

# CONEWAGO VALLEY SCHOOL DISTRICT



## BOARD POLICY

No. 801
Section: Operations
Title: Public Records
Date Adopted: <b>May 12, 2008</b>

**Section 1. Purpose:** The Board recognizes the importance of public records as the record of the acts of the District and the repository of information about the District. The public has the right under law to inspect and to procure copies of such records with certain exceptions subject to the following guidelines:

**Section 2. Definition:**

- A. **Financial record** – any account, voucher or contract detailing with the receipt of 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.
- B. **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 the Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, of judicial decree or order.
- C. **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; a photograph; film or sound recording; information stored or maintained electronically; and a data-processed or image-processed document.
- D. **Response** – the District's notice informing a requester of a granting of access to a record or the District's written notice to a requestor granting, denying, or partially granting and partially denying access to a requested record
- E. **Requester** – a legal resident of the United States, or an agency, who requests access to a record

**Section 3. Authority:** The Board shall make the District's public records available for access and duplication to a requester, in accordance with the law, Board Policy, and administrative regulations

Reference

§3601(c)

65 P.S.  
Sec. 67.102

65 P.S.  
Sec. 67.302  
67.305  
67.504  
67.701

**Section 4. Delegation of Responsibility:** The Superintendent or his/her designee shall develop procedures to implement this policy which include:

65 P.S.  
Sec. 67.502

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 dispositions
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 Superintendent or his/her designee shall:

65 P.S.  
Sec. 67.502  
67.901  
67.1011

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.

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

65 P.S.  
Sec. 67.701

A requester’s right of access does not include the right to remove a record from the control or supervision of the Superintendent or his/her designee

65 P.S.  
Sec. 67.302

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 or to compile, maintain, format or organize a record in a manner which the District does not currently use.

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

42 U.S.C.  
Sec. 12132  
28 CFR  
Sec. 35.160  
35.164

Reference

The District shall post at the administration office and on the District’s web site, if the District maintains a web site, the following information:

65 P.S.  
Sec. 67.504  
67.505

1. Contact information for the District Superintendent and his/her designee
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.

**Request for Access:**

65 P.S.  
Sec. 67.504  
67.505  
67.703

A written request for access to public records shall be submitted on the required form(s) and addressed to the Superintendent.

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:

65 P.S.  
Sec. 67.701  
67.703

1. Identification or description of the requested record, in sufficient detail
2. Medium in which the record is requested
3. The name and address of the individual to receive the District’s response

65 P.S.  
Sec. 67.703

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.

**Fees:**

65 P.S.  
Sec. 67.1307

The Board shall approve and the District shall keep current a list of reasonable fees relative to requests for public records.

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 the 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.

The Superintendent may waive duplication fees when the requester duplicates the record or the Superintendent deems it is in the public interest to do so.

65 P.S.  
Sec.  
67.1307



Reference**Response to Request:**

District employees shall be directed to forward requests for access to public records to the Superintendent.

65 P.S.  
Sec. 67.502  
67.702

Upon receipt of a written request for access to a record, the Superintendent and his/her designee shall determine if the requested record is a public record and if the District has possession, custody, or control of that record.

65 P.S.  
Sec. 67.901

The Superintendent and his/her designee 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 Superintendent

65 P.S.  
Sec. 67.901

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

65 P.S.  
Sec. 67.901

**Extension of Time:**

If the Superintendent 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 the 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.

65 P.S.  
Sec. 67.901  
67.902

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 Superintendent or his/her designee has not provided a response by that date.

**Granting of Request:**

If the Superintendent 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 of 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 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.



Reference

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 District is not required to permit use of its computers.

65 P.S.  
Sec. 67.701

The Superintendent or his/her designee 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 the receipt of the request for conversion to paper.

65 P.S.  
Sec. 67.701  
67.704

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 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.

65 P.S.  
Sec. 67.506

If the Superintendent determines that a public record contains information both subject to and not subject to access, the Superintendent or his/her designee shall grant access to the information subject to access and deny access to the information not subject to access. The Superintendent shall redact from the record the information that is not subject to access. The Superintendent shall not deny access to a record if information is able to be redacted.

65 P.S.  
Sec. 67.706

If the Superintendent 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.

65 P.S.  
Sec. 67.905

**Notification to Third Parties:**

When the District produces a record that is not a public record in response to a request, the Superintendent shall notify any third party that provided the record to the District, the person that is the subject of the record, and the requester.

65 P.S.  
Sec. 67.707

The Superintendent 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.

65 P.S.  
Sec. 67.707

**Denial of Request:**

If the Superintendent 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 Superintendent on whose authority the denial is issued.
4. Date of response
5. Procedure for the requester to appeal a denial of access

The Superintendent may deny a request for access to a record if the requester has made repeated requests for the same record and the repeated requests have placed an unreasonable burden on the District.

The Superintendent 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 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 Superintendent's response or deemed denial.

Reference

65 P.S.  
Sec. 67.901  
67.903

65 P.S.  
Sec. 67.506

65 P.S.  
Sec. 67.506

65 P.S.  
Sec. 67.706  
67.903

65 P.S.  
Sec. 67.1101

**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