

**Esperanza Academy Charter School**  
**Right-to-Know Law**

**Administrative Regulations**

*Exceptions to Public Records*

These administrative regulations are adopted in order to guide the Open Records Officer in determining whether a requested record constitutes a public record that is subject to disclosure under the Right-to-Know Law, or whether certain information contained in a public record may be redacted before the record is made available for public inspection or duplication.

**I. Definitions:**

For purpose of these regulations the terms set forth below shall have the following meanings:

**Administrative proceedings** shall mean a school proceeding whose outcome is required to be based on a record or documentation prescribed by law or in which a statute or regulation is particularized in application to individuals. The term includes an appeal.

**Aggregated data** shall mean a tabulation of data which relate to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories.

**Confidential proprietary information** shall mean commercial or financial information received by the school:

- (i) which is privileged or confidential; and
- (ii) the disclosure of which would cause substantial harm to the competitive position of the person who submitted the information.

**Financial record** shall mean any of the following:

- (i) any account, voucher or contract dealing with the charter school's receipt or disbursement of funds or the charter school's acquisition, use or disposal of services, supplies, materials, equipment or property;
- (ii) the salary or other payments or expenses paid to an officer or employee of the charter school, including the name and title of the officer or employee; or
- (iii) a financial audit report, but excluding work papers underlying an audit.

**Personal financial information** shall mean an individual's personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual's personal finances.

**Privilege** shall mean the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, or other privileges recognized by a court interpreting the laws of this Commonwealth.

**Social services** shall mean cash assistance and other welfare benefits, medical, mental and other health care services, vocational services and training, occupational training, educational services, counseling services, workers' compensation services and unemployment services, foster care services, services for individuals with disabilities and services for victims of crime and domestic violence.

**Trade secret** shall mean information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that:

- (i) derives independent economic value, actual or potential, from being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
- (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software obtained by the school under a licensing agreement prohibiting disclosure.

## **II. Public Access to Records:**

School records are subject to disclosure under the Right-to-Know Law unless the entire record, or certain information contained therein, is expressly exempted from disclosure by one of the exceptions set forth in Pennsylvania's Right-to-Know Law, or other state or federal law that prohibit such public access.

Section III of the administrative regulations summarizes the general rules on records that are exempt from the public disclosure requirements of the Right-to-Know Law. **These general rules do not apply to financial records and aggregated data.**

Section IV of the administrative regulations summarizes the financial records and aggregated data that are exempt from the public disclosure requirements of the Right-to-Know Law.

The Open Records Officer is responsible for determining whether a record, in whole or in part, is a public record subject to disclosure. The Open Records Officer shall consult these administrative regulations and confer with legal counsel as needed to determine whether disclosure of a record is required by law.

## **III. General Exemption Rules – Other Than Financial Records and Aggregated Data**

The administrative regulations organize the public disclosure exemptions set forth in the Right-to-Know Law into the following sub-categories:

- A. Business/Financial Matters (not constituting "financial records")
- B. Curriculum and Academic Materials
- C. Facilities and School Buildings
- D. Investigative Materials
- E. Students

- F. Employee Information
- G. Labor Relations Information
- H. Pre-Decisional Deliberations
- I. Privileged Communications with Professionals
- J. Real Estate
- K. Computer/Technology Information
- L. General/Miscellaneous
- M. Exemptions Generally not Applicable to Public Schools

These sub-categories do not appear in the Right-to-Know Law, and are intended to serve only as an organizational guide for the Open Records Officer when determining if a record, in whole or in part, is exempt from the disclosure under the law.

Information or records falling within the exemptions set forth below do not need to be disclosed in order to respond to a request to access a record. In certain instances, the record may be available for public inspection after the exempted information is redacted. In other instances, the entire record may be exempt from disclosure.

The Open Records Officer shall review the exceptions set forth in Section IV of the regulations when entertaining a request for a financial record or aggregated data.

**A. Business/Financial Matters (not constituting "financial records")**

1. *Insurance Communications* – information relating to a communication between the school and its insurance carrier, administrative service organization or risk management office. **65 P.S. § 67.708(b)(27).**
2. *Loss of State or Federal Funds* – information that would result in the loss of state or federal funds. **65 P.S. § 67.708(b)(1)(i).**
3. *Pre-Award Bid Information* – a proposal relating to the school’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; or 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. **65 P.S. § 67.708(b)(26).**
4. *Trade Secret/Confidential Proprietary Information* – a record that constitutes or reveals a trade secret or confidential proprietary information. **65 P.S. § 67.708(b)(11).**  
**(Important Note:** Whenever a record submitted by a third party to the school contains

a trade secret or confidential proprietary information, the third party must submit a written statement signed by an official representative in order for this exception to apply. If this exception applies, the Open Records Officer shall notify the third party when a request is made to inspect the record in compliance with Section IV of these regulations).

5. *Work papers underlying a financial audit. 65 P.S. § 67.102.*

**B. Curriculum and Academic Materials**

1. *Academic Records* – academic transcripts, examinations, examination questions, scoring keys and answers to examinations, including licensing and other examinations relating to the qualifications of an individual and examinations given at Esperanza Academy Charter School. **65 P.S. § 67.708(b)(15)(ii).**
2. *Unpublished Academic Works* – unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material. **65 P.S. § 67.708(b)(14).**

**C. Facilities and School Buildings**

1. *Security of Facilities* – a record the disclosure of which creates a reasonable likelihood of endangering the safety or physical security of a building, public utility, resources, infrastructure, facility or information storage facility, which may include, but not be limited to:
  - a. 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;
  - b. lists of infrastructure, resources and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security and response needs assessments; and
  - c. 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. **65 P.S. § 67.708(b)(3)(2)-(3).**

**D. Investigative Materials**

1. *Non-Criminal Investigations* – a record relating to an investigation done by the school, including but not limited to:
  - a. Complaints submitted to the school.

- 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. A record that includes information made confidential by law.
  - e. Work papers underlying an audit.
  - f. A record that, if disclosed, would do any of the following:
    - i. 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 school or an executed settlement agreement unless the agreement is determined to be confidential by a court.
    - ii. Deprive a person of the right to an impartial adjudication.
    - iii. Constitute an unwarranted invasion of privacy.
    - iv. Hinder the school's ability to secure an administrative or civil sanction.
    - v. Endanger the life or physical safety of an individual. **65 P.S. § 67.708(b)(17)(i)-(vi).**
2. *Criminal Investigations* - a record relating to or resulting in a criminal investigation, including but not limited to:
- a. Complaints of potential criminal conduct other than a private criminal complaint.
  - b. Investigative materials, notes, correspondence, videos and reports.
  - c. A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.
  - d. A record that includes information made confidential by law or court order.
  - e. Victim information, including any information that would jeopardize the safety of the victim.
  - f. A record that, if disclosed, would do any of the following:

- i. Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.
- ii. Deprive a person of the right to a fair trial or an impartial adjudication.
- iii. Impair the ability to locate a defendant or codefendant.
- iv. Hinder an agency's ability to secure an arrest, prosecution or conviction.
- v. Endanger the life or physical safety of an individual.

**(Important Note:** The exception for criminal investigation records shall not apply to information contained in a police blotter as defined in 18 Pa. C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa. C.S. § 3754(b)(relating to accident prevention investigations). **65 P.S. § 67.708(b)(16).**

#### **E. Students**

1. *Academic Records* – academic transcript of a student. **65 P.S. § 67.708(b)(15)(i).**
2. *Education Records* – disclosure of a student’s education records to non-school personnel is generally prohibited unless prior written consent is obtained from a student’s parent (or the student, if the student is 18 years of age) under the federal Family Education Right to Privacy Act ("FERPA"). **20 U.S.C. § 1232g; 34 C.F.R. Part 99.**
3. *Medical Information* – 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. **65 P.S. § 67.708(b)(5).**
4. *Minors* – a record identifying the name, home address or date of birth of a child (17) years of age or younger. **65 P.S. § 67.708(b)(30).**
5. *Personal Identification Information* – the following personal information relating to any individual:
  - a. A record containing an individual’s Social Security number; driver’s license; driver’s license number.
  - b. Personal financial information.
  - c. Home, cellular or personal telephone numbers; personal e-mail addresses.

- d. Student number or other confidential personal identification number. **65 P.S. § 67.708(b)(6)(i)(A)-(C)**. (**Important Note:** Nothing in this exception shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or a school employee. **65 P.S. § 67.708(b)(6)(ii)**).
6. *Physical Harm/Personal Security* – a record the disclosure of which would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. **65 P.S. § 67.708(b)(1)(ii)**.
7. *Social Services* – 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. **65 P.S. § 67.708(b)(28)**.

**F. Employee Information**

1. *Medical Information* – 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. **65 P.S. § 67.708(b)(5)**.
2. *Personal Identification Information* – the following personal information relating to any individual:
  - a. A record containing an individual’s Social Security number; driver’s license; driver’s license number.
  - b. Personal financial information.
  - c. Home, cellular or personal telephone numbers; personal e-mail addresses.
  - d. Employee number or other confidential personal identification number.
  - e. A spouse’s name, marital status, beneficiary or dependent information.
  - f. The home address of a law enforcement officer or judge. **65 P.S. § 67.708(b)(6)(i)(A)-(C)**. (**Important Note:** Nothing in this exception shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or an agency employee. **65 P.S. § 67.708(b)(6)(ii)**).
3. *Employee Records (records generally found in a personnel file)* – 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 of a school board member.
  - 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.
  - e. Workplace support services information.
  - f. Written criticism of a school 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 school's final action that results in demotion or discharge.
  - i. An academic transcript of an employee. **65 P.S. § 67.708(b)(7)(i)-(ix).**
4. *Physical Harm/Personal Security* – a record the disclosure of which would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. **65 P.S. § 67.708(b)(1)(ii).**
  5. *Social Services* – 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. **65 P.S. § 67.708(b)(28).**

**G. Labor Relations Information**

1. *Grievances* – 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. (**Important Note:** This prohibition does not apply to the final award or order of an arbitrator in a dispute or grievance procedure.) **65 P.S. § 67.708(b)(8)(ii).**
2. *Labor Negotiations* – a record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related fact-finding and/or arbitration proceedings. (**Important Note:** This exemption does not apply to a final and executed contract or collective bargaining agreement between the parties.) **65 P.S. § 67.708(b)(8)(i).**

**H. Pre-Decisional Deliberations**



1. *Draft documents* – a draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment prepared by or for the school. **65 P.S. § 67.708(b)(9)**.
2. *Draft Minutes* – draft minutes of any school board meeting until the next regularly-scheduled meeting of the board. **65 P.S. § 67.708(b)(21)(i)-(ii)**.
3. *Internal, pre-decisional deliberations* – records reflecting the internal, pre-decisional deliberations by and between the school, its school board members and/or employees, or members, employees or officials of another school district or agency, including without limitation pre-decisional deliberations 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. (**Important Note:** 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 or polls.) **65 P.S. § 67.708(b)(10)(i)-(ii)**.

#### **I. Privileged Communications with Professionals**

1. *Attorney-Work Product* – a record reflecting school 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. **65 P.S. § 67.305(a)(2)**
2. *Attorney-Client Privilege* – a record reflecting confidential communications between the school and the school’s solicitor or special counsel providing a legal opinion or discussing a particular legal matter. **65 P.S. § 67.305(a)(2)**
3. *Confidential Student Communication* – a record reflecting confidential communications between a student and a school nurse, guidance counselor or other school employee protected by **42 Pa. C.S.A. § 8550**.

#### **J. Real Estate**

1. Real Estate Appraisals – real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by the school relative to the following:
  - a. Leasing, acquiring or disposing of real property or an interest in real property.
  - b. Purchase of public supplies or equipment included in the real estate transaction.
  - c. Construction projects.
  - d. Important Note: 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 an interest in real property or the purchase of public supply or construction project. **65 P.S. § 67.708(b)(22).**

**K. Computer/Technology Information**

1. Computer Systems – a record regarding computer hardware, software and networks, including administrative and technical records, disclosure of which would be reasonably likely to jeopardize computer security. **65 P.S. § 67.708(b)(4).**
2. Safety – a record disclosure of which 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. **65 P.S. § 67.708(b)(3)(i).**

**L. General/Miscellaneous**

1. *Personal Notes/Working Papers* – notes and working papers prepared by or for a school board member 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. **65 P.S. § 67.708(b)(12).**
2. *Trade Secret/Confidential Proprietary Information* – a record that constitutes or reveals a trade secret or confidential proprietary information. **65 P.S. § 67.708(b)(11).** (**Important Note:** Whenever a record submitted by a third party to the school contains a trade secret or confidential proprietary information, the third party must submit a written statement signed by an official representative in order for this exception to apply. If this exception applies, the Open Records Officer shall notify the third party when a request is made to inspect the record in compliance with Section V of these regulations.)
3. *Personal Identification Information* – the following personal information relating to any individual:
  - a. A record containing an individual’s Social Security number; driver’s license; driver’s license number.
  - b. Personal financial information.
  - c. Home, cellular or personal telephone numbers; personal e-mail addresses.
  - d. A confidential personal identification number for an individual. **65 P.S. § 67.708(b)(6)(i)(A)-(C).** (**Important Note:** Nothing in this exception shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or an agency employee. **65 P.S. § 67.708(b)(6)(ii).**)

4. *Physical Harm/Personal Security* – when disclosure of a record would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of a student. **65 P.S. § 67.708(b)(1)(ii).**
5. *Public Safety* – a record maintained by the school in connection with local law enforcement or other public safety activity disclosure of which would be reasonably likely to jeopardize or threaten public safety or preparedness of public protection activity. **65 P.S. § 67.708(b)(2).**
6. *Archived material* – library archived material or 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. **65 P.S. § 67.708(b)(24).**
7. *Library Records* – library circulation and order records of an identifiable individual or group of individuals. **65 P.S. § 67.708(b)(23).**
8. *Donor information* – records that identify an individual who lawfully makes a donation to the school unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the school, including lists of potential donors compiled by the school to pursue donation, donor profile information or personal identifying information relating to a donor. **65 P.S. § 67.708(b)(13).**
9. *Correspondence with a General Assembly member* – correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services. **65 P.S. § 67.708(b)(29).** (*Note:* This exception does not apply to correspondence between a member of the General Assembly and lobbyist.)

**M. Exemptions Generally not Applicable to Public Schools**

1. *National Security or Public Safety Concerns* – (i) a record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity; (ii) a record designated as classified by state or federal military authorities; and (iii) a record the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility, information storage system or significant special event, from a terrorist act, or is otherwise deemed critical infrastructure by the federal government. **65 P.S. § 67.708(b)(2)-(3).**
2. *Emergency Dispatch Records* – records, in whole or in part, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. **65 P.S. § 67.708(b)(18).** (*Note:* This exception does not prevent the release of a 911 recording, or transcript

thereof, if the agency or a court determines that the public interest in disclosure outweighs the public interest in nondisclosure.)

3. *DNA and RNA Records* – DNA and RNA records. **65 P.S. § 67.708(b)(19)**.
4. *Autopsy Records* – an autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of the postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. **65 P.S. § 67.708(b)(20)**. (**Important Note:** This exception does not limit the reporting of the name of the deceased individual and the cause and manner of death.)
5. *Identification of archeological sites/endangered species* – a record identifying the location of an archeological site or endangered or threatened plant or animal species if not already known to the general public. **65 P.S. § 67.708(b)(25)**.

#### **IV. Financial and Computer Records and Aggregated Data Exempt from Public Disclosure**

If the Open Records Officer receives a request for a financial record or aggregated data, only the exceptions set forth in this section shall be considered when responding to the request.

**Financial record** shall mean any of the following: (i) any account, voucher or contract dealing with the school's receipt or disbursement of funds or the school's acquisition, use or disposal of services, supplies, materials, equipment or property; (ii) the salary or other payments or expenses paid to an officer or employee of the school, including the name and title of the officer or employee; or (iii) a financial audit report, but excluding work papers underlying an audit.

1. *Financial records* – financial records shall be made available for public disclosure, except the following information may be **redacted** from the financial record:
  - a. *Loss of State or Federal Funds* – information the disclosure of which would result in the school's loss of state or federal funds. **65 P.S. § 67.708(b)(1)(i)**.
  - b. *Physical Harm/Personal Security* – information the disclosure of which would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal property of an individual. **65 P.S. § 67.708(b)(1)(ii)**.
  - c. *National Security or Public Safety Concerns* – (i) a record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity; (ii) a record designated as

classified by state or federal military authorities; and (iii) a record the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility, information storage system or significant special event, from a terrorist act, or is otherwise deemed critical infrastructure by the federal government. **65 P.S. § 67.708(b)(2)-(3).**

- d. *Computer Systems* – a record regarding computer hardware, software and networks, including administrative and technical records, which if disclosed would be reasonably likely to jeopardize computer security. **65 P.S. § 67.708(b)(4).**
- e. *Medical Information* – 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 or program designed for participation by an individual with disabilities; enrollment in workers’ compensation and unemployment compensation that would disclose individually identifiable health information. **65 P.S. § 67.708(b)(5).**
- f. *Personal Identification Information* – the following personal information relating to any individual:
  - i. 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.
  - ii. A spouse’s name, marital status, beneficiary or dependent information.
  - iii. The home address of the school resource officer. **65 P.S. § 67.708(b)(6)(i)(A)-(C).** (**Important Note:** Nothing in this exception shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or a school employee. **65 P.S. § 67.708(b)(6)(ii).**)
- g. *Non-Criminal Investigations* – a record relating to an investigation done by the school, including but not limited to:
  - i. Complaints submitted to the school.
  - ii. Investigative materials, notes, correspondence and reports.

- iii. A record that includes the identity of a confidential source, including individuals subject to Pennsylvania's Whistleblower Law.
  - iv. A record that includes information made confidential by law.
  - v. Work papers underlying an audit.
  - vi. A record that, if disclosed, would do any of the following:
    - 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 school or an executed settlement agreement unless the agreement is determined to be confidential by a court.
    - Deprive a person of the right to an impartial adjudication.
    - Constitute an unwarranted invasion of privacy.
    - Hinder the school's ability to secure an administrative or civil sanction.
    - Endanger the life or physical safety of an individual. **65 P.S. § 67.708(b)(17)(i)-(vi).**
2. *Aggregated data* – aggregated data shall generally be made available for public disclosure. If the Open Records Officer receives a request for a financial record or aggregated data, only the exceptions set forth in this section shall be considered when responding to the request. "Financial record" shall mean any of the following: (i) any account, voucher or contract dealing with the school's receipt or disbursement of funds or the school's acquisition, use or disposal of services, supplies, materials, equipment or property; (ii) the salary or other payments or expenses paid to an officer or employee of the school, including the name and title of the officer or employee; or (iii) a financial audit report, but excluding work papers underlying an audit.
- a. *Loss of State or Federal Funds* – aggregated data that would result in the school's loss of state or federal funds. **65 P.S. § 67.708(b)(1)(i).**
  - b. *Physical Harm/Personal Security* – aggregated data would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. **65 P.S. § 67.708(b)(1)(ii).**
  - c. *National Security or Public Safety Concerns* – (i) a record maintained by an agency in connection with the military, homeland security, national

defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity; (ii) a record designated as classified by state or federal military authorities; and (iii) a record the disclosure of which creates a reasonable likelihood of endangering the safety of the physical security of a building, public utility, resource, infrastructure, facility, information storage system or significant special event, from a terrorist act, or is otherwise deemed critical infrastructure by the federal government. *65 P.S. § 67.708(b)(2)-(3).*

- d. *Computer Systems* – aggregated data regarding computer hardware, software and networks, including administrative and technical records, which if disclosed would be reasonably likely to jeopardize computer security. *65 P.S. § 67.708(b)(4).*
- e. *Medical Information* – aggregated data that would disclose 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 or program designed for participation by an individual with disabilities; enrollment in workers’ compensation and unemployment compensation that would disclose individually identifiable health information. *65 P.S. § 67.708(b)(5).*

#### **V. Trade Secrets or Confidential Proprietary Information of a Third Party**

If the Open Records Officer reasonably believes that a requested record contains a trade secret or confidential proprietary information of a third party, the following procedures shall be used when responding to the request:

1. The Open Records Officer shall determine if the third party provided the school with a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary at the time the record was submitted;
2. If such written statement was submitted, the Open Records Officer shall notify the third party within five (5) business days of its receipt of the request;
3. The third party shall have five (5) business days from the notification by the Open Records Officer to provide input on the release of record;
4. The Open Records Officer shall grant or deny the request for record, in compliance with the requirements of the policy, within ten (10) business days of its notification to the third party; and
5. The Open Records Officer shall notify the third party of the decision regarding the request for the record. *65 P.S. § 67.707(b).*

## **VI. Transcript of an Administrative Proceeding**

If the Open Records Officer receives a request for a transcript of an administrative proceeding, the following procedures shall be used when responding to the request:

1. The Open Records Officer shall determine if the transcript of the administrative proceeding is exempt from public disclosure:
  - a. As a general rule, a transcript from a proceeding adjudicating the rights of a student (for example, expulsion hearing or special education due process hearing) or an employee (for example, dismissal hearing) will be exempt from public disclosure – and the disclosure of such transcripts shall not be made without consulting legal counsel; and
  - b. Transcripts of certain types of hearings (for example, Act 34 hearing, Charter School Law proceedings) are subject to public disclosure.
2. If a transcript is subject to public disclosure, the school shall either make its own copy of the transcript available for public disclosure or forward the request to the court stenographer who transcribed the proceedings if the school does not have a copy of the transcript. **65 P.S. § 67.707(c)**.
3. In processing requests for public records, information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.