

OPEN RECORDS LAW

The Centennial School 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 under law to inspect and to procure copies of public records, with certain exceptions, subject to Board policy. The Board also recognizes its obligation to maintain the confidentiality of student records and personnel records.

The Superintendent is responsible for the implementation of this policy.

Policy:	7.30
Adopted:	12/08/98
Amended:	05/27/03
	01/13/09

ADMINISTRATION 7.0

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- I. Definitions – For purposes of this policy, the terms set forth below shall have the following meanings:
- A. “Business day” 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.
 - B. “Financial Record” 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 School District, including the individual’s name and title; and a financial audit report excluding the audit’s underlying work papers.
 - C. “Public Record” 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.
 - D. Public records shall not include the following:
 - 1. Any report, communication or other paper whose publication would disclose the institution, progress or result of an investigation undertaken in the performance of official duties.
 - 2. Any record, document, material, exhibit, pleading, report, memorandum, or other paper to which access or publication is prohibited, restricted or forbidden by law, regulation, court order or decree of court; would operate to the prejudice or impairment of a person’s reputation or personal security; or would result in the loss of federal funds, except the record of a conviction for any criminal act.
 - 3. Education records concerning individual students, in accordance with federal and state laws.
 - 4. Personnel files, in compliance with applicable laws.
 - E. “Record” shall mean information, regardless of physical form or characteristics, that document 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 School 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.

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- F. “Requester” shall mean any person who is a resident of the United States and requests access to a record pursuant to the Right-to-Know Act.
- G. “Response” shall mean access to a record or written notice from the District granting, denying or partially granting and partially denying access to a record.

II. Open Records Officer

- A. The School Board appoints the Director of Business Administration or designee to act as the District’s Open Records Officer.
- B. The Open Records Officer shall be responsible for the following duties in order to implement the requirements of this policy:
 - 1. Receive all written requests for access to records submitted to the District.
 - 2. Direct request to other appropriate persons within the District or in another agency for a response.
 - 3. Track the District’s progress in responding to requests for access to records.
 - 4. Issue interim and final responses to submitted requests.
 - 5. Maintain a log of all record requests and the District’s responses.
 - 6. Ensure appropriate School District staff are trained to perform assigned job functions relative to request for access to records.
- C. 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’s response:
 - 1. Note the date on which the written request was received by the School District.
 - 2. Compute the day on which the five (5) business day period for the District’s response will expire and make a notation of that date on the written request.
 - 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.

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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.
- D. The District shall post the following information on its official website to implement this policy and comply with the Right-to-Know Act:
1. Contact information for the District's Open Records Officer.
 2. Contact information for the State Office of Open Records.
 3. A copy of the District's form which may be used to file a request.
 4. A copy of this policy, its administrative regulations and the District's request form.

III. Requests for Access to Public Records

- A. Any requester seeking access to or duplication of a public record must submit a written request addressed to the Open Records Officer. (Attachment A) All District employees are directed to forward written requests for access to public records to the Open Records Officer, if they are inadvertently directed to them.
- B. A requester must complete the Right-to-Know Request Form created by either the District or the State Office of Open Records when submitting a written request. Copies of the District's form may be obtained on the District's official website. The written request must identify or describe the public record sought with sufficient specificity to allow the Open Records Officer to determine which record is being requested, and the name and address to which the District should send its response.
- C. The District may, in its sole discretion, honor verbal requests for public records in cases where access can be allowed immediately. However, a verbal request shall not be considered an official request requiring a District response under this policy.
- D. Any requester may submit a written request to the Open Records Officer using one of the prescribed Right-to-Know Request Forms in the following manner:

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1. In person: At the District administrative offices, 433 Centennial Road, Warminster, PA 18974 on any business day during the regular business hours.
 2. By regular mail: Sent to the attention of the Open Records Officer at the District administrative offices at 433 Centennial Road, Warminster, PA 18974.
 3. By facsimile: Sent to the attention of the Open Records Officer at the following facsimile number: 215-441-5105. A written request sent via facsimile will not be considered submitted until a complete and legible copy of the facsimile is received by the Open Records Officer.
 4. By e-mail: Sent to the attention of Open Records Officer at openro@centennialsd.org. An e-mail will not be considered submitted until a complete accessible copy of that e-mail is received by the Open Records Officer.
- E. 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.

IV. School District Response to Written Record

- A. The Open Records Officer will respond to a written request within five (5) business days after its receipt. (Attachment B) 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.
- B. The District response may take any of the following forms:
 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.
 2. A written denial explaining why the requested document is not a public record thus resulting in the denial of the request, in whole or in part.

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3. 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.
- C. A denial of a request shall be in writing and shall set forth the following information:
1. a description of the record requested;
 2. the specific reason for the denial, including a citation of supporting legal authority;
 3. the name, title, address, telephone number and signature of the Open Records Officer on whose authority the denial is issued;
 4. the date of the response; and
 5. an explanation of the procedure to appeal the denial.
- D. 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 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:
1. the requested record requires redaction;
 2. the request requires the District to retrieve records that are stored in a remote location;
 3. the District cannot timely respond due to bona fide and specified staffing limitations;
 4. a legal review is necessary to determine if the record is a public record;
 5. the request does not comply with the District policies regarding access to records;
 6. the requester has failed to pay applicable fees; or
 7. the extent or nature of the request precludes a response within the required time period.
- E. 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.

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- F. 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 by Section X of this policy.
- G. The Open Records Officer may consult with the District's solicitor to address the District's response to a Right-to-Know Act request.

V. Redacting Records to Allow for Public Access

- A. 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 under the Act. If the confidential information is an integral part of the record and cannot be separated, the District shall deny access to the record.
- B. Personal identification numbers, financial information, home, cellular or personal telephone numbers, personal e-mail addresses, spouse and/or dependent information, and Social Security numbers of individuals are generally not subject to public disclosure, and therefore will normally be redacted from a record otherwise considered a public record.
- C. The Open Records Officer shall consult the District's administrative guidelines under this policy when deciding what information may be redacted from a public record.
- D. 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 Section IV of this policy.

VI. Denial of Public Access to Certain Records

- A. In certain instances, a record will be exempt from the public disclosure requirements of the Right-to-Know Act. (Attachment C)
- B. The Open Records Officer shall consult the District's administrative guidelines under this policy when deciding whether or not a record constitutes a public record that must be available to the public.

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C. If a record request is denied, the Open Records Officer will provide the requester with a written response regarding the denial, as provided in Section IV of this policy.

VII. Electronic Access to Public Records

A. The District shall make public records available through publicly accessible electronic means when they exist in that medium. When electronic access is sought for a public record, the District will apprise a requester when a requested record is available through publicly accessible electronic means and advise where the public record may be reviewed and downloaded. If the public record is only maintained electronically and is not publicly available, the District will make a paper copy available for inspection upon request subject to payment of the applicable fee.

B. The District will permit electronic access to a public record if it is routinely available only by electronic means, or if the requester requests electronic access and the record exists in electronic form. A public record will not be considered “routinely available only by electronic means” if the District maintains a readily available paper copy of that record for requester review.

C. 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 of the following manners as decided by the District:

1. Provide a computer disk containing the record in electronic form;
2. Respond with an e-mail containing an attachment or electronic link to the record; or
3. Provide a paper copy of an electronically-stored public record, if confidential information must be redacted from that record to permit access to the public information.

VIII. Inspection of Public Records

A. 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.

B. 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.

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- C. 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.
- D. 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.

IX. Duplication and Fees

- A. A public record will be duplicated for the requester, if duplication is requested.
- B. 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.
- C. The fees set forth in this policy shall not exceed the maximum charges established by any duly-promulgated regulations of the State Office of Open Records. The District reserves the right to revise these fees from time to time to ensure they comply with the maximum charges allowed by law.
- D. The District will charge the following fees when a requester seeks to obtain a copy and for conversion of an electronic record to paper:
1. Printing copy of non-paper record - \$.25 per page
 2. Photocopying - \$.25 per page
 3. Certified copy - \$20 flat fee
 4. Electronic copy of record – Electronic copies will be provided by means of computer disk. For transfer of an electronic file to a computer disk, the charge is \$1 for the disk plus \$25 per hour.

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5. Redaction – If redaction is required before the record can be accessed, the District will charge \$25 per hour.
 6. Mailing copy of record – If a request is made for mailing and the District chooses to mail the copy instead of personal pickup, the requester will pay the actual cost of insured shipping and/or certified postage.
 7. Facsimile transmission – If a request is made for facsimile transmission and the District chooses to provide facsimile transmission instead of personal pickup, the requester will pay \$.25 per page.
- E. 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 by certified check or money order in advance of the request being processed.
- F. 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.

X. Filing of Appeals

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 State 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.

XI. Posting of Policy

A copy of this policy and its administrative regulations shall be conspicuously posted in the District administrative offices in an area accessible to the public and on the District's official website.

REQUEST FOR INFORMATION

This form is being provided under the provisions of Act 3 of 2008 in response to your request for information. The completed request can be submitted in the following manner:

In person or by Mail: Open Records Officer - Director of Business Administration
Centennial School District
433 Centennial Road
Warminster, PA 18974
Fax: (215) 441-5105 Attention: Open Records Officer
E-mail: openro@centennialsd.org

REQUESTOR INFORMATION

Date of Request: _____

Name: _____

Address: _____

Phone: _____

Description of request:

REQUEST FOR INFORMATION RESPONSE

OPEN RECORDS OFFICER

Date Received: _____ Name: _____

Approved/Denied _____ Date: _____

Response to Request Attached: _____

Referred to: _____ Date: _____

Notes:

EXEMPTIONS

RTK Act creates over thirty exemptions where records do not have to be disclosed.

A. Business/Financial Matters

1. Insurance Communications – disclosure of record or information relating to a communication between the District and its insurance carrier, administrative service organization or risk management office. (Exemption does not include actual policy, which is subject to disclosure.) §708(b)(27)
2. Loss of State or Federal Funds – when the disclosure of a record would result in the District’s loss of state or federal funds. §708(b)(1)(i).
3. Pre-Award Bid Information – disclosure of a proposal to the District’s procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder’s or offeror’s economic capability; or the identity of members, notes, and other records of District proposal evaluation committee under 65 Pa. C.S.A. Ch. 13A. § 708(b)(26). (Special notice rules on disclosing documents marked by 3rd Party as trade secret or confidential proprietary information.)

B. Curriculum & Academic Materials

1. Academic Records – disclosure of academic transcripts, examinations, examination questions, scoring keys and answers to examinations, including licensing and other examinations relating to the qualifications of an individual; examinations given in the School District. §708(b)(15).
2. Personal Notes/Working Papers – disclosure of notes and working papers prepared by or for a District official or employee used solely for that official’s or employee’s own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose. §708(b)(12).
3. Unpublished Academic Works – disclosure of unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material. §708(b)(14).

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4. Trade Secret/Confidential Proprietary Information – disclosure of a record that constitutes or reveals a trade secret or confidential proprietary information. §708(b)(11). (Special notice rules on disclosing documents marked by 3rd Party as trade secret or confidential proprietary information.)

C. Facilities and School Buildings

1. Public Safety – when the disclosure of a record maintained by the District in connection with the local law enforcement or other public safety activity would be reasonably likely to jeopardize or threaten public safety or preparedness of public protection activity. §708(b)(2).
2. Security of Facilities – when the disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of a building or facility, which may include, but not be limited to:
 - a. documents or data to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act;
 - b. building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems; structural elements; technology; communication; electrical; fire suppression; ventilation; water; wastewater; sewage and gas systems. §708(b)(3)(ii)-(iii).

D. Certain Employee Information

1. Medical Information – when the disclosure of a record of an individual’s medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program; enrollment in workers’ compensation and unemployment compensation that would disclose individually-identifiable health information. §708(b)(5).
2. Personal Identification Information – disclosure of the following personal information is prohibited under this policy:

EXEMPTIONS

- a. A record containing an individual's Social Security number; driver's license; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee number or other confidential personal identification number.
 - b. A spouse's name, marital status, beneficiary or dependent information.
 - c. The home address of the school resource officer. §708(b)(6)(A)-(C).
3. Employee Records – disclosure of the following records relating to an employee:
- a. Letter of reference or recommendation to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment to public office.
 - b. A performance rating, review or evaluation
 - c. The results of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency.
 - d. Employment application of an individual who is not hired by the School District.
 - e. Workplace support services information.
 - f. Written criticism of a District employee.
 - g. Grievance material, including documents relating to discrimination or sexual harassment.
 - h. Information regarding discipline, demotion, or discharge contained in a personnel file, except information that applies to the District's final action that results in demotion or discharge.
 - i. An academic transcript of an employee. §708(b)(7)(i)-(ix).
4. Physical Harm/Personal Security – when the disclosure of a record would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. §708(b)(1)(ii).

EXEMPTIONS

5. Social Services – disclosure of a record or information identifying an individual who applies for or receives social services or otherwise relates to an individual's eligibility to receive social services. §708(b)(28).

E. Investigative Materials

1. Non-Criminal Investigations – disclosure of a record relating to an investigation done by the District, including but not limited to:
 - a. Complaints submitted to the District.
 - b. Investigative materials, notes, correspondence and reports.
 - c. A record that includes the identity of a confidential source, including individuals subject to Pennsylvania's Whistleblower Law.
 - d. Work papers underlying an audit.
 - e. A record that, if disclosed, would do any of the following:
 - (1) Reveal the institution, progress or result of an agency investigation, except for the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification, or similar authorization issued by the District or an executed settlement agreement unless the agreement is determined to be confidential by a court.
 - (2) Deprive a person of the right to an impartial adjudication.
 - (3) Constitute an unwarranted invasion of privacy.
 - (4) Hinder the District's ability to secure an administrative or civil sanction.
 - (5) Endanger the life or physical safety of an individual.
§708(b)(17)(i)-(vi).

EXEMPTIONS

F. Labor Relations Information

1. Grievances – disclosure of grievance material alleging violations of a collective bargaining agreement, including an exhibit entered into evidence at an arbitration proceeding, a transcript of an arbitration or the opinion. (This prohibition does not apply to the final award or order of an arbitrator in a dispute or grievance procedure). §708(b)(8)(ii).
2. Labor Negotiations – disclosure of a record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related fact-finding and/or arbitration proceedings. (This exemption does not apply to a final and executed contract or agreement between the parties). §708(b)(8)(i).

G. Pre-Decisional Deliberations

1. Draft documents – disclosure of a draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment prepared by or for the District. §708(b)(9).
2. Draft Minutes – disclosure of draft minutes of any school board meeting until the next regularly scheduled meeting of the board. §708(b)(21)(i)-(ii).
3. Internal, pre-decisional deliberations – disclosure of records reflecting the internal, pre-decisional deliberations by and between the District, its school board members and/or employees relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in pre-decisional deliberations. (This exception does not apply to records presented to the school board for deliberation purposes at a public meeting, applications for state funds or results of public opinion surveys). §708(b)(10)(i)-(ii).

H. Privileged Communications

1. Attorney-Work Product – disclosure of a record reflecting District consultations with its attorney or other professional advisors regarding information or strategy in connection with litigation or issues on which identifiable complaints are expected to be filed.
2. Attorney-Client Privilege – disclosure of a record reflecting confidential communications between the District and the District's solicitor or special counsel providing a legal opinion or discussing a particular legal matter.

EXEMPTIONS

3. Confidential Student Communication – disclosure of a record reflecting confidential communications between a student and a school nurse, guidance counselor or other District employee protected by 42 Pa. C.S.A. §8550.

I. Real Estate

1. Real Estate Appraisals – disclosure of the contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by the District relative to the following:
 - a. The leasing, acquiring or disposing of real property or an interest in real property.
 - b. The purchase of public supplies or equipment included in the real estate transaction.
 - c. This exception shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supplies or construction project. §708(b)(22).

J. Student Information

1. Academic Records – the disclosure of an academic transcript of a student. §708(b)(15).
2. Medical Information – when the disclosure of a record of a student’s medical, psychiatric or psychological history or disability status, including an evaluation; consultation; prescription; diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program. §708(b)(5).
3. Minors – disclosure of a record identifying the name, home address or date of birth of a child (17) years of age or younger. §708(b)(30).
4. Personal Identification Information – disclosure of the following personal information is prohibited under this policy: a record containing an individual’s Social Security number; driver’s license; driver’s license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; student number or other confidential personal identification number. §708(b)(6)(A)-(C).

EXEMPTIONS

5. Physical Harm/Personal Security – when the disclosure of a record would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or the personal security of a student. §708(b)(1)(ii).
6. Social Services – disclosure of a record or information identifying an individual who applies for or receives social services or otherwise relates to an individual's eligibility to receive social services. §708(b)(28).

K. Computer/Technology Information

1. Computer Systems – when the disclosure of a record regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security. §708(b)(4).
2. Trade Secret – when the disclosure of a record constitutes or reveals a trade secret or confidential proprietary information. §708(b)(11).
3. Safety – when the disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of an information storage system, which may include, but not be limited to: documents or data relating to computer hardware; source files; software; and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act. §708(b)(3)(i).

L. Miscellaneous

1. Archival material – disclosure of valuable or rare books or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution. §708(b)(24).
2. Donor Information – disclosure of records that identify an individual who lawfully makes a donation to the District unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the District, including lists of potential donors compiled by the District to pursue donation, donor profile information or personal identifying information relating to a donor. §708(b)(13).
3. Library Records – disclosure of library circulation and order records of an identifiable individual or group of individuals is not required. §708(b)(23).
4. Correspondence with a General Assembly member. §708(b)(29).

EXEMPTIONS

M. Non-Applicable to Public Schools

1. Military, Homeland Security, National Defense exemption to protect infrastructure or facilities. §708(b)(2)-(3).
2. Criminal Investigation. §708(b)(16).
3. Emergency dispatch records. §708(b)(18)
4. DNA and RNA records. §708(b)(19).
5. Autopsy records. §708(b)(20).
6. Identification of archeological sites/endangered species. §708(b)(28).