

Russell Byers Charter School

Board of Trustees Policy

RIGHT TO KNOW POLICY

In accordance with the Right-to-Know Law, Act 3 of 2008, be it resolved that the Board of Trustees of the Russell Byers Charter School ("Charter School") hereby establishes the following:

- (1) Right-to-Know Law Policy,
- (2) Right-to-Know Law Request for Access to Records Form, and
- (3) Right-to-Know Law Request Fee Structure.

The Board of Trustees hereby directs that the Right-to-Know Law Policy, Right-to-Know Request for Access to Records Form and Right-to-Know Law Request Fee Structure be posted at Charter School's main administrative office and, if Charter School maintains an Internet website, on Charter School's Internet website together with the following:

- (1) Contact information for the Open Records Officer (may be included in the Right-to-Know Law Policy);
- (2) Contact information for the Office of Open Records or other applicable appeals officer (may be included in the Right-to-Know Law Policy); and
- (3) Any additional Administrative Procedures or regulations that may be developed consistent with this Policy and the Right to Know Law.

The Board further appoints the Charter School's CEO as the Open Records Officer.

This Policy, Form and Fee Structure included herein, hereby replace and supersede all prior Policies, Forms and/or Fee Structures related to the Right-to-Know Law in effect at the Charter School.

In accordance with the Right-to-Know Law, Requesters may elect to access the Official Records Request Form available through the Office of Open Records.

The Board of Trustees of the Charter School 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 the Charter School and any and all

procedures related to the Right-to-Know Law at the Charter School 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.

The Open Records Officer is the individual designated by the Board to receive, review and respond to all requests directed to the Charter School pursuant to this Policy and applicable law.

A record of the Charter School 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.

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.

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

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

The Charter School 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 the Charter School'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 the Charter School 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 the Charter School 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 email.

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 the Charter School should address its Response. The request should identify or describe the Record or Records sought with sufficient specificity to enable the Charter School to ascertain which Records are being requested. The written request may be submitted in person, by mail, facsimile or email. Any Charter School 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 the Charter School reject or refuse a request on the grounds that no such reason was given.

Forms. The Charter School may create or adopt forms for use by Requesters in preparing written requests. In the absence of a form created by the Charter School, the Open Records Office's official Form must be used.

Identification. As the Right-to-Know Law states that the Charter School provide a Requester with access to a Public Record if the Requester is a legal resident of the United States, the Charter School may require the Requester to produce photographic identification to the extent allowed by the Right-to-Know Law.

Address all Open Records Requests to:

Right to Know Officer
Russell Byers Charter School
1911 Arch Street
Philadelphia, PA 19103

The Charter School shall post this information to its website and shall post it at a location that is publicly accessible.

The Right-to-Know Law provides that, upon receipt of a written Open Records Request, the Charter School 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 the Charter School's Open Records Officer.

The five (5) business day period does not begin to run until the Charter School'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 the Charter School or to some Officer or employee of the Charter School 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 provide the Charter School 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:

- (i) Date-stamp or otherwise note the date of receipt on the Open Records Request.
- (ii) Compute the day on which the five (5) business day period will expire and make a notation of that date.
- (iii) 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.
- (iv) Create an official file for the retention of the original Open Records Request.
- (v) Make a good faith effort to determine if the record requested is a Public Record and if the Charter School has possession, custody or control of the record.
- (vi) Maintain a copy of the Charter School's Response to the request.

For purposes of determining the five (5) business-day period:

- (i) A business day shall be from 8:00 a.m. until 4:00 p.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of the Charter School 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.

(ii) 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.

(iii) 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 the Charter School's next business day.

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 the Charter School 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 the Charter School'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.

The Charter School is not required to create a Public Record that does not already exist, nor is the Charter School required to compile, maintain, format, or organize a Public Record in a manner in which the Charter School 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 the Charter School.

The Charter School 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 the Charter School 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 the Charter School 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. The Charter School shall provide access to the record in printed form within five days of the receipt of the written request for conversion to paper.

The Act requires that, unless otherwise provided by law, the Public Records of the Charter School must be accessible for inspection by any Requester during the regular business hours of the Charter School. Unless the Charter School adopts written policies to the contrary, the regular business hours of the Charter School for purposes of the Act are from 8:00 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:

- (A) The request for access requires redaction of a record in accordance with the Right-to-Know Law;
- (B) The request for access requires the retrieval of a record stored in a remote location;
- (C) A timely Response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- (D) A legal review is necessary to determine whether the record is a record subject to access under this act;
- (E) The Requester has not complied with the agency's policies regarding access to records;
- (F) The Requester refuses to pay applicable fees authorized by this act; or

- (G) 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 the Charter School has not provided a Response by that date.

Written Final Responses:

Types of final Responses. The Act provides for three (3) types of written final Responses:

- (i) The Charter School grants the entire Open Records Request;
- (ii) The Charter School refuses the entire Open Records Request;
- (iii) The Charter School grants part of the Open Records Request and refuses the remainder.

The failure of the Charter School to make a timely final Response is a Deemed Denial under the terms of the Act. Final Responses that deny Open Records Requests, both in whole or in part, shall be in writing by the Open Records Officer and include all of the following:

- (i) A description of the record requested;
- (ii) The specific reasons for the denial, including a citation of supporting legal authority;
- (iii) 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;

- (iv) Date of the Response; and
- (v) The procedure to appeal the denial of access under the Right-to-Know Law.

If the Open Records Officer grants the request, the Response shall so inform the Requester and include any necessary information for access.

Redaction:

If the Charter School 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, the Charter School'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, the Charter School 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. The Charter School may not deny access to the record if the information which is not subject to access is able to be redacted. Information which the Charter School 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 (fifteen (15)) business days of the mailing date of the Charter School's Response or within fifteen (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 the Charter School 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 the Charter School 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 the Requester's position. Copies of the written request shall be sent to the agency and the Requester.

Posting:

The following information shall be posted at the Charter School and, if the Charter School maintains an Internet website, on the Internet website:

- (A) Contact information for the Open Records Officer.
- (B) Contact information for the Office of Open Records or other applicable appeals officer.
- (C) A form which may be used to file a request.
- (D) Regulations, policies and procedures of the Charter School relating to the Right-to-Know Law.

Current Information for the Office of Open Records:

Mailing Address:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Phone: 717-346-9903

Fax: 717-425-5343

Email: openrecords@pa.gov

The Charter School 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 the Charter School. Such denial shall not restrict the ability to request a different record.

The Charter School may deny a Requester access:

- (i) When timely access is not possible due to fire, flood or other disaster; or
- (ii) 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.

If, in Response to a request, the Charter School produces a record that is not a Public Record, legislative record or financial record, the Charter School shall notify any third party that provided the record to the agency, the person that is the subject of the record and the Requester. the Charter School 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 business days from receipt of notification from the agency to provide input on the release of the record. The Charter School shall deny the request for the record or release the record within ten (10) business days of the provision of notice to the third party and shall notify the third party of the decision.

A Public Record shall be accessible for duplication by a Requester. The Charter School does not make duplication equipment available to a Requester but shall provide other means by which a Requester may obtain copies.

The Charter School 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. The Charter School 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 the Charter School's retention and disposition of Records. The Charter School 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.

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 a 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.

If the fee is for copying only and the anticipated cost exceeds \$100.00, the Charter School 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, the Charter School may deny access until the fee is paid. At no time will the Charter School accept cash as a method of payment.

The Charter School 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 the Charter School Response or the Charter School 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 THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this day 15th of August, 2019

Linda Gamble
President

Deana S. Gormley
Secretary

Russell Byers Charter School
Right-to-Know Law Request Fee Structure

The Right-to-Know law requires the establishment of a fee structure. The 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 the Charter School.

Record Type	<u>Fee Structure</u> Fee
Copies: (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.
Certification of a Record:	\$1.00 per record. Please note that certification fees do not include notarization fees.
Specialized documents: (For example, but not limited to, blue prints, color copies, non-standard sized documents)	Actual Cost of the Charter School
Facsimile/Microfiche/Other Media:	Actual Cost of the Charter School
Conversion to Paper:	If a record is only maintained electronically or in other non-paper media, duplication fees 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)).
Postage Fees:	Fees for postage may not exceed the actual cost of mailing to the Charter School
Other Allowable Fees:	Actual Cost to the Charter School

Please Also Be Advised in regard to the Right-to-Know Law Fee Structure:

Statutory Fees: If a separate statute authorizes the Charter School to charge a set amount for a certain type of record, the 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, the Charter School shall redact the non-public information. The Charter School may not charge the Requester for the redaction. However, the 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 the Charter School offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a Requester, the 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 the 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. The 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, the 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 the Charter School obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the Charter School provides the records and the Requester fails to submit payment.