



OUR DUTY TO SAFEGUARD SENSITIVE INVESTMENT INFORMATION

We are dedicated to providing as much transparency into the administration of SERS as possible without breaching our standards of care and fiduciary duties to our members and participants. There are five specific situations, as outlined in two state statutes, in which our sharing of information could risk breaching our standards of care and fiduciary duties.

The Right-to-Know Law expressly exempts the following records from access under the RTKL:

1. 65 P.S. § 67.708(b)(11): "A record that constitutes or reveals a trade secret..."

"Trade secret" is defined as:

Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that: (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software obtained by an agency under a licensing agreement prohibiting disclosure. 65 P.S. §67.102

2. 65 P.S. § 67.708(b)(11): "A record that constitutes or reveals...confidential proprietary information."

"Confidential proprietary information" is defined as:

Commercial or financial information received by an agency: (1) which is privileged or confidential; and (2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information. 65 P.S. §67.102

The State Employees' Retirement Code exempts records from access under the RTKL "if, in the reasonable judgment of the State Employees' Retirement Board, the access would" have any of the following impacts:

3. 71 Pa. C.S. § 5902(e)(2)(i):

"in the case of an alternative investment or alternative investment vehicle, involve the release of sensitive investment information or financial information relating to the alternative investment or alternative investment vehicle which the fund or trust was able to obtain only upon agreeing to maintain its confidentiality."

4. 71 Pa. C.S. § 5902(e)(2)(ii):

"cause substantial competitive harm to the person from whom sensitive investment or financial information relating to the investment was received."

5. 71 Pa. C.S. § 5902(e)(2)(iii)

"have a substantial detrimental impact on the value of an investment to be acquired, held or disposed of by the fund or trust or would cause a breach of the standard of care or fiduciary duty set forth in this part."