or character, that both:

1. documents a school transaction or activity; and
2. is created, received, or retained either:
  - a. pursuant to law; or
  - b. in connection with a Charter School transaction, business, or activity of the agency

A record may include: 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.

**Financial Record** - any account, voucher, or contract dealing with (a) the receipt or disbursement of funds or (b) the 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 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.

**Response** - the Charter School's notice informing a requester that access has been granted to a record or the Charter School's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.

**Requester** - A person that is a legal resident of the United States, who requests access to a record pursuant to this Act. This term includes an agency.

## **II. Delegation of Responsibility**

The Board shall designate an Open Records Officer. That individual shall be responsible for various tasks, including:

1. Receive, review, and respond to requests submitted to the Charter School in accordance with law, Board policy, and administrative regulations.
2. Direct requests to other appropriate individuals in the Charter School or in another agency.
3. Track the Charter School progress in responding to requests.
4. Issue interim and final responses to submitted requests.
5. Maintain a log of all record requests and their disposition.
6. Ensure Charter School staff are trained to perform assigned job functions relative to requests for access to records.
7. Maintain a list of non-school entities performing governmental functions on behalf of the Charter School.

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

1. Note on the written request both:
  - a. the date of the Open Records Officer's receipt of the request, and
  - b. the date five business-days later, at which point the time to provide an interim or final response expires.
2. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, along with the Charter School's communications to the requestor, until the time for an appeal to the Office of Open Records has expired or a Final Determination has been issued by the Office of Open Records regarding the request.
3. Make a good faith effort to determine if the record requested is a Public Record and if the Charter School has possession, custody, or control of the record.

## **III. Guidelines**

Requesters may only access and procure copies of the public records of the Charter School during the regular office hours of the Charter School business office (8 am to 4 pm) except on days when the Charter School is closed due to a holiday, severe weather, natural, or other disaster or due to direction of local, state, or federal law enforcement officers.

Any Open Records Request received by the Open Records Officer after the close of its regular business hours shall be deemed received by that office on the following business day. For purposes of determining the end of the five (5) business day period (when a final or interim response is due from the Charter School), the day that an Open Records Request is received (or deemed received) is not counted. The first day of the five (5) business day period (when a final or interim response is due from the Charter School) is the Charter School's next business day.

In accordance with Section 701 of the Right-to-Know Law, unless otherwise provided by law, a public record shall be accessible for inspection and duplication in accordance with this policy and the Right-to-Know Law. 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. Public records shall be available for access during the regular business hours of the Charter School. Nothing in the Right-to-Know Law shall be construed to require access to any computer either of the Charter School or an individual employee of the Charter School.

The Charter School prohibits a requester from removing a record from the control or supervision of the Open Records Officer.

Pursuant to Section 506 of the Right-to-Know Law, the Charter School 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. A denial under this subsection shall not restrict the ability to request a different record.

When responding to a request for access, the Charter 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 Charter School does not currently utilize.

The Charter School shall post at the administration office and on the Charter School website, 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 officers.
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. Board policy, administrative regulations, and procedures governing requests for access to the Charter School public records.

#### **IV. Request for Access**

Written requests may be submitted to the Open Records Officer in person, by mail, or to either the Open Records Officer's designated fax number, or designated e-mail address.

Requests received in the Charter School by some other Charter School employee or through a facsimile or e-mail address other than designated will be forwarded without unnecessary delay to the Open Records Officer. Such forwarded requests will not be deemed received until they are actually received by the Open Records Officer during normal business hours.

Each request must include the following information:

1. Identification or description of the requested record, in sufficient detail that the identity of the specific individual records may be determined.
2. Medium in which the record is requested.
3. Name and address of the individual to receive the Charter School response.

The Right-to-Know Law does not require the Charter School to accept any oral or anonymous requests for access or records.

Appropriate accommodations shall be made available for individuals with disabilities upon request and with sufficient advance notice, in accordance with applicable state and federal law.

#### **V. Fees**

Attached is the Board approved Fee Structure for requests in accordance with the Act.

Fees may be charged by the Charter School in response to a request for access to records 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. No fee may be imposed for a review of a record to determine whether the record is a Public Record, subject to access. No fee may be charged for searching **for** or retrieval of documents and the Charter School may not charge staff time or salary for complying with a Right-to-Know request.

Duplication fees shall be set in accordance with the directive of the Pennsylvania Office of Open Records.

For every request where the various fees are expected to exceed \$100, the requestor shall pre-pay the expected fees in advance of any steps to gather or duplicate the requested records.

#### **VI. Forms**

The Charter School may create or adopt forms for use by Requesters in preparing written requests. In the absence of a form created by the Charter School, the Office of Open Records's official Form must be used.

#### **VII. Identification**

As the Right-to-Know Law states that the Charter School provide a Requester with access to a Public Record if the Requester is a legal resident of the United States, the Charter School may require the Requester to produce photographic identification, to the extent allowed by the Right-to-Know Law.

Address all Open Records Requests to:

Right-to-Know Officer  
PA Virtual Charter School  
630 Park Ave.  
King of Prussia, PA 19406

The Charter School shall post this information to its website and shall post it at a location that is publicly accessible.

#### **VI. Response to Request**

Charter School employees shall be directed to forward requests for access to Public Records to the Open Records Officer immediately upon receipt.

Upon receipt of a written request for access to a record during regular business hours, the Open Records Officer shall determine if the requested record is a public record and if the Charter School has possession, custody, or control of that record.

The Open Records Officer shall evaluate the request and the records necessary to fulfill the request to determine if the specified records are Public Records and whether they are – in whole or in part – privileged, protected by any statute, regulation, order, or decree, or qualify for any of the exceptions within the Pennsylvania Right-to-Know law.

In those instances where the Open Records Officer receives a request for an allegedly Public Record relating to a Charter School governmental function performed by a third party and where the alleged Public Record is held by the third party, the Open Records Officer shall attempt to ascertain whether the record – in whole or in part – is a Public Record prior to incurring costs related to the request.

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, or notify the requester of the need for an extension of time to fully respond.

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

#### **VII. 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 Right-to-Know 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.

With only notice to but without permission of the requestor, and for any one of the reasons listed below, the Open Records Officer may impose a cumulative total of up to a thirty (30) day extension for a final response from the Charter School. Such notice must occur within the initial five (5) business days from receipt of the request by the Open Records Officer and shall both indicate that the request is under review and set the new date the response will be due. Failure to respond by that newly set date for response will be deemed a denial.

Permitted reasons for which the Open Records Officer may impose an extension, as above, are limited to:

1. The request requires redaction of a record;
2. The request requires retrieval of a record stored in a remote location;
3. A timely response is impossible due to real and specific staffing limitations;
4. Legal review of the request is necessary to determine if any resulting documents will be deemed Public Records subject to access;
5. The requester has not complied with this board policy governing access;
6. The requester refuses to pay applicable established fees authorized by the Right-to-Know Law; or
7. The extent or nature of the request precludes a response within the required time period.

A requester may also consent in writing to an extension that exceeds thirty (30) days. Where a requester has consented to a greater than thirty (30) day extension, the Open Records Officer may fulfill the request up to the agreed date. Failure to fulfill the request by that agreed date will be deemed a denial on the date immediately following.

### **VIII. Granting of Request**

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 Charter School business 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 and the amount of the required prepayment where access to the records will cost in excess of one hundred dollars (\$100.00), and the medium in which the records will be provided. Where the requester owes the Charter School fees for past requests, and such delinquent fees combined with the estimate of the fees to fulfill the current request exceed \$100, such delinquent fees shall be added to any present request and shall be required to be prepaid prior to gathering documents to comply with the request.

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, where a document is retained in electronic format, the Charter School shall not permit use of its computers for access to the record. 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 Charter School shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the Charter School notice, submits a written request to have the record converted to paper, the Charter School shall provide access in printed form within five (5) business days of receipt of the request for conversion to paper.

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 an entire record if the specific denied information is able to be redacted.

The Open Records Officer may dispose of copies made for requester if the response notifies the requester of the availability of the copies but the copies remain at the Charter School business office for sixty (60) calendar days thereafter. The Charter School will retain any fees paid to date and will invoice the requester for any fees which have not been paid to date. No credit for payments previously made shall be applied to any further requests from requester.

### **IX. Notification to Third Parties**

When the Charter 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 Charter School, 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 administrative regulations.

### **X. Denial of Request**

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 the specified time for response. 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.
5. Procedure for the requester to appeal a denial of access.

Information that is not subject to access and is redacted from a Public Record shall be deemed a denial. The above procedure required for "Denial of Request" shall be followed as it relates to the redacted information.

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.

### **XI. Reasons for Denial**

The Open Records Officer will deny a record request (a) in accordance with exceptions found in the Right-to-Know Law; (b) in accordance with Federal or State law or regulation or judicial order or decree; and/or (c) if the record requested is protected by privilege.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER AND/OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE SCHOOL'S CHARTER AND/OR APPLICABLE STATE AND/OR FEDERAL LAWS CONTROL.

Legal

65 Pa.C.S. §§ 701-716

65 P.S. § 67.708(b)