

## **Operations Policy #902 Right-to-Know Law**

### **Background:**

The Board of Trustees of SusQ-Cyber Charter School ("SusQ-Cyber") has adopted this Right-to-Know Policy in order to facilitate implementation of the Right-to-Know Law, Act 3 of 2008, at SusQ-Cyber Charter School.

The Board of Trustees of SusQ-Cyber directs the appointed Open Records Officer to implement procedures necessary to effectuate this Policy and to adhere to the requirements of the Right-to-Know Law. This policy supersedes and replaces all previously adopted Right-to-Know Law Policies at SusQ-Cyber and any and all procedures related to the Right-to-Know Law at SusQ-Cyber shall be modified as consistent with this Policy.

Language in this Policy has been drafted taking into consideration the Right-to-Know Law and information available from and through the Office of Open Records and Pennsylvania Department of Education. Nothing in this policy shall be construed to conflict with applicable state and/or federal laws, including but not limited to the Right-to-Know Law and any and all applicable common law and cases developing from the Right-to-Know Law and/or interpreting the Right-to-Know Law. In the event the Right-to-Know Law is amended or otherwise revised, this Policy shall be interpreted to incorporate any revisions or changes to the Right-to-Know Law without the need for Board action.

### **Definitions:**

#### **Open Records Officer**

- The Open Records Officer for SusQ-Cyber is hereby the Chief Executive Officer of SusQ-Cyber Charter School.
- The Open Records Officer is the individual designated by the Board to receive, review and respond to all requests directed to SusQ-Cyber pursuant to this Policy and applicable law.

#### **Public Record:**

- A record of SusQ-Cyber is public provided the record is not:
  1. exempt under the Right to Know Law;
  2. exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
  3. protected by a privilege.
- This Policy shall not be interpreted to require or allow access to any record that is not a public record under the Right-to-Know Law.
- This Policy shall be interpreted to allow access to or duplication of public records to the extent required by the Right-to-Know Law.

**Requester:**

- For purposes of this Policy, a Requester is a person that is a legal resident of the United States and requests a record pursuant to the Right-to-Know Law. The term includes an agency.

**Response:**

- Access to a record or written notice to a Requester granting, denying or partially granting and partially denying access to a record.

**Functions of the Open Records Officer:**

- The Open Records officer shall receive requests submitted to SusQ-Cyber under the Right-to-Know Law, direct requests to other appropriate persons in accordance with the Right-to-Know Law, track SusQ-Cyber's progress in responding to requests and issue interim and final responses under the Right-to-Know Law and this Policy.

**Public Records Access Room:**

- SusQ-Cyber may designate a Public Records Access Room. The function of a Public Records Access Room is to provide a specific, established site where Requesters may have physical access to some or all of SusQ-Cyber's Public Records. If the Board elects not to establish such a room, the Open Records Officer shall determine on an ad hoc basis and in accordance with the Right-to-Know Law the building and room where Public Records will be made available to a Requester and the hours of availability.
- In either instance the Open Records Officer has the discretion to establish procedures governing the use of the room including, but not limited to, the hours of access, the need and adequacy of proof of identification, restrictions or prohibitions on the removal of Records, the use of written requests and the ability of a Requester to bring his or her own equipment into the room.

**Procedure for Requesting Records:**

- **Oral requests:** The Right-to-Know Law does not require SusQ-Cyber to respond to oral requests. The Open Records Officer shall refuse to accept any oral request.
- **Anonymous requests:** The Right-to-Know Law does not require SusQ-Cyber to respond to Anonymous requests. The Open Records Officer shall refuse to accept any written request that does not identify the Requester.
- **Written requests:** The Right-to-Know Law requires that the Open Records Officer act upon each non-anonymous written request when such request is submitted in person, by mail, by facsimile or e-mail.
  1. **Contents of a request:** The Right-to-Know Law sets forth various specifications for the contents of a written request. A Requester must submit a request in writing to the Open Records Officer on a form to be provided by the Open Records Officer or on the Official form issued by the Office of Open Records. The request must be addressed to the Open Records Officer and must set forth the name and address where SusQ-Cyber should address its response. The request should identify or describe the Record or Records sought with sufficient specificity to enable SusQ-Cyber to ascertain which Records are being requested. The written request may be submitted in

person, by mail, facsimile or email. Any SusQ-Cyber Employee or Board Member who receives a request directed to the Open Records Officer shall immediately forward that request to the Open Records Officer.

The Right-to-Know Law provides that the Requester need not include the reason for the request or the intended use of the Records. Therefore, the Open Records Officer shall not insist that such a statement be provided, nor shall SusQ-Cyber reject or refuse a request on the grounds that no such reason was given.

2. **Forms:** SusQ-Cyber may create or adopt forms for use by Requesters in preparing written requests. In the absence of a form created by SusQ-Cyber, the Open Records Office's official Form must be used.
3. **Identification:** As the Right-to-Know Law provides that SusQ-Cyber provide a Requester with access to a Public Record if the Requester is a legal resident of the United States, SusQ-Cyber may require the 6.Requester to produce photographic identification to the extent allowed by the Right-to-Know Law.

### **Submittal of Open Records Requests.**

Address all Open Records Requests to:

SusQ-Cyber Charter School  
240 Market Street Box 1A, Suite 15  
Bloomsburg, PA 17815 Phone (570) 245-0252  
Fax: (570)245-0255

SusQ-Cyber shall post this information to its website and shall post it at a location that is publicly accessible.

### **Timing of Responses:**

- The Right-to-Know Law provides that, upon receipt of a written Open Records Request, SusQ-Cyber must make a good faith effort to determine if the requested Record is a Public Record, financial record, or legislative record and to respond as promptly as possible under the circumstances existing at the time of the request, and that this time shall not exceed five (5) business days from the date the written request is received by SusQ-Cyber's Open Records Officer.
- The five (5) business day period does not begin to run until the SusQ-Cyber's designated Open Records Officer has received a written request in accordance with the Right-to-Know Law and this Policy. If an Open Records Request is submitted to SusQ-Cyber or to some Officer or employee of SusQ-Cyber other than the Open Records Officer, the five (5) business day period has not yet begun.
- Either a final or an interim written response must be made within five (5) business days from the date that the Open Records Officer received the request. If the Open Records Officer fails to respond within that time period, the Open Records Request is deemed denied.
- The Right-to-Know Law and this Policy contemplate that Requesters will receive a Response within the five (5) business day period. However, the Right-to-Know Law and this Policy also provides SusQ-Cyber with certain specific exceptions to invoke a single extension of time, which may not exceed thirty (30) calendar days. If an extension is

invoked and then there is no timely Response, the Open Records Request is deemed denied. Likewise, if the Open Records Officer notifies the Requester that it needs more than the maximum of thirty (30) days, the request is deemed denied.

### **Processing of Open Records Requests by the Open Records Officer:**

- Upon receiving an Open Records Request, the Open Records Officer shall, at a minimum, promptly complete the following tasks to the extent required by the Right-to-Know Law:
  1. Date-stamp or otherwise note the date of receipt on the Open Records Request.
  2. Compute the day on which the five (5) business day period will expire and make a notation of that date.
  3. Maintain a paper or electronic copy of the Open Records Request, including all documents submitted with it and the envelope (if any) in which it was received.
  4. Create an official file for the retention of the original Open Records Request.
  5. Make a good faith effort to determine if the record requested is a public record and if SusQ-Cyber has possession, custody or control of the record.
  6. Maintain a copy of SusQ-Cyber's response to the request.
  
- For purposes of determining the five (5) business-day period:
  1. A business day shall be from 8:30 a.m. until 4:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of SusQ-Cyber are closed for all or part of a day due to a holiday; due to severe weather (such as a blizzard or ice storm); due to natural or other disaster; or due to the request or direction of local, state, or federal law enforcement Officers.
  2. Any Open Records Request received by the Open Records Officer after the close of its regular business hours shall be deemed received by that office on the following business day.
  3. For purposes of determining the end of the five (5) business day period, the day that an Open Records Request is received (or deemed received) is not counted. The first day of the five (5) business day period is SusQ-Cyber's next business day.

### **Responses:**

- The act of providing a Requester with physical access to a document or a copy of the requested Record, in the Open Records Office, is a "Response" for purposes of this Open Records Policy. Unless SusQ-Cyber issues written policies to the contrary, only the Open Records Officer possesses the authority to permit this access.
- Where timely access is not provided in accordance with subsection 8(1) above, the Act requires that SusQ-Cyber's Response be in writing. The Open Records Officer has the duty to prepare and send written Responses. In preparing a written Response, the Open Records Officer should consult, as necessary, with the Solicitor.

- SusQ-Cyber is not required to create a Public Record that does not already exist, nor is SusQ-Cyber required to compile, maintain, format, or organize a Public Record in a manner in which SusQ-Cyber does not currently do so.
- The Open Records Office shall send written Responses to Requesters by one of the following, in its discretion: United States mail, facsimile transmission; electronic transmission; overnight or parcel delivery service; or, courier delivery.

#### **Access to Public Records:**

- Unless otherwise provided by law, a public record, legislative record or financial record shall be accessible for inspection and duplication in accordance with the Right-to-Know Law and this Policy. A public record, legislative record or financial record being provided to a Requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records, legislative records or financial records shall be available for access during the regular business hours of SusQ-Cyber.
- SusQ-Cyber shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which SusQ-Cyber does not currently compile, maintain, format or organize the record.
- 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 SusQ-Cyber will provide access to inspect the record electronically. If the Requester is unwilling or unable to access the record electronically, the Requester may, within thirty days following receipt of the notification, submit a written request to the Open Records Officer to have the record converted to paper. SusQ-Cyber shall provide access to the record in printed form within five (5) days of the receipt of the written request for conversion to paper.

#### **Physical Access to Public Records:**

- The Act requires that, unless otherwise provided by law, the Public Records of SusQ-Cyber must be accessible for inspection by any Requester during the regular business hours of SusQ-Cyber. Unless SusQ-Cyber adopts written policies to the contrary, the regular business hours of SusQ-Cyber for purposes of the Act are from 8:30 a.m. until 4:00 p.m. on any business day.
- Access shall be provided by the Open Records Officer either in the Open Records Office or the Public Records Access Room, at the discretion of the Open Records Officer, depending on the size, complexity or other circumstances of the request,

#### **Notice of Review:**

- Upon receipt of a written request for access, the Open Records Officer shall determine if one of the following applies:
  1. the request for access requires redaction of a record in accordance with the Right to Know Law;
  2. the request for access requires the retrieval of a record stored in a remote location;
  3. a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;

4. a legal review is necessary to determine whether the record is a record subject to access under this act;
  5. the Requester has not complied with the agency's policies regarding access to records;
  6. the Requester refuses to pay applicable fees authorized by this act; or
  7. the extent or nature of the request precludes a response within the required time period.
- Upon a determination that one of the above factors applies, the Open Records Officer shall send written notice to the Requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the Requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for in the Right-to-Know Law, the request for access shall be deemed denied unless the Requester has agreed in writing to an extension to the date specified in the notice.
  - If the Requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if SusQ-Cyber has not provided a response by that date.

#### **Written Final Responses:**

- Types of final Responses The Act provides for three types of written final Responses:
  1. SusQ-Cyber grants the entire Open Records Request.
  2. SusQ-Cyber refuses the entire Open Records Request.
  3. SusQ-Cyber grants part of the Open Records Request and refuses the remainder.
- Deemed Denials The failure of SusQ-Cyber to make a timely final Response is a Deemed Denial under the terms of the Act.
- Final Responses that deny Open Records Requests: Either in whole or in part shall be in writing by the Open Records Officer and include all of the following:
  1. A description of the record requested.
  2. The specific reasons for the denial, including a citation of supporting legal authority.
  3. The typed or printed 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. The procedure to appeal the denial of access under the Right-to-Know Law.
- Final Responses that grant the Open Records Request: If the Open Records Officer grants the request, the response shall so inform the Requester and include any necessary information for access.

#### **Redaction:**

- If SusQ-Cyber determines that a public record, legislative record or financial record contains information which is subject to access as well as information which is not subject to access, SusQ-Cyber's response shall grant access to the information which is subject to

access and deny access to the information which is not subject to access.

- If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, SusQ-Cyber shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access.
- SusQ-Cyber may not deny access to the record if the information which is not subject to access is able to be redacted. Information which SusQ-Cyber redacts in accordance with the Right-to-Know Law shall be deemed a denial under the Right-to-Know Law.

### **Appeals:**

- If a written request for access to a record is denied or deemed denied, the Requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under the Right to Know Law within fifteen (15) business days of the mailing date of SusQ-Cyber's response or within fifteen (15) business days of a deemed denial. The appeal shall state the grounds upon which the Requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by SusQ-Cyber for delaying or denying the request.
- Unless otherwise provided by applicable law, the Office of Open Records shall assign an appeals officer to review the denial.
- A person other than SusQ-Cyber or Requester with a direct interest in the record subject to an appeal under this section may, within fifteen (15) days following receipt of actual knowledge of the appeal but no later than the date the appeals officer issues an order, file a written request to provide information or to appear before the appeals officer or to file information in support of SusQ-Cyber's position. Copies of the written request shall be sent to the agency and the Requester.

### **Posting:**

The following information shall be posted at SusQ-Cyber and, if SusQ-Cyber maintains an Internet website, on the Internet website:

- Contact information for the open-records officer.
- Contact information for the Office of Open Records or other applicable appeals officer.
- A form, which may be used to file a request.
- Regulations, policies and procedures of SusQ-Cyber relating to the Right to Know Law.

### **Current Information for the Office of Open Records:**

#### *Physical Address:*

Commonwealth of Pennsylvania Office of Open  
Records Commonwealth Keystone Building 400  
North Street, Plaza Level Harrisburg, PA 17120

*Mailing Address:*

Commonwealth of Pennsylvania Office of Open  
Records Commonwealth Keystone Building 400  
North Street, 4th Floor Harrisburg, PA 17120

Phone: 717-346-9903

Fax: 717-425-5343

Email: [openrecords@state.pa.us](mailto:openrecords@state.pa.us)

Executive Director

**Special Considerations:**

➤ **Disruptive requests:**

SusQ-Cyber may deny a Requester 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 SusQ-Cyber. Such denial shall not restrict the ability to request a different record.

➤ **Disaster or potential damage:**

SusQ-Cyber may deny a Requester access:

1. when timely access is not possible due to fire, flood or other disaster; or
2. to historical, ancient or rare documents, records, archives and manuscripts when access may, in the professional judgment of the curator or custodian of records, cause physical damage or irreparable harm to the record.

To the extent possible, the contents of such a record shall be made accessible to a Requester even when the record is physically unavailable.

➤ **Third Parties**

If, in response to a request, SusQ-Cyber produces a record that is not a public record, legislative record or financial record, SusQ-Cyber shall notify any third party that provided the record to the agency, the person that is the subject of the record and the Requester. SusQ-Cyber shall notify a third party of a request for a record if the third party provided the record and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information. Notification shall be provided within five (5) business days of receipt of the request for the record. The third party shall have five (5) business days from receipt of notification from the agency to provide input on the release of the record. SusQ-Cyber shall deny the request for the record or release the record within ten business days of the provision of notice to the third party and shall notify the third party of the decision.

**Duplication of Public Records:**

- A Public Record shall be accessible for duplication by a Requester. SusQ-Cyber does not make duplication equipment available to a Requester but shall provide other means by which a Requester may obtain copies.
- SusQ-Cyber will assign its own staff to make the duplications requested by the Requester; or it may contract for duplication services and require that the Requester pay the contractor for those services. SusQ-Cyber shall charge the Requester a reasonable fee(s) that is consistent with the prevailing charges in the geographic location where the duplication occurs.

### **Retention and Disposal of Public Records:**

- There are statutes, regulations and other laws that regulate SusQ-Cyber's retention and disposition of Records. SusQ-Cyber shall follow the mandates of these laws and regulations.
- Neither the Act nor this policy modifies, rescinds or supersedes any retention or disposition schedule established pursuant to law or other regulation.

### **Fees and Charges:**

- Reasonable fees and charges as permitted by the Right-to-Know Law shall be established by the Board via Resolution and Established Fee Structure. The Board-approved list of fees shall be available for review by Requesters.
- Such fee structure may be amended from time to time as appropriate, using the standards provided in the Right-to-Know Law and shall not exceed the fee structure recommended by the Office of Open Records.
- All checks will be made payable to "SusQ-Cyber Charter School." If the fee is for copying only and the anticipated cost exceeds \$100.00, SusQ-Cyber may allow access to the Records but shall refuse to make copies until the fee is paid. If the fee is for redacted copies or some other allowable service that is necessary in order for access to be provided, SusQ-Cyber may deny access until the fee is paid. At no time will SusQ-Cyber accept cash as a method of payment.
- SusQ-Cyber shall not charge a fee for review of a record to determine whether the record is subject to access.
- All copies must be retrieved within ninety (90) days of SusQ-Cyber response or SusQ-Cyber may, in the discretion of the Open Records Officer and to the extent allowed by law, dispose of copies made. The Requester remains responsible for fees incurred to the extent allowed by the Right-to-Know Law.
- The Open Records Officer may waive fees set by the Board on a case-by-case basis consistent with applicable state and federal law.

**TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS CONTROL. THIS POLICY IS NOT INTENDED TO CONFLICT WITH CHARTER REQUIREMENTS.**

**SusQ-Cyber Charter School  
Right to Know Request Form**

**DATE REQUESTED:**

**REQUEST SUBMITTED BY:**  E-MAIL  U.S. MAIL  FAX  IN-PERSON

**NAME OF REQUESTER:** \_\_\_\_\_

**STREET ADDRESS:** \_\_\_\_\_

**CITY/STATE/COUNTY (Required):** \_\_\_\_\_

**TELEPHONE (Optional):** \_\_\_\_\_

**RECORDS REQUESTED:** \*Provide as much specific detail as possible so the agency can identify the information.

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

\_\_\_\_\_  
**OPEN RECORDS OFFICER:** Chief Executive Officer  
SusQ-Cyber Charter School 240 Market Street  
Box 1A, Suite 15  
Bloomsburg, PA 17815  
Fax: (570) 245-0246

**DATE RECEIVED BY SUSQ-CYBER CHARTER SCHOOL:**

**SUSQ-CYBER CHARTER SCHOOL'S FIVE (5) BUSINESS-DAY RESPONSE DUE:**

\*If the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, the request must be in writing. (Section 702.) Written requests need not include an explanation as to why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)

**SusQ-Cyber Charter School  
Right-to-Know Law Request Fee Structure**

The Right-To-Know law requires the establishment of a fee structure. SusQ-Cyber Charter School establishes the following fee structure in accordance with the Law and has derived this structure upon review of the Open Records Office's Recommended Structure. The Law requires that the Office of Open Records review the fee structure biannually. Any updates will be posted by SusQ-Cyber Charter School.

**FEE STRUCTURE:**

<b><u>Record Type</u></b>	<b><u>Fee</u></b>
<b>Copies:</b> (A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page)	0.25 per page.
<b><u>Certification of a Record:</u></b>	\$1.00 per record. Please note that certification fees do not include notarization fees.
<b><u>Specialized documents:</u></b> (For example, but not limited to, blue prints, color copies, non-standard sized documents)	Actual Cost to SusQ-Cyber Charter School
<b><u>Facsimile/Microfiche/Other Media:</u></b>	Actual Cost of SusQ-Cyber Charter School
<b><u>Conversion to Paper:</u></b>	If a record is only maintained electronically or in other non-paper media, duplication <i>fees</i> shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the Requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).
<b><u>Postage Fees:</u></b>	Fees for postage may not exceed the actual cost of mailing to the SusQ-Cyber Charter School
<b><u>Other Allowable Fees:</u></b>	Actual cost to SusQ-Cyber Charter School

**Please also be advised in regard to the Right-to-Know Law Fee Structure:**

- **Statutory Fees:** If a separate statute authorizes SusQ-Cyber Charter School to charge a set amount for a certain type of record, SusQ-Cyber Charter School may charge no more than that statutory amount.
- **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information; SusQ-Cyber Charter School shall redact the nonpublic information. SusQ-Cyber Charter School may not charge the Requester for the redaction. However, SusQ-Cyber Charter School may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- **Enhanced Electronic Access:** If SusQ-Cyber Charter School offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, SusQ-Cyber Charter School may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by the Right-to-Know Law. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency. Any request is to be submitted to the:

Office of Open Records  
400 North Street  
Harrisburg, PA. 17120

- **Fee Limitations:** Except as otherwise provided by statute, the law states that **no other fees may be imposed** unless SusQ-Cyber Charter School necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for a review of a record to determine whether the record is a public record, legislative record or financial record subject to access. No fee may be charged for searching for or retrieval of documents. SusQ-Cyber Charter School may not charge staff time or salary for complying with a Right-to-Know request.
- **Prepayment:** Prior to granting a request for access, SusQ-Cyber Charter School may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.  
Once the request is fulfilled and prepared for release, the Office of Open Records recommends that SusQ-Cyber Charter School obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which SusQ-Cyber Charter School provides the records and the requester fails to submit payment.