

## Explanation of Redactions in NEPC and StepStone Semi-Annual Reports

### Redactions in NEPC Semi-Annual Performance Review as of June 30, 2017

Page Number	Bases for Redaction
Page 8	65 P.S. § 67.708 (b)(11)
Pages 15-17, 20-22	65 P.S. § 67.708 (b)(11) 71 Pa. C.S § 5902(e)(2)(i)-(iii)

### Redactions in NEPC Semi-Annual Performance Review as of December 31, 2017

Page Number	Bases for Redaction
Pages 8, 23-25, 30	65 P.S. § 67.708 (b)(11)
Pages 15, 16, 18, 32, 34-41, 43-45	65 P.S. § 67.708 (b)(11) 71 Pa. C.S § 5902(e)(2)(i)-(iii)
Page 26	65 P.S. § 67.708 (b)(11) 71 Pa. C.S § 5902(e)(2)(ii)-(iii)
Page 27, 28	65 P.S. § 67.708 (b)(11) 65 P.S. § 67.708 (b)(10)(i)(A)

### Redactions in StepStone Semi-Annual Board Update as of June 30, 2017 \*

Third Page of Overview, 44-50	65 P.S. § 67.708 (b)(11)
Pages 11-13, Pages 20-32, 34-43	65 P.S. § 67.708 (b)(11) 71 Pa. C.S § 5902(e)(2)(i)-(iii)

\*NOTE: The page numbered “32” in the report is incorrectly numbered. It should be numbered page 33 and the page numbering above assumes that the pages were correctly numbered.

### Redactions in StepStone Annual Board Update as of December 31, 2017

Third Page of Overview, 44-50	65 P.S. § 67.708 (b)(11)
Pages 11-13, Pages 20-32, 34-43	65 P.S. § 67.708 (b)(11) 71 Pa. C.S § 5902(e)(2)(i)-(iii)

## Bases for Redaction

### Right-to-Know Law

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

**65 P.S. § 67.708 (b)(10)(i)(A) – The record is “Predecisional”** – A record that reflects: The internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.

**65 P.S. § 67.708 (b)(11)** – The record constitutes or reveals a trade secret or confidential proprietary information.

*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.”

*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.”

### **State Employees’ Retirement Code**

The State Employees’ Retirement Code exempts records from access under the RTKL “*if, in the reasonable judgment of the board, the access would*” have any of the following impacts:

**71 Pa. C.S § 5902(e)(2)(i):** in the case of an alternative investment or alternative investment vehicle, disclosure would involve the release of sensitive information or financial information relating to the alternative investment or alternative investment vehicle which the fund was able to obtain only upon agreeing to maintain its confidentiality.

**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.

**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 would cause a breach of the standard of care or fiduciary duty set forth in this part.

### **Summary**

Therefore, the redactions reflect those records which are excluded from the RTKL’s definition of “public record.” See 65 P.S. § 67.102 (definition of “public record”). See *Bains v. State Employees’ Retirement System*, Pennsylvania Office of Open Records Docket No. AP 2015-2667.