

801-AR. EXEMPTED RECORDS

To determine if a requested record is exempt from access, the Open Records Officer will consider and apply each exemption separately.

The following records are exempt from public access by a requester in accordance with the Right-To-Know Law.

1. Loss of Funds/Physical Harm/Personal Security - when the disclosure of a record would result in the school's (center's) loss of federal or state funds or would reasonably be likely to result in a substantial and demonstrable risk of physical harm to or personal security of an individual.
2. Public Safety - when the disclosure of a record maintained in connection with the military, homeland security, national defense, law enforcement or other public safety activity would reasonably be likely to jeopardize or threaten public safety or public protection activity, or a record that is designated classified by an appropriate federal or state military authority.
3. Safety/Security of Facilities - when the disclosure of a record creates a reasonable likelihood of endangering the safety or physical security of a building, public utility, resource, infrastructure, facility, or information storage system, which may include:
 - 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 Infrastructures Protections, that are deemed critical due to their nature and result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security needs assessments.
 - 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.
4. Computer Systems - when the disclosure of a record regarding computer hardware, software and networks, including administrative and technical records, would reasonably be likely to jeopardize computer security.

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5. Medical Information - when the disclosure of 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, to include drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocational rehabilitation; workers' compensation and unemployment compensation; or related information would disclose individually identifiable health information.
6. Personal Identification Information - disclosure of the following personal identification information:
 - a. A record containing all or part of 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.
 - b. A spouse's name, marital status, beneficiary or dependent information.
 - c. The home address of a law enforcement officer or judge.

Personal information that must be disclosed includes 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 school (center) employee.

The Open Records Officer may redact from a record the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity.

7. Certain Employee Information - disclosure of the following records relating to a school (center) employee:
 - a. A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.
 - b. A performance rating or review.
 - c. The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.
 - d. The employment application of an individual who is not hired by the school (center).
 - e. Workplace support services information.

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- f. Written criticisms of a school (center) employee.
 - g. Grievance material, including documents related 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 (center's) final action that results in demotion or discharge.
 - i. An academic transcript.
8. Labor Relations/Negotiations/Arbitration - disclosure of a record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, disclosure of an exhibit entered into evidence at an arbitration proceeding or a transcript of the arbitration or the opinion.

This exemption does not apply to a final or executed contract or agreement between the parties in a collective bargaining agreement, or to the final award or order of the arbitrator in a dispute or grievance procedure.

9. Predecisional Drafts - disclosure of the draft of a bill, resolution, regulation, statement of policy, management directive, or ordinance, or their amendments, prepared by or for the school (center).
10. Predecisional Deliberations -

Disclosure of a record that reflects:

- a. The internal, predecisional deliberations of the school (center), its Joint Operating Committee members, employees or officials, or predecisional deliberations between school (center) Joint Operating Committee members, employees or officials and members, employees or officials of another agency, including predecisional 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 the predecisional deliberations, subject to law governing open meetings.

Public records do include a record of any of the above that is not exempt from access by law and which is presented to a quorum for deliberation in accordance with law governing open meetings; a written or Internet application or document that has been submitted to request Commonwealth funds; and the results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion.

- b. The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.

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11. Trade Secret/Confidential Proprietary Information - disclosure of a record that constitutes or reveals a trade secret or confidential proprietary information.
12. Personal Notes/Working Papers - disclosure of notes and working papers prepared by or for a school (center) public official 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.
13. Donor Identity - disclosure of records that would disclose the identity of an individual who lawfully makes a donation to the school (center), unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a school (center) public official or employee, including lists of potential donors compiled by the school (center) to pursue donations; donor profile information; or personal identifying information relating to a donor.
14. Unpublished Academic Works - disclosure of unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material, and scholarly correspondence of a community college or an institution of the State System of Higher Education or one of their faculty members, employees, guest speakers or students.
15. Academic Records - disclosure of academic transcripts, examinations, examination questions, scoring keys and answers to examinations, including licensing and other examinations relating to the qualifications of an individual; examinations given in school (center); and examinations given in institutions of higher education.
16. Criminal Investigations - disclosure of a record of the school (center) or an agency relating to or resulting in a criminal investigation, including:
 - 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 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 a victim.
 - f. A record that if disclosed would reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges; deprive an individual of the right to a fair trial or impartial adjudication; impair the ability to locate a defendant or codefendant; hinder an agency's ability to secure a arrest, prosecution or conviction; or endanger the life or physical safety of an individual.

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This exemption does not apply to information contained in a police blotter as defined in law and utilized or maintained by the State Police, local, campus, transit or port authority police department or other law enforcement agency, or in a traffic report except as provided by law.

17. Noncriminal Investigations - disclosure of a school (center) record relating to a noncriminal investigation, including:
 - a. Complaints submitted to the school (center).
 - b. Investigative materials, notes, correspondence and reports.
 - c. A record that includes the identity of a confidential source, including individuals subject to the 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 reveal the institution, progress or result of the school's (center's) investigation, except the imposition of a fine or civil penalty; the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement 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 an agency's ability to secure an administrative or civil sanction; or endanger the life or physical safety of an individual.
18. Emergency Communications - disclosure of records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings, unless the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.
19. DNA/RNA - disclosure of DNA and RNA records.
20. Coroner/Medical Examiner - disclosure of specific records and reports of a coroner or medical examiner.
21. Draft Minutes - disclosure of draft minutes of any Joint Operating Committee meeting until the next regularly scheduled Joint Operating Committee meeting, minutes of an executive session, and any record of discussions held in executive session.
22. Real Estate Appraisals/Feasibility Studies - disclosure of the contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by the school (center) relative to the leasing, acquiring, or disposing of real property or an interest in real property; the purchase of public supplies or equipment included in the real estate transaction; and construction projects.

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This exemption does not apply to the documents listed above once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property, the purchase of public supplies, or a construction project.

23. Library Records - disclosure of library and archive circulation and order records of an identifiable individual or groups of individuals.
24. Library/Museum Materials - disclosure of library archived and museum materials or valuable or rare book collections 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.
25. Archeological Site/Endangered Species - disclosure of a record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.
26. Pre-Contract Award Documents - disclosure of a proposal pertaining to school (center) procurement or disposal of supplies, service or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offerer requested in an invitation for bid or request for proposals to demonstrate the bidder's or offerer's economic capability; or the identity of members, notes and other records of school (center) proposal evaluation committees established under law relating to competitive sealed proposals.
27. Insurance Communications - disclosure of a record or information relating to a communication between the school (center) and its insurance carrier, administrative service organization or risk management office.

This exemption does not apply to a contract with an insurance carrier, administrative service organization or risk management office, or to financial records relating to the provision of insurance.

28. Social Services - disclosure of a record or information identifying an individual who applies for or receives social services, the type of social services received by an individual, an individual's application to receive social services, or eligibility to receive social services.
29. General Assembly Correspondence - disclosure of correspondence between an individual and member of the General Assembly and records accompanying the correspondence that would identify an individual requesting assistance or constituent services, except for correspondence between a member of the General Assembly and a principal or lobbyist under law.
30. Minors - disclosure of a record identifying the name, home address or date of birth of a child seventeen (17) years of age or younger.

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Financial Records

The listed exemptions do not apply to financial records, except that the Open Records Officer shall redact the portions of a financial record protected under exemptions 1, 2, 3, 4, 5, 6, 16 or 17.

Aggregated Data

The listed exemptions do not apply to aggregated data maintained or received by the school (center), except for data protected under exemptions 1, 2, 3, 4 or 5.

Law Enforcement Activity

The Open Records Officer will not disclose the identity of an individual performing an undercover or covert law enforcement activity.