

January 1, 2009

**Retirement Board of Allegheny County
Policy for Implementing the
Right-to-Know Law**

Access to Public Records

The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101 et seq., to provide access to public records of the Retirement Board of Allegheny County, to preserve the integrity of the Retirement Board's records, and to minimize the financial impact to the taxpayers of the Retirement Board regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records. This policy shall be effective January 1, 2009.

It is the policy of the Retirement Board of Allegheny County to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Retirement Board. The Retirement Board has designated the Executive Director as the Right to Know Officer and as responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

1. 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 an Retirement Board transaction or activity and is created, received or retained pursuant to law or in connection with an Retirement Board 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.

Response – the Retirement Board's notice informing a requester of a granting of access to a record or the Retirement Board's written notice to a requestor granting, denying, or partially granting and partially denying access to a requested record.

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

2. The Open Records Officer shall be responsible to:

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1. Receive written requests for access to records submitted to the Retirement Board.
2. Review and respond to written requests in accordance with law and Retirement Board policy.
3. Direct requests to other appropriate individuals in the Retirement Board or in another agency.
4. Track the Retirement Board'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 Retirement Board 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.
3. The Executive Director is responsible for minimizing, where possible, the financial impact to the Retirement Board regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.
 4. Requesters may access and procure copies of the public records of the Retirement Board during the regular business hours of the administration offices.
 5. A requester's right of access does not include the right to remove an original record from the control or supervision of the Open Records Officer.
 6. The Retirement Board shall not limit the number of records requested.

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When responding to a request for access, the Retirement Board 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 Retirement Board does not currently use.

7. Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.

8. The Retirement Board shall post at the administration office and on the Retirement Board's web site, if the Retirement Board maintains a web site, 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 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 in addition to any forms used by the Retirement Board.
4. Retirement Board policy and procedures governing requests for access to the Retirement Board's public records.

9. Request For Access

All requests for public records of the Retirement Board under this policy shall be specific in identifying and describing each public record requested. In no case shall the Retirement Board be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Retirement Board does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and on a form provided by the Retirement Board, as attached hereto entitled "Public Record Review/Duplication Request," or the form published by the State Office of Open Records.

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

Each request must include the following information:

- a. Identification or description of the requested record, in sufficient detail.
- b. Medium in which the record is requested.
- c. Name and address of the individual to receive the Retirement Board's response.

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

10. Response To Request

Retirement Board 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 Retirement Board has possession, custody or control of that record.

The designated employee shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Retirement Board does not respond within five (5) business days of receipt thereof, the request is deemed denied.

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 requestor of the need for an extension of time to fully respond; or request more detail from the requestor to clearly identify the requested material.

11. Granting Of Request

If the Open Records Officer determines that the request will be granted, the response shall inform the requestor 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 \$100, and the medium in which the records will be provided.

If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Retirement Board. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Retirement Board's public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

A public record shall be provided to the requestor in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the Retirement Board is not required to permit use of its computers.

The Open Records Officer may respond to a records request by notifying the requestor that the record is available through publicly accessible electronic means or that the Retirement Board shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the Retirement Board's notice, submits a written request to have the

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record converted to paper, the Retirement Board shall provide access in printed form within five (5) days of receipt of the request for conversion to paper.

A public record that the Retirement Board does not possess but is possessed by a third party with whom the Retirement Board has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a public record of the Retirement Board. When the Retirement Board contracts with such a third party, the Retirement Board shall require the contractor to agree in writing to comply with requests for such records and to provide the Retirement Board with the requested record in a timely manner to allow the Retirement Board 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 Retirement Board's response, the Retirement Board shall dispose of the copy and retain any fees paid to date.

12. 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.

Requests for extensions shall be limited to situations where:

- (a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
- (b) The record requires retrieval from a remote location;

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- (c) A timely response cannot be accomplished due to bona fide and specified staffing limitations;
- (d) A legal review is necessary as, for example, for the purpose of determining whether the record requested is a public record;
- (e) The requester has failed to comply with the Retirement Board's policy and procedure requirements;
- (f) The requester refuses to pay the applicable fees; or
- (g) The extent or nature of the request precludes a response within the required time period.

13. Notification To Third Parties

When the Retirement Board 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 Retirement Board, 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.

14. 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 or within the period of any extension, if applicable. 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.

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 Retirement Board.

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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 a written request for access to a record, other than a criminal investigative 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 a written request for access to a criminal investigative record is denied or deemed denied, the requestor may file an appeal with the Allegheny County District Attorney's Office within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.

15. If access to the record requested is denied, the notice provided by the Retirement Board shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate."

16. Fees for duplication of public records shall be as established by the State or as follows in the absence of state guidance:

- (a) Photocopying: 25 cents (\$0.25) per single sided page.
- (b) Duplication of public electronic and/or tape records: actual cost to the Retirement Board of duplicating the public record.
- (c) Certification of Records: \$1.00 per document.
- (d) Postage: actual cost to the Retirement Board of mailing the public record.
- (e) Reportable vehicle accident reports: \$15 per report.
- (f) Specialized Documents: Actual cost.

The Retirement Board may in its discretion waive fees.

17. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the designated employee(s) shall obtain fifty percent (50%) of the expected cost in advance of fulfilling the request to avoid an unwarranted expense impact on Retirement Board resources. No copies will be released, including by mail, without pre-payment of the fees designated above.

**RETIREMENT BOARD OF ALLEGHNEY COUNTY
PUBLIC RECORD REVIEW/DUPLICATION REQUEST**

Please print legibly.

Date of Request: _____

Requester's Name: _____

Requester's Address: _____

Requester's Telephone: _____

I request review duplication (check applicable boxes) of the following records. **Important:** You must identify or describe the records with sufficient specificity to enable the Board to determine which records are being requested. Use additional sheets if necessary.

I certify that I am a resident of the Commonwealth of Pennsylvania.

Signature of Requester

This request may be submitted in person, by mail or by facsimile to the Executive Director at:

Address:

Fax Number:

**RETIREMENT BOARD OF ALLEGHNEY COUNTY
PUBLIC RECORD REVIEW/DUPLICATION REQUEST**

To be completed by Executive Director for Board Records.

Request No.: _____

Date Received: _____

Action Taken:

Approved Date of approval: _____ By _____

Denied Date notice mailed: _____ By _____

Additional Review Date notice mailed: _____ By _____

**RETIREMENT BOARD OF ALLEGHENY COUNTY
DENIAL OF REQUEST TO REVIEW AND/OR DUPLICATE PUBLIC RECORDS**

Date of Denial: _____ Date mailed: _____

Requester's Name: _____

Requester's Address: _____

Re: Denial of Request to Review and/or Duplicate Public Records
Request No. _____
Date of Request: _____

Dear Mr./Mrs./Ms. _____:

Please be advised that your request to review and/or duplicate the following records:

has been denied for the following reason(s):

This denial is based upon the following legal authority:

To appeal this decision, you must:

1. Within fifteen (15) days of the mailing date of the notice of denial or of a deemed denial, file exceptions with the Board in accordance with Board's Policy for Implementing the Amended Right-to-Know Law.

If you file exceptions, the Board has thirty (30) days in which to respond to your exceptions, unless this time period is extended by the parties. The Board may decide to conduct a hearing within that time to assist in the making of the decision.

– OR –

2. Within thirty (30) days of a notice of denial, or within thirty (30) days of the Board's final decision (in the event that you have filed exceptions), file a petition for review in the Allegheny County Court of Common Pleas or bring an action in the local District Magistrate's office to the extent permitted by law.

Date

(name of officer designated to review requests to
access on duplicate public records)

Title

Address

Phone