

# “ALL YOU NEED TO KNOW ABOUT THE NEW ‘RIGHT TO KNOW’ LAW”

## Schedule Your Right-to-Know Law Onsite Training Session

The clock is ticking on implementing Pennsylvania’s new “Right to Know” law. In the previous edition of Education News, we provided a Legislative Alert to inform you of “All You Need to Know About the New ‘Right to Know’ Law.” With less than four months remaining before the Act takes effect on January 1, 2009, all Districts should be proactive in implementing its provisions.

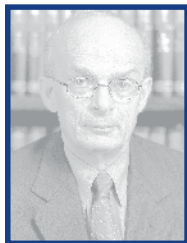
The Act imposes new and significant burdens and duties on all Districts. The new Act creates the presumption that all records in the District’s possession are public records and places the burden on the District to prove that the record is not public. To overcome the presumption and satisfy the burden of proof that a record is not public, the District must be able to demonstrate that the record already has statutory protection, is protected by an existing privilege, or falls within one of the thirty (30) exceptions under the new law. A complete checklist of the 30 exceptions appears on the reverse of this update to assist in processing each record request. Also, a detailed comparison of the new and current law may be viewed on our website at [www.mbm-law.net](http://www.mbm-law.net). We also have provided a link to the full text of the 25 page Act.

### With the deadline rapidly approaching, your District should immediately do the following:

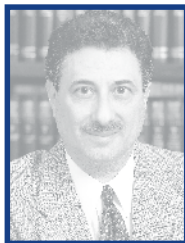
- If you have not already done so, immediately appoint your Open Records Officer and take the steps necessary to train that Officer in the requirements of the new law;
- Adopt or update the District’s record retention policy to include a record disposition/ destruction schedule;
- Amend or replace current Board Policy on document requests with a policy consistent with the new law; and
- Be prepared to implement the uniform form for record requests and the copy charges which the Office of Open Records will adopt.

The Education Law Team of Maiello Brungo & Maiello, LLP is prepared and available to present an onsite customized Right-to-Know presentation to assist in your compliance with the new law. Please call a member of our Education Law Team at 412.242.4400 to inquire about scheduling your onsite training session or for further information.

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# EXCEPTION CHECKLIST

When a record request is received by a School District, the District must apply each exception separately to determine which, if any, apply. You may use this checklist when reviewing each record request. Check all exceptions which apply and retain the checklist with the record request for the time period required by the Act. The 30 exceptions to a public record under the new Act are as follows:

- 1. a record, the disclosure of which would result in loss of federal or state funds or would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or endanger the personal security of an individual;
- 2. a record maintained in connection with the military, Homeland Security or other similar entity;
- 3. a record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility or infrastructure which could include building plans or infrastructure records;
- 4. a record regarding computer hardware, software and networks;
- 5. an individual's medical, psychiatric or psychological history or disability status;
- 6. personal identification information;
- 7. records regarding District employees, including letters of reference or recommendation, performance ratings or reviews, results of civil service or similar testing, employment applications of individuals who are not hired by the District, workplace support services program information, written criticisms of an employee, grievance material, information regarding discipline, demotion or discharge contained in a personnel file or academic transcripts;
- 8. labor relations or collective bargaining strategy or negotiation records or exhibits in relation to grievance arbitrations;
- 9. drafts of resolutions, regulations, policies, directives, ordinances or amendments to them;
- 10. records which reflect the pre-decisional deliberations of the Board of Education, including pre-decisional deliberations on budgets or regulation/policy adoption;
- 11. trade secret or confidential proprietary records;
- 12. notes and working papers of public officials or employees used only for their own personal use;
- 13. records which would identify an individual who lawfully makes a donation to the District;
- 14. miscellaneous unpublished materials;
- 15. academic transcripts and examination information;
- 16. records relating to or resulting in a criminal investigation;
- 17. records relating to a non-criminal investigation, including a complaint submitted to the District and work papers underlying an audit;
- 18. records or parts of records received by emergency dispatch personnel, including 911 recordings otherwise not determined by a court to be subject to public disclosure;
- 19. DNA and RNA records;
- 20. autopsy records;
- 21. draft minutes of meetings until the next regularly scheduled meeting of the Board of Education and minutes or any record of discussions held in executive session;
- 22. contents of real estate appraisals until the decision is made to proceed to acquire an interest in the property;
- 23. library and archive circulation records;
- 24. library, archived and museum materials;
- 25. records identifying the location of an archeological site or an endangered or threatened plant or animal species;
- 26. a proposal pertaining to agency procurement or disposal of supplies prior to the award of a contract for the items;
- 27. records regarding communications between the District and its insurance carrier, administrative service organization or risk management office;
- 28. records or information identifying individuals who apply for or receive social services;
- 29. correspondence between a person and a member of the general assembly; and
- 30. records identifying the name, home address or date of birth of a child 17 years of age or younger.

You are encouraged to view the full language of the 30 exceptions by visiting our website at [www.mbm-law.net](http://www.mbm-law.net) for the entire text of the new Act.

