

New Confidentiality Laws Facilitate School Safety Improvements

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Thanks to a legislative focus on school safety and security, select records and meetings concerning school safety are exempt from Pennsylvania's Right to Know Law and Sunshine Act.

A particular area where confidentiality is paramount is emergency preparedness. Disclosing the intricacies of matters concerning emergency preparedness poses a threat to public safety because vulnerabilities may be revealed.

In addition, the governor's task force on school safety identified a need for confidential reporting of suspicious behavior. The [Safe2Say program](#) establishes heightened confidentiality to facilitate information sharing.

Here is a summary of the modifications:

1. [Senate Bill No. 1078 of 2018](#) amends Section 708 of Title 65, which is part of the Sunshine Act, and took effect in August 2018:

The Sunshine Act defines certain meetings by official bodies as open meetings unless an exception applies. The recent amendment expands the executive session exception. School boards may hold a closed executive session about emergency preparedness and public safety if disclosure "would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection." This provision fits hand-in-hand with Act 44, which encourages schools to make security and safety changes.

2. [Article XIII-B of the school code](#), School Safety and Security, requires schools to compile data about safety preparedness and evaluate school safety and security. Two records created pursuant to the new law will be exempt from Right to Know requests:

- Section 13-1305-B requires schools to complete a survey measuring school safety and security preparedness. The survey must be completed and returned to School Safety and Security Committee of the Pennsylvania Commission on Crime and Delinquency by November 30. None of the data collected for the survey and findings by the committee are subject to the Right to Know Law.
- Section 13-1309-B requires schools to appoint a school safety and security coordinator who will compile an annual report regarding the school's current safety and security practices to improve those practices when necessary. The first report must be submitted to the school board by June 30, 2019. The report itself will not be subject to the Right to Know Law. Additionally, this provision of the law requires the report to be presented in a closed executive session, so the school board's discussion about the report will be confidential.

3. The Safe2Say program was established by Article XIII-D of the school code. Starting January 14, 2019, the

attorney general's office will administer the Safe2Say program in response to concerns about communication between law enforcement and schools as well as barriers to reporting suspicious behavior. The Safe2Say office will educate schools and emergency dispatchers on how to respond to the receipt of threatening information including who to pass the information to.

The law mandates confidentiality of records created through Safe2Say. Specifically, records of the program are not subject to the Right to Know Law. Information may only be disclosed pursuant to a court order or to pass pertinent information to law enforcement according to established procedures. Disclosure under any other circumstance may result in a criminal penalty of a third-degree misdemeanor.

The new confidentiality provisions allow school districts to generate documents and hold discussions on sensitive information for the purpose of identifying threats and addressing vulnerabilities.

If you have any questions about how these laws apply to your school district, please contact any of the attorneys in the [Barley Snyder Education Practice Group](#)