

Pennsylvania House of Representatives
Policies on the Right-to-Know Law

I. Introduction

On January 1, 2009, the “Right-to-Know Law” (“RTKL”), Act 2008-3, took effect and transformed the scope of government records available for public consumption in the Commonwealth of Pennsylvania. The act explicitly defines the House of Representatives as a “legislative agency” which is required to provide public access to “legislative records” upon request. The definition of “legislative record” includes nineteen (19) specifically-enumerated categories of records which are presumed available from the House of Representatives under the RTKL.

This policy statement supersedes any prior policy statement promulgated by the House of Representatives regarding the processing of Right-to-Know Law requests.

II. Definitions

The following words and terms used herein have the following meanings:

- **“Appeals Officer”** – The individual responsible for hearing appeals from determinations of the open records officer.

- **“Financial record”** – Any of the following:
 - (1) Any account, voucher or contract dealing with:
 - (i) the receipt or disbursement of funds by an agency; or
 - (ii) an agency's acquisition, use or disposal of services, supplies, materials, equipment or property.
 - (2) The salary or other payments or expenses paid to an officer or employee of an agency, including the name and title of the officer or employee.
 - (3) A financial audit report. The term does not include work papers underlying an audit.

- **“Legislative Record”** – Any of the following relating to a legislative agency or a standing committee, subcommittee or conference committee of a legislative agency:
 - (1) A financial record.
 - (2) A bill or resolution that has been introduced and amendments offered thereto in committee or in legislative session, including resolutions to adopt or amend the rules of the House.
 - (3) Fiscal notes.
 - (4) A co-sponsorship memorandum.
 - (5) The journal of a chamber.
 - (6) The minutes of, record of attendance of members at a public hearing or a public committee meeting and all recorded votes taken in a public committee meeting.

- (7) The transcript of a public hearing when available.
 - (8) Executive nomination calendars.
 - (9) The rules of a chamber.
 - (10) A record of all recorded votes taken in a legislative session.
 - (11) Any administrative staff manuals or written policies.
 - (12) An audit prepared pursuant to the act of June 30, 19070 (P.L. 442, No. 151).
 - (13) Final or annual reports required by law to be submitted to the House of Representatives.
 - (14) Legislative Budget and Finance Committee reports.
 - (15) Daily Legislative Session Calendars and marked calendars.
 - (16) A record communicating to an agency the official appointment of a legislative appointee.
 - (17) A record communicating to the appointing authority the resignation of a legislative appointee.
 - (18) Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency.
 - (19) The results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion funded by a legislative agency.
- **“Open Records Officer”** – The individual responsible for receiving requests for information submitted to the House of Representatives, directing requests to the appropriate persons, tracking the progress of response to such requests, and issuing interim and final responses to the requester under the Right-to-Know Law.
 - **“Privileged Information”** – Information that is not available to the public because it is exempted under the Right-to-Know law.
 - **“Redaction”** – The removal of privileged information from a document.
 - **“Requester”** – Any legal resident of the United States who requests information pursuant to the Right-to-Know Law (Act 2008-1).

III. Role of the Open Records Officer

The House of Representatives Open Records Officer is responsible for receiving all requests made under the Right-to-Know Law. It is the goal and duty of the Open Records Officer to provide information requested to the requester within five (5) business days after receipt of a RTKL request, unless certain conditions exist (see Processing Requests below). The House of Representatives Right-to-Know Office is open from 9:00 a.m. to 4:30 p.m. Monday through Friday, excluding official House holidays and/or emergency business closures such as those resulting from inclement weather.

IV. Requests

RTKL requests must be made in writing, and they must be submitted in person or by mail, email or facsimile to the House Right-to-Know Office. RTKL requests will be considered officially received by the House of Representatives at the time the House Open Records Officer opens and time-stamps the request.

RTKL requests may be directed to:

Right-to-Know Office

Brooke I. Wheeler, Esq.
House Counsel & Right-to-Know Administrator
Pennsylvania House of Representatives
133 Main Capitol Building
PO Box 202220
Harrisburg, PA 17120-2220
Phone: 717-787-7431
717-772-5139
Fax: 717-783-3556
Email: righttoknow@pabmc.net

V. Processing Requests

All RTKL requests will be answered by the House Open Records Office within five (5) business days after the RTKL request is received by the House Right-to-Know Office. In the final written response, the House Open Records Officer will either grant access to the requested records or deny access to the requested records. When considering whether RTKL request will be granted or denied, the House Open Records Officer will determine if any of the following factors under section 902(a) of the RTKL are applicable:

1. The request for access requires redaction of a record;
2. The request requires the retrieval of a record stored in a remote location;
3. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
4. A legal review is necessary to determine whether the record is a record subject to access under this act;
5. The requester has not complied with the agency's policies regarding access to records;
6. The requester refuses to pay applicable fees authorized by this act; or
7. The extent or nature of the request precludes a response within the required time period.

In the event that one of these factors applies to the RTKL request, the House Open Records Officer will send written notice to the RTKL requester within five (5) business days of receipt of the RTKL request advising the requester that the deadline for compliance with the request has been extended for 30 calendar days pursuant to section 902 of the RTKL. Such notice will also include the cited reason for the extension under section 902(a), as well as the amended date by which the House Open Records Officer is required to issue a final response under section 902 of the RTKL.

Possible reasons for the House Open Records Officer to issue a denial of access in response to a RTKL request include: the requested record is not a "legislative record", the requested record is protected by privilege, the record is specifically exempt from disclosure under section 708(b) of the Right-to-Know Law, or the record is precluded from release by other state or federal law, rule or regulation or judicial order or decree. In the event a denial of access is issued, the requester may file an appeal with the designated RTKL Appeals Officer for the House of Representatives (referenced below).

VI. Electronic access

Pursuant to the provisions of Section 704 (relating to electronic access) of the Right-to-Know Law, notice is given that responses made via electronic media shall be provided in a '.pdf' or similar 'read-only' electronic format.

VII. Fees

Every effort shall be made to minimize the fees assessed on RTKL requesters to fulfill RTKL requests. The duplication fees for records provided in response to RTKL requests are as follows:

1. The fee for providing a document obtained from files which require physical duplication by photocopy is \$0.25 per duplicated page; and
2. The fee for certifying a document is \$1.00 per certification, regardless of the number of pages.

Payment arrangements will be made between the requester and the Open Records Officer. Prior to granting a request for access in accordance with this act, the Open Records Officer may require a requester to prepay an estimate of the fees if the fees required to fulfill the request are expected to exceed \$100.

If prepayment is required, a check, certified check or money order shall be made payable to "Commonwealth of Pennsylvania" in the total amount of the fee. In any event, if the total fee exceeds \$100, payment must be made prior to the provision of the document.

VIII. Appeals

Under the Right-to-Know Law, a requester may file an appeal when a request is denied or deemed denied by the agency Open Records Officer. A RTKL requester pursuing an appeal must file his or her appeal with the designated RTKL Appeals Officer for the House of Representatives within fifteen (15) business days of the mailing date of the final written response from the House Open Records Officer. The appeal must be filed in writing, and must address the reasons for denial under the Right-to-Know Law relied upon by the House Open Records Officer in the final written response.

Upon receipt of the filing of appeal, the Appeals Officer may schedule an informal conference with the parties to attempt to resolve the matter. Pursuant to section 1102(b) of the Right-to-Know Law, the Appeals Officer will issue a final determination within 30 days of receipt of the appeal.

All orders issued by an agency's designated RTKL Appeals Officer are subject to judicial review under Chapter 13 of the Right-to-Know Law (65 P.S. §§ 67.1301—67.1310). The designated RTKL Appeals Officer for the House of Representatives can be reached as follows:

RTKL Appeals Officer

Anthony C. Aliano, Esq.
Pennsylvania House of Representatives
400 Main Capitol Building
Harrisburg, PA 17120-2220
Phone: 717-705.7173
Fax: 717-705-1947
Email: RTKLAppeal@pahousegop.com

IX. Conclusion

The House of Representatives will provide requesters with access to “legislative records” to the fullest extent required by the Right-to-Know Law. Consistent with this policy, and in order to facilitate access to documents of public interest and reduce time delays, the House may make documents available on the internet. All questions relating to the contents of this policy and/or the filing of RTKL requests with the House of Representatives may be directed to the House of Representatives Right-to-Know Office, at: 717-787-7431 or righttoknow@pabmc.net.