

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

I. Introduction

On January 1, 2009, the “Right-to-Know Law”, [Act 2008-3](#), changed the scope of government information available to the public in the Commonwealth of Pennsylvania. With regard to the House of Representatives, all records defined as “legislative records” under the law are presumed to be open to the public unless they are exempted by the law, protected by privilege, or exempt from disclosure under any other federal law, state law or regulation, or by judicial order or decree.

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 the House of Representatives:

- (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 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) working days after the request is made, unless certain conditions exist (see Processing Requests below) or the request is deemed denied. In addition to receiving and responding to requests, the Open Records Officer is also responsible for tracking the details and progress of such requests.

IV. Requests

The Open Records Officer is available for contact from 9:00 a.m. to 4:30 p.m. Monday through Friday excluding official House holidays. Right-to-Know requests must be made in writing using the standard request form generated by the House of Representatives, and must be submitted in person or by mail, email or facsimile. Requests will be considered officially received at the time the Open Records Officer opens and time-stamps the request.

Requests may be directed to:

Right-to-Know Office

Brooke Wheeler, Esq.

Right-to-Know Administrator

Pennsylvania House of Representatives

B-29A 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 valid requests for information available to the public pursuant to the Right-to-Know Law shall be fulfilled within five (5) working days after the request is made. Upon receipt of a written request for access, the Open-Records Officer must determine if the request for access requires redaction of a record; requires the retrieval of a record stored in a remote location; a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations; a legal review is necessary to determine whether the record is a record subject to access under this act; the requester has not complied with the agency's policies regarding access to records; the requester refuses to pay applicable fees authorized by this act; or the extent or nature of the request precludes a response within the required time period.

If the Open Records Officer determines that one of these factors applies he/she must send written notice to the requester within five (5) business days of receipt of the request for access.

The notice must include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available.

If the date that a response is expected to be provided is greater than thirty (30) days following the five (5) business days established in the Act, the request for access is deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice.

If a request is deemed invalid and denied by the Open Records Officer, the requester may file an appeal with the Appeals Officer. Possible reasons for denial of requests include: the requested record is not a legislative record as defined above, the

requested record is protected by a privilege, the record is exempt from disclosure under 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.

VI. Mass Requests

If the Open Records Officer determines that a mass request places an unreasonable burden on the House of Representatives, the Open Records Officer will make the legislative record accessible in the Chief Clerk's Office in the event the request is granted. If the mass request is available in electronic format, the Open Records Officer will inform each requester individually.

VII. Fees

Every effort shall be made to minimize the fees assessed on requesters to fulfill a Right-to-Know request. The fees for providing a document pursuant to a valid Right-to-Know request shall be as follows:

- a. The fee for providing a document obtained from files which require duplication by photocopying in order to facilitate a response is \$0.25 per page.
- b. The fee for providing a document obtained from files which require no duplication by photocopying to facilitate a response shall be assessed at the reasonable cost of the least expensive media unless the requester specifically requests for the record to be duplicated in a more expensive media.
- c. 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 deemed denied by the Open Records Officer. A requester pursuing an appeal must file two copies of the appeal or petition to intervene with the Chief Clerk of the House of Representatives. The copies must be in writing, electronic filing is not permitted. The appeal or petition must refer to any disputed factual or legal matter in the denial under the Right-to-Know Law.

Upon receipt of the filing of appeal, the Appeals Officer may schedule an informal conference with the parties to attempt to resolve the matter. A hearing will be held on an appeal only where: the appeal is of a deemed denial under section 901 of the Right-to-Know Law; the requester alleges willful misconduct under section 1304(1) of the Right-to-Know Law (65 P.S. § 67.1304(a)(1)); in the denial, the Open Records Officer finds the request frivolous under section 1304(b) of the Right-to-Know Law; or where the Appeals Officer determines that there is good cause for a hearing. All hearings are subject to 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

Under section 1102(a)(4) of the Right-to-Know Law, the Appeals Officer will issue a final determination consisting of the following:

- Title – A brief identification of the requester and legislative agency.
- Procedural History – A brief recital of the facts up to the disposition of the Open Records Officer and the disposition of the Open Records Officer, including the denial under section 903 of the Right-to-Know Law and a deemed denial under section 901.
- Factual Findings – Resolution of disputed facts.
- Legal Conclusions – Includes cited authority.
- Order – An order affirming the denial or granting the request, in whole or in part.

All orders issued by the Appeals Officer are subject to judicial review under Chapter 13 of the Right-to-Know Law (65 P.S. §§ 67.1301—67.1310).

Appeals Officer

Anthony C. Aliano, Esquire
Pennsylvania House of Representatives
139 Main Capitol Building
Harrisburg, PA 17120-2220
Phone: 717-787-5817
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 Right-to-Know Law and how it affects the House of Representatives may be directed to the Right-to-Know Office, at 717-787-7431.