

1.16 Open Records

I. Purpose

The Board of Trustees recognizes the importance of public records as the record of the college's actions and the repository of information about the college. With certain exceptions, subject to law, college policy and administrative regulations, the college shall make the public records of the college available for public access and duplication to requesters, in accordance with the Pennsylvania Open Records Law, which is effective as of January 1, 2009.

II. Scope

All information requests received by the college are subject to this policy

III. General

Delegations of Responsibility

The Board of Trustees designates the Executive Assistant to the President and the Board of Trustees as the Open Records Officer, and the responsibilities of the Open Records Officer to be as follows:

- Receive written requests for access to records submitted to the college
- Review and respond to written requests in accordance with law, college policy and administrative regulations.
- Direct requests to other appropriate individuals at the college.
- Track the progress of the college in responding to requests
- Maintain a log of all record requests and their disposition.
- Ensure that college staff is trained to perform assigned job functions relative to requests for access to records.
- In concert with the administration of the college, shall make recommendations to the Board of Trustees for the purpose of determining a fee schedule and adopting standard forms.

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

- Note the date of receipt on written request.
- Compute and note on the written request the day on which the five-day period for response will expire.

- Maintain files which include: an electronic or paper copy of all written requests, all documents submitted with request, and the response to the request.
- If the written request is denied, track the request status until a final determination is issued or the appeal is deemed.

Definitions

Financial record - 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, 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 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 or State law or regulation, or judicial decree or order.

Record - information, regardless of physical form or characteristics, that documents a college transaction or activity and is created, received or retained pursuant to law or in connection with a college transaction, business or activity, including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and data-processed or image-processed document.

Response - the college's notice informing a requester of a granting of access to a record or college's written notice to a requester granting, denying, or partially granting partially denying access to requested record.

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

IV. Procedures

Posting Requirements

The college shall post at the administrative offices and on the college's website, the following information:

- Contact information for the college Open Records Officer
- Contact information for the appeals officer of the State's Office of Open Records or other applicable appeals officer, including phone, fax and email.
- The form to be used to file a request, if the college decides to create its own form, there should be a notation that the State Office of Open Records form may also be used.
- College policy, administrative regulations and procedures governing requests 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(s) and addressed to the Open Records Officer. Written requests may be submitted to the college in person, by mail, Facsimile or email as indicated on the college web site. The college shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

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 individual to receive college's response.

Guidelines for Access

Requesters may access and procure copies of the public records of the college during the regular business hours of the administrative offices. 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 shall 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.

Fees

Except for the duplication fee established by the State, the college Trustees shall approve a list of reasonable fees relative to requests for public records. The college shall maintain a list of applicable fees and disseminate the list to requesters. No fee may be imposed 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.

The Open Records Officer may waive duplication fees when the requester duplicated the record or the Open Records Officer deems it is in the public interest to do so.

Response to Request

College employees shall be directed to immediately 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.

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; 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.

If the college fails to respond to a request within five (5) business days of receipt, 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 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.

One thirty (30) day extension for one (1) of the listed reasons does not require the consent of the requester. If the response is not given 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.

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 include either the record requested, information on the regular business hours of the administration office to view or pick up the record, electronic access to the record, or state a location where the requester may go to inspect the records or information electronically at a publicly accessible site. If appropriate to the request, the response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required in a specified amount if access of the records will cost in excess of \$100, and the medium in which the records will be provided.

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 college is not 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, 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 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 administration office 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 administrative regulations.

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 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 legal authority.
- Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is 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 that same record and 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 content 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.

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.

V. Approval: Board of Trustees October 2014

VI. Responsibility: President