

SUSQUEHANNA TOWNSHIP AUTHORITY
Harrisburg, Pennsylvania 17110

POLICY

OPEN RECORDS/PUBLIC RECORDS

The Board of Susquehanna Township Authority recognizes the importance of public records as the record of the Authority's actions and the repository of information about this Authority. The public has the right to access and procure copies of public records, with certain exceptions, subject to law, Board policy and administrative regulations. This policy, and the following definitions, which definitions are but in supplement to those definitions as found in the Act, which Act and its definitions are incorporated herein in their entirety in this Policy by reference thereto and are adopted in accord with the Pennsylvania Right to Know Act ("Act") as found in 65 P.S. §67.101 et seq. and this Policy shall be interpreted and implemented in accord with the provisions of said Act.

DEFINITIONS:

Confidential proprietary information – 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.

Personal financial information – An individual's personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information related to an individual's personal finances.

Privilege – The attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.

Public record – A record, including a financial record, of a Commonwealth or local agency that:

- (1) is not exempt under section 708;
- (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
- (3) is not protected by a privilege.

Financial record - any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.

Policy, inspection, and copying of public record - a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law, 65 P.S. §67.101 et seq. (as amended) or under other federal or state law or regulation, or judicial decree or order.

Record - information, regardless of physical form or characteristics, that documents a Authority transaction or activity and is created, received or retained pursuant to law or in connection with a Authority transaction, business or activity, including: a document; paper; letter; map; book; tape; photograph; film or sound recording; information stored or maintained electronically; and a data-processed or image-processed document.

Response - the Authority's notice informing a requester of a granting of access to a record or the Authority's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.

Requester - a legal resident of the United States, or an agency, who requests access to a record.

The Board shall make the Authority's Public Records available for access and duplication to a requester, in accordance with law, Board policy and administrative regulations.

The Board shall designate an Open Records Officer, who shall be the Authority Manager, who shall be responsible to:

1. Receive written requests for access to records submitted to the Authority.
2. Review and respond to written requests in accordance with law, Board policy and administrative regulations.
3. Direct requests to other appropriate individuals in the Authority or in another agency.
4. Track the Authority's progress in responding to requests.
5. Issue interim and final responses to submitted requests.
6. Maintain a log of all record requests and their disposition.
7. Ensure Authority staff is trained to perform assigned job functions relative to requests for access to records.

Upon receiving a request for access to a record, the Open Records Officer shall:

1. Note the date of receipt on the written request.
2. Compute and note on the written request the day on which the five-day period for response will expire.

3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
4. If the written request is denied, maintain the written request for thirty (30) days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

Requesters may access and procure copies of the Public Records of the Authority during the regular business hours of the administration offices.

A requester's right of access does not include the right to remove a record from the control or supervision of the Open Records Officer.

The Authority shall not limit the number of records requested.

When responding to a request for access, the Authority is not required to create a record that does not exist nor to compile, maintain, format or organize a record in a manner which the Authority does not currently use.

Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.

The Authority shall post at the administration office and on the Authority's web site, if the Authority maintains a web site, the following information:

1. Contact information for the Open Records Officer.
2. Contact information for the state's Office of Open Records or other applicable appeals officer.
3. The form to be used to file a request, with a notation that the state Office of Open Records form may also be used if the Authority decides to create its own form.
4. Board policy, administrative regulations and procedures governing requests for access to the Authority's Public Records.

Request For Access

A written request for access to a Public Record shall be submitted on the required form(s) and addressed to the Open Records Officer.

Written requests may be submitted to the Authority in person, by mail, to a designated facsimile machine, and to a designated e-mail address.

Each request must include the following information:

1. Identification or description of the requested record, in sufficient detail.
2. Medium in which the record is requested.
3. Name and address of the individual to receive the Authority's response.

The Authority shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

Fees

Except for the duplication fee established by the state, the Board shall approve a list of reasonable fees relative to requests for Public Records. The Authority shall maintain a list of applicable fees and disseminate the list to requesters.

No fee may be imposed for review of a record to determine whether the record is subject to access under law. No fee may be imposed not authorized, directly or indirectly, by the Act .

Prior to granting access, the Authority may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.

The Open Records Officer may waive duplication fees when the Open Records Officer deems it is in the public interest to do so.

The initial fee schedule approved by the Board of Authority with this resolution is attached hereto as Exhibit "A".

Response To Request

Authority employees shall be directed to immediately forward requests for access to Public Records to the Open Records Officer.

Upon receipt of a written request for access to a record, the Open Records Officer shall determine if the requested record is a Public Record and if the Authority has possession, custody or control of that record.

The Open Records Officer shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer.

The initial response shall grant access to the requested record; deny access to the requested record; partially grant and partially deny access to the requested record; notify the requester of the need for an extension of time to fully respond; or request more detail from the requester to clearly identify the requested material.

If the Authority fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied.

Extension Of Time

If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, written notice shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimate of applicable fees owed when the record becomes available.

Up to a thirty (30) day extension for one (1) of the listed reasons does not require the consent of the requester. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

A requester may consent in writing to an extension that exceeds thirty (30) days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Open Records Officer has not provided a response by that date.

Granting Of Request

If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the administration office, provide electronic access, or state where the requester may go to inspect the records or information electronically at a publically accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required in a specified amount if access to the records will cost in excess of \$100, and the medium in which the records will be provided.

A Public Record shall be provided to the requester in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the Authority is not required to permit use of its computers.

The Open Records Officer may respond to a records request by notifying the requester that the record is available through publicly accessible electronic means or that the Authority shall provide access to inspect the record electronically. If the requester, within thirty (30) days following receipt of the Authority's notice, submits a written request to have the record converted to paper, the Authority shall provide access in printed form within five (5) days of receipt of the request for conversion to paper.

A Public Record that the Authority does not possess but is possessed by a third party with whom the Authority has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a Public Record of the Authority. When the Authority contracts with such a third party, the Authority shall require the contractor to agree in writing to comply with requests for such records and to provide the Authority with the requested record in a timely manner to allow the Authority to comply with law.

If the Open Records Officer determines that a Public Record contains information both subject to and not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to a record if information is able to be redacted.

If the Open Records Officer responds to a requester that a copy of the requested record is available for delivery at the administration office and the requester does not retrieve the record within sixty (60) days of the Authority's response, the Authority shall dispose of the copy and retain any fees paid to date.

Notification To Third Parties

When the Authority produces a record that is not a Public Record in response to a request, the Open Records Officer shall notify any third party that provided the record to the Authority, the person that is the subject of the record, and the requester.

The Open Records Officer shall notify a third party of a record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.

Denial Of Request

If the Open Records Officer denies a request for access to a record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request. The response denying the request shall include the following:

1. Description of the record requested.
2. Specific reasons for denial, including a citation of supporting legal authority.
3. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is issued.
4. Date of the response.
5. Procedure for the requester to appeal a denial of access.

The Open Records Officer may deny a request for access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the Authority.

The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the

record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.

Information that is not subject to access and is redacted from a Public Record shall be deemed a denial.

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the state's Office of Open Records within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial. Judicial appeals may furthermore be initiated but in strict accord with the provisions of the Act.

Effective Date

This policy shall become effective immediately upon approval by the Board this 6th day of January, 2009.

8233-001/141832

EXHIBIT "A"
FEE SCHEDULE



pennsylvania

OFFICE OF OPEN RECORDS

Fee Structure

Section 1307 of the Right-To-Know law requires the Office of Open Records to establish a fee structure for Commonwealth Agencies and Local Agencies. To promote uniformity among all agencies, the Office of Open Records encourages Judicial and Legislative agencies, which can set their own fees, to adopt the following fee structure. All agencies are advised that duplication fees can be waived.

The Office of Open Records establishes the following fee structure in accordance with the law.

Fee Structure

Record Type

Fee

Copies:

(A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page)

Between **.10 per page** to a maximum .25 per page.

Certification of a Record:

An agency may impose reasonable fees for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record. The Office of Open Records recommends no more than \$5 per record to certify a public record. Please note that certification fees do not include notarization fees.

Specialized documents: For

Actual Cost

example, but not limited to, blue prints, color copies, non-standard sized documents

Facsimile/Microfiche/Other Media:

Actual Cost

Redaction Fee:

No Redaction Fee May be Imposed

Conversion to Paper:

If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307(e)).

Postage Fees:

Fees for Postage May Not Exceed the Actual Cost of Mailing

Please Also Be Advised:

- **Statutory Fees:** If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051. Police departments have the authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). Philadelphia police may charge up to \$25 per copy. *Id.* at (b)(3). State police are authorized to charge “\$5 for each copy of the Pennsylvania State Police full report of investigation.” 75 Pa.C.S. §1956(b).
- **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.

- **Enhanced Electronic Access:** If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by this Act. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency.** Please submit any request to the Office of Open Records, 400 North Street, Harrisburg, PA. 17120.

- **Fee Limitations:** Except as otherwise provided by statute, the law states that **no other fees may be imposed** unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this Act. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a RTK request.

- **Prepayment:** Prior to granting a request for access in accordance with this Act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.
 - Once the request is fulfilled and prepared for release, the Office of Open Records recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.