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PUBLIC RECORDS

BOARD ADOPTED JULY 15, 2024

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3 **A. PURPOSE**

- 4 1. The Board recognizes the importance of public records as the record of the Carbon Lehigh
5 Intermediate Unit's ("CLIU") actions and the repository of information about this agency. The
6 public has the right to access and procure copies of public records, with certain exceptions, subject
7 to law, Board policy and administrative regulations.

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9 **B. DEFINITIONS**

- 10 1. **Financial record** - any account, voucher or contract dealing with the receipt or disbursement of
11 funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the
12 salary or other payments or expenses paid to an officer or employee, including the individual's
13 name and title; and a financial audit report, excluding the audit's underlying work papers.
- 14 2. **Public record** - a record, including a financial record, that is not protected by a defined privilege
15 or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-
16 Know Law or under other federal or state law or regulation, or judicial decree or order.
- 17 3. **Record** - information, regardless of physical form or characteristics, that documents a CLIU
18 transaction or activity and is created, received or retained pursuant to law or in connection with a
19 CLIU transaction, business or activity, including: a document; paper; letter; map; book; tape;
20 photograph; film or sound recording; information stored or maintained electronically; and a data-
21 processed or image-processed document.
- 22 4. **Response** - the CLIU's notice informing a requester of a granting of access to a record or the
23 CLIU's written notice to a requester granting, denying, or partially granting and partially denying
24 access to a requested record.
- 25 5. **Requester** - a legal resident of the United States, or an agency, who requests access to a record.
26 Right to Know requests will only be fulfilled if submitted by a person that is a legal resident
27 of the United States. Anonymous requests will not be fulfilled. We reserve the right to
28 request proof of a requester's status in the form of submission of any or all of the following:
29 a physical address, proof of legal status in the United States such as a social security
30 number, copy of passport, driver's license or immigration documents

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32 **C. AUTHORITY**

- 33 1. The Board shall make the CLIU's public records available for access and duplication to a requester,
34 in accordance with law, Board policy and administrative regulations.
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38 **D. DELEGATION OF RESPONSIBILITY**

- 39 1. The Board shall designate an Open Records Officer, who shall be responsible to:
- 40 a. Receive written requests for access to records submitted to the CLIU;
- 41 b. Review and respond to written requests in accordance with law, Board policy and
- 42 administrative regulations;
- 43 c. Direct requests to other appropriate individuals in the CLIU or in another agency;
- 44 d. Track the CLIU's progress in responding to requests;
- 45 e. Issue interim and final responses to submitted requests;
- 46 f. Maintain a log of all record requests and their disposition; and
- 47 g. Ensure CLIU staff members are trained to perform assigned job functions relative to requests
- 48 for access to records.
- 49 2. Upon receiving a request for access to a record, the Open Records Officer shall:
- 50 a. Note the date of receipt on the written request;
- 51 b. Compute and note on the written request the day on which the five-day period for response will
- 52 expire;
- 53 c. Maintain an electronic or paper copy of the written request, including all documents submitted
- 54 with the request, until the request has been fulfilled; and
- 55 d. If the written request is denied, maintain the written request for thirty (30) days or, if an appeal
- 56 is filed, until a final determination is issued or the appeal is deemed denied.

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58 **E. GUIDELINES**

- 59 1. Requesters may access and procure copies of the public records of the CLIU during the regular
- 60 business hours of the administration offices.
- 61 2. A requester's right of access does not include the right to remove a record from the control or
- 62 supervision of the Open Records Officer.
- 63 3. The CLIU shall not limit the number of records requested.
- 64 4. When responding to a request for access, the CLIU is not required to create a record that does not
- 65 exist nor to compile, maintain, format or organize a record in a manner which the CLIU does not
- 66 currently use.
- 67 5. Information shall be made available to individuals with disabilities in an appropriate format, upon
- 68 request and with sufficient advance notice.
- 69 6. The CLIU shall post at the administration office and on the CLIU's web site, if the CLIU maintains
- 70 a web site, the following information:

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- 71 a. Contact information for the Open Records Officer;
- 72 b. Contact information for the state's Office of Open Records or other applicable appeals officer;
- 73 c. The form to be used to file a request, with a notation that the state Office of Open Records form
- 74 may also be used if the CLIU decides to create its own form; and
- 75 d. Board policy, administrative regulations and procedures governing requests for access to the
- 76 CLIU's public records.
- 77 7. Request For Access
- 78 a. A written request for access to a public record shall be submitted on the required form(s) and
- 79 addressed to the Open Records Officer.
- 80 b. Written requests must be submitted to the CLIU in person, by facsimile, by email or by mail.
- 81 8. Each request must include the following information:
- 82 a. Identification or description of the requested record, in sufficient detail.
- 83 b. Medium in which the record is requested.
- 84 c. Name and address of the individual to receive the CLIU's response.
- 85 9. The CLIU shall not require an explanation of the reason for the request or the intended use of the
- 86 requested record, unless otherwise required by law.
- 87 10. Fees
- 88 a. Except for the duplication fee established by the state, the Board shall approve a list of
- 89 reasonable fees relative to requests for public records. The CLIU shall maintain a list of
- 90 applicable fees and disseminate the list to requesters.
- 91 b. No fee may be imposed for review of a record to determine whether the record is subject to
- 92 access under law.
- 93 c. Prior to granting access, the CLIU may require prepayment of estimated fees when the fees
- 94 required to fulfill the request are expected to exceed \$100.
- 95 d. The Executive Director may waive duplication fees when the requester duplicates the record
- 96 or the Superintendent deems it is in the public interest to do so.
- 97 11. Response To Request
- 98 a. CLIU employees shall be directed to immediately forward requests for access to public records
- 99 to the Open Records Officer.
- 100 b. Upon receipt of a written request for access to a record, the Open Records Officer shall
- 101 determine if the requested record is a public record and if the CLIU has possession, custody or
- 102 control of that record.
- 103 c. The Open Records Officer shall respond as promptly as possible under the existing

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104 circumstances, and the initial response time shall not exceed five (5) business days from the
105 date the written request is received by the Open Records Officer.

106 d. The initial response shall grant access to the requested record; deny access to the requested
107 record; partially grant and partially deny access to the requested record; notify the requester of
108 the need for an extension of time to fully respond; or request more detail from the requester to
109 clearly identify the requested material.

110 e. If the CLIU fails to respond to a request within five (5) business days of receipt, the request for
111 access shall be deemed denied.

112 12. Extension Of Time

113 a. If the Open Records Officer determines that an extension of time is required to respond to a
114 request, in accordance with the factors stated in law, written notice shall be sent within five (5)
115 business days of receipt of request. The notice shall indicate that the request for access is being
116 reviewed, the reason that the review requires an extension, a reasonable date when the response
117 is expected, and an estimate of applicable fees owed when the record becomes available.

118 b. Up to a thirty (30) day extension for one (1) of the listed reasons does not require the consent
119 of the requester. If the response is not given by the specified date, it shall be deemed denied on
120 the day following that date.

121 c. A requester may consent in writing to an extension that exceeds thirty (30) days, in which case
122 the request shall be deemed denied on the day following the date specified in the notice if the
123 Open Records Officer has not provided a response by that date.

124 13. Granting Of Request

125 a. If the Open Records Officer determines that the request will be granted, the response shall
126 inform the requester that access is granted and either include information on the regular
127 business hours of the administration office, provide electronic access, or state where the
128 requester may go to inspect the records or information electronically at a publicly accessible
129 site. The response shall include a copy of the fee schedule in effect, a statement that prepayment
130 of fees is required in a specified amount if access to the records will cost in excess of \$100, and
131 the medium in which the records will be provided.

132 b. A public record shall be provided to the requester in the medium requested if it exists in that
133 form; otherwise, it shall be provided in its existing medium. However, the CLIU is not required
134 to permit use of its computers.

135 c. The Open Records Officer may respond to a records request by notifying the requester that the
136 record is available through publicly accessible electronic means or that the CLIU shall provide
137 access to inspect the record electronically. If the requester, within thirty (30) days following
138 receipt of the CLIU's notice, submits a written request to have the record converted to paper,
139 the CLIU shall provide access in printed form within five (5) days of receipt of the request for
140 conversion to paper.

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- 141 d. A public record that the CLIU does not possess but is possessed by a third party with whom
142 the CLIU has contracted to perform a governmental function and which directly relates to that
143 governmental function shall be considered a public record of the CLIU. When the CLIU
144 contracts with such a third party, the CLIU shall require the contractor to agree in writing to
145 comply with requests for such records and to provide the CLIU with the requested record in a
146 timely manner to allow the CLIU to comply with law.
- 147 e. If the Open Records Officer determines that a public record contains information both subject
148 to and not subject to access, the Open Records Officer shall grant access to the information
149 subject to access and deny access to the information not subject to access. The Open Records
150 Officer shall redact from the record the information that is not subject to access. The Open
151 Records Officer shall not deny access to a record if information is able to be redacted.
- 152 f. If the Open Records Officer responds to a requester that a copy of the requested record is
153 available for delivery at the administration office and the requester does not retrieve the record
154 within sixty (60) days of the CLIU's response, the CLIU shall dispose of the copy and retain
155 any fees paid to date.

156 **14. Notification To Third Parties**

- 157 a. When the CLIU produces a record that is not a public record in response to a request, the Open
158 Records Officer shall notify any third party that provided the record to the CLIU, the person
159 that is the subject of the record, and the requester.
- 160 b. The Open Records Officer shall notify a third party of a record request if the requested record
161 contains a trade secret or confidential proprietary information, in accordance with law and
162 administrative regulations.

163 **15. Denial Of Request**

- 164 a. If the Open Records Officer denies a request for access to a record, whether in whole or in part,
165 a written response shall be sent within five (5) business days of receipt of the request. The
166 response denying the request shall include the following:
- 167 i. Description of the record requested.
- 168 ii. Specific reasons for denial, including a citation of supporting legal authority.
- 169 iii. Name, title, business address, business telephone number, and signature of the Open
170 Records Officer on whose authority the denial is issued.
- 171 iv. Date of the response.
- 172 v. Procedure for the requester to appeal a denial of access.
- 173 b. The Open Records Officer may deny a request for access to a record if the requester has made
174 repeated requests for that same record and the repeated requests have placed an unreasonable
175 burden on the CLIU.

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- c. The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.
 - d. Information that is not subject to access and is redacted from a public record shall be deemed a denial.
 - e. If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the state's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.