NEW HOPE-SOLEBURY SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: PUBLIC RECORDS

ADOPTED: March 29, 1993

REVISED: November 17, 2008

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		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 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 purpose of this policy is to establish and provide for the enforcement of reasonable rules governing the examination or the making of extracts, copies, photographs or photocopies of district records that are public records or to which the public may have access as defined below. The district shall post at the administration office and on the district's web site, information regarding this policy as required by law.
	801-AR	Procedures regarding this policy are promulgated in the administrative procedure related to this policy.
2.	Authority	Open Records Officer
		The Board shall designate an Open Records Officer, who shall be responsible for enforcing district policy regarding public access to district records. In the absence of an appointment, the Board Secretary shall serve as the Open Records Officer.
3.	Guidelines	<u>General</u>
		The district shall not limit the number of records requested.
	65 P.S. Sec. 67.705	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.
		If a public record is maintained only in an electronic format, the district shall duplicate the record on paper, upon request.
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801. PUBLIC RECORDS - Pg. 2

	Records Requests
65 P.S. Sec. 67.703	The district shall not require an explanation of the reason for the request of records or the intended use of the requested record, unless otherwise required by law.
	Original district records shall not be removed from the district building, nor from the control or supervision of the Open Records Officer or his/her designee.
	<u>Fees</u>
65 P.S. Sec. 67.1307	Fees for duplication, other forms of document production will be charged according to a fee schedule which shall be periodically updated and included in a regulation issued pursuant to this policy.
65 P.S. Sec. 67.1307	No fee may be imposed for review of a record to determine whether the record is subject to access under law.
65 P.S. Sec. 67.1307	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.
	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
	Board Policy – 800
	Administrative Regulation – 801-AR

No. 801-AR

NEW HOPE-SOLEBURY SCHOOL DISTRICT

ADMINISTRATIVE REGULATION

801-AR. PUBLIC RECORDS

Public Access To School District Records Which Qualify As Public Records Under State Law

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 less than 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 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 document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data processed or image-processed document.

Posting

District web site shall include:

- 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.

Open Records Officer shall:

- 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 in another agency.
- 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.
- 7. Ensure district staff are trained to perform assigned job functions relative to requests for access to records.

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

- 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.

Procedure For Requesting Records

A written request for access to a public record shall be submitted on the required form(s) attached to this regulation as attachments 801-AR-Attachment 1 and 801-AR-Attachment 2 and addressed to the Open Records Officer.

Written requests may be submitted to the district in person, by mail, to a designated facsimile machine, and to a designated e-mail address.

Each request must include the following information:

- 1. Identification or description of the requested record, in sufficient detail.
- 2. Medium in which the record is requested.
- 3. Name and address of the individual to receive the district's response.

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.

Response To Request

District employees shall be directed 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 district 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, or notify the requester of the need for an extension of time to fully respond.

Normally, records are available at the district from 8:30 a.m. to 4:00 p.m. Monday through Friday each week except for certain holidays.

The Open Records Officer shall typically respond to the written request within five (5) business days but in no event shall the time for response exceed the time limits of the Right-to-Know Act.

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.

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 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 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 in a specified amount if access to the records will cost in excess of one hundred dollars (\$100.00), and the medium in which the records will be provided.

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 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.

Denial Of Request

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 the repeated requests have placed an unreasonable burden on the district.

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.

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 district's response, the district shall dispose of the copy and retain any fees paid to date.

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.

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:

- 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.

Documents Not Qualifying As Public Records:

- Internal predecisional deliberations of administrators, employees and Board members
 - o unless presented to a quorum for deliberation at a public meeting.
 - o Includes real estate appraisals until decision made to proceed with lease, sale or acquisition of property.
- Draft minutes of meetings.
- Executive Session minutes or record of discussion.
- Bid proposals
- Communication with insurance carriers
- Privileged communications:
 - o Communications with district Solicitor or other attorneys
 - o Doctor-patient communications; and
 - o Speech and debate privilege applicable to legislative functions
- Records which, if disclosed, would
 - o result in loss of federal or state funds;
 - o likely lead to physical harm or personal security of a person;
 - o jeopardize safety of the public, a building, infrastructure, information storage system, or resource; or
 - o jeopardize computer security.
- Records of child (seventeen (17) or under):
 - o name;
 - o address; or
 - o date of birth.
 - o NOTE: Other confidentiality restrictions may apply to student records under other laws.
- Records of individuals
 - o confidential personal health information;
 - o applications for social services; and
 - o confidential personal information such as social security number, driver's license, financial information, email address and personal phone numbers.

- Records of employees:
 - o Reference letters and written criticisms
 - o Employment application (if not hired);
 - o Employee assistance program information;
 - o Grievances and complaints of discrimination
 - Discipline, demotion and discharge (except for final action of discharge or discipline
 - NOTE: Other confidentiality restrictions may apply to employee records under other laws.
- Certain records relating to criminal and non-criminal investigations.
- Transcripts and exhibits of arbitration hearings (final decision is public however).
- Drafts of policies, resolutions or administrative regulations.
- Results of public opinion surveys.
- Trade secrets or other confidential proprietary information.
- Personal notes and working papers of an individual, includes message slips.
- Donor lists and makers of donations (unless donation benefits specific Board member or specific employee).

Third Parties

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.

When the district 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 district, 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.

<u>Fees</u>

Fees for duplication, other forms of document production will be charged according to the following fee schedule which shall be periodically updated.

Postage Actual Cost to District

Certification costs <u>INSERT</u> per Certification

Duplication costs

Paper copying charge <u>INSERT</u> per page

Facsimile charge <u>INSERT</u> per page

Electronic records

copied to native media <u>INSERT</u> per disc CD

Electronic records

copied to paper <u>INSERT</u> per page

Enhanced electronic access <u>INSERT</u> per transmission

(e-mail) <u>INSERT</u> per attachment over two (2)

Complex and extensive

data sets <u>INSERT COST</u>

NEW HOPE - SOLEBURY SCHOOL DISTRICT

REQUEST FOR ACCESS TO SCHOOL DISTRICT RECORDS

<u>Information Requested (to be provided by the Requester).</u>

1.	Name of requester				
2.	Address of requester				
	Information requested				
4.	Manner of submission (circle one)				
	In person				
	By mail				
	By facsimile				
	By electronic means				
	Other				
5.	Nature of request (circle one)				
	Inspection				
	Duplication				
	Both				
6.	Medium requested for release (circle one)				
	Paper				
	Electronic				
	Other				
<u>Fo</u>	r Office Use Only				
Da	te of receipt				
Da	te on which five-day period for response will expire				

<u>Da</u>	te of Response (Within five (5) days of date of request)	
Da	ate request was granted	
	OR	
Da	te form with Section III completed sent to requester	
<u>Basis for Review</u> (Circle all applicable reasons and fill in additional information in space provided)		
1.	Request requires redaction of public record	
2.	Request for access requires retrieval of record stored in remote location (identify location)	
3.	Timely response cannot be made due to bona fide and specified staffing limitations	
	(state specific staffing limitations)	
4.	Legal review required to determine whether record is a public record	
5.	Requestor failed to comply with Policy 801 in the following respect:	
	<u> </u>	
6.	Requestor refused to pay applicable fees. Amount owed:	

IV.	Basis for Denial of Request				
	Request denied by:				
	Name				
	Title				
	Business Telephone Number				
	Business Address				
	Date of Denial				
	Citation of Supporting Legal Authority				
V.	Appeal				
of Op the da shall	uester chooses to appeal denial of access, the requestor may appeal to the State's Office en Records by filing exceptions within fifteen (15) business days of the mailing date of the set forth in IV or within fifteen (15) business days of deemed denial. The exception state grounds upon which the requester asserts that the record is a public record and address any grounds stated by the school district for delaying or denying the request.	of			
	Signature of Opens Records Officer				