

The Township of Rochester
Right-to-Know Policy and Procedure
Adopted July 20, 2023
Effective July 20, 2023

I. PURPOSE

A. General Purposes

1. The general purpose of this policy is:
 - a. to recognize the value of open government by making information available to the public, memorializing the Agency's commitment to continually improving access to public information and fostering public participation in the decision-making process;
 - b. to provide for access to public records in the possession of the Agency consistent with the Right-to-Know Law, 65 P.S. §§ 67.101–67.3104, which creates a presumption of openness regarding the records of the County;
 - c. to appoint an Agency Open-Records Officer who will oversee the implementation of the Agency Right-to-Know Policy;
 - d. to provide a written framework outlining the procedures and policies necessary to provide for access to records as contemplated under the Right-to-Know Law; and
 - e. to provide for prompt and timely responses to requests for records made under the Right-to-Know Law.

II. ESTABLISHMENT OF AGENCY OPEN-RECORDS OFFICER

A. Appointment of Open-Records Officer

1. All requests for public records will be administered by the Agency Open-Records Officer. The Agency Open-Records Officer will ensure that the procedures described herein are followed.
2. The Agency has designated the following person to serve as the Agency Open-Records Officer for all Agency agencies, except as listed below. Requests should be directed to the Agency Open-Records Officer at the following address:

Title: Open-Records Officer
Address: 1013 Elm Street
Rochester, PA 15074
Phone: 724-774-0135
Fax: 724.774.0934
Email: secretary@rochestertwp.org

3. Pennsylvania's Right-to-Know Law distinguishes between Commonwealth, local agency, legislative, and judicial records. Judicial records include the records of Court Administration, Adult Probation, Juvenile Probation, Court Reporters, Domestic Relations, Magisterial District Justice Offices, and the Law Library. Requests for these records fall outside this policy and should be directed to:

Title: Open-Records Officer
Address: Court Administrators Office
Beaver County Court House
Beaver, PA 15009

Phone: 724-770-4689
Fax: 724-728-8708
Email: rule509administrator@beavercountypa.gov

4. Requests seeking records from the District Attorney's Office must be sent to the Open-Records Officer for the District Attorney's Office. Requests for these records fall outside this policy and should be directed to:

Title: District Attorney's Office Open-Records Officer
Address: District Attorney's Office
810 Third Avenue
Beaver, PA 150009

Phone: 724-773-8576
Fax: 724-728-8249
Email: bsedlacek@beavercountypa.gov

5. Requests seeking records from the Sheriff's Office must be sent to the Open-Records Officer for the Sheriff's Office. Requests for these records fall outside this policy and should be directed to:

Title: Open-Records Officer
Address: 810 Third Avenue
Beaver, PA 15009

Phone: 724-773-8549
Fax: 724-728-5080
Email: tochs@beavercountypa.gov

III. IDENTIFICATION OF RECORDS

A. Records Under the Right-to-Know Law

1. A record under the Right-to-Know Law is defined as information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the agency. The term includes 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.
2. A record in the possession of an Agency will be presumed to be a public record unless (1) the record is exempt under the Right-to-Know Law, (2) the record is protected by a privilege, or (3) the record is exempt from disclosure under any other federal or state law or regulation or judicial order or decree.
3. Under the Right-to-Know Law, some types of records are not available to the public. In this category are personal identifiers, medical information, personal notes, computer security information, draft minutes, notes from an executive session, employee records, criminal and noncriminal investigative records, non-real estate tax records, driver records, attorney/client communications, confidential or proprietary information, trade secrets, or records that, if disclosed, could jeopardize state or federal funds or public safety. This is a partial list of the exempted records. A list of Right-to-Know Law exemptions may be found within section 708 of the Right-to-Know Law, a copy of which may be obtained from the County.

IV. PROCEDURE FOR REQUESTING PUBLIC RECORDS

A. Form and Nature of Requests

1. The Agency will only fulfill written requests (including email or fax) for access to records made pursuant to the Right-to-Know Law under this policy. The County, in its discretion, may choose to fulfill informal requests, verbal requests, and requests that are not addressed to the Agency Open-

Records Officer outside the Right-to-Know Law. The Agency will not fulfill anonymous requests. If the Requester wishes to pursue the relief and remedies provided for under the Right-to-Know Law (i.e., pursue an appeal of a denial), the request must be in writing and be addressed to the Agency Open-Records Officer.

2. Requests must describe the records sought with sufficient specificity to enable the Agency to ascertain which records are being requested. The Agency requires Right-to-Know Law requests to either be submitted on the uniform request form created by the Pennsylvania Office of Open Records or the Agency Open-Records Right-to-Know Request Form, which is attached to this Policy. All fields, including the address, must be completed on either form.
3. A request will only be considered to have been “addressed” to the Agency Open-Records Officer if the request either (1) is made on the uniform request form created by the Pennsylvania Office of Open Records, (2) is made on the Agency Open-Records Request Form, (3) is sent to the mailing address or email address of the Agency Open-Records Officer (4) contains the words “Right-to-Know,” “RTKL,” “open records,” “FOIA,” or “freedom of information,” or (5) contains a statutory citation to any provision within the Right-to-Know Law.
4. All Right-to-Know Law requests that are addressed to the Agency Open-Records Officer but received by another Agency employee must be forwarded to the Agency Open-Records Officer.
5. If a request states that both inspection and duplication of a single set of records is sought, the County, in its discretion, may choose to provide access to public records by either allowing the requester to inspect records or by producing copies of records.

V. PROCEDURE FOR REVIEWING REQUESTS FOR PUBLIC RECORDS

A. Review of Records Requests

1. The Agency will make every effort to fulfill Right-to-Know Law requests within five business days of when requests are received by the Agency Open-Records Officer.
2. If a request cannot be fulfilled in five business days, the Agency Open-Records Officer will send written notice, via postal mail, email, or facsimile, to the Requester stating (1) the reason(s) why additional time is needed, (2) when the request is expected to be fulfilled, and (3) any fees that may be required.
3. If the Agency receives a request for a public record that is not in the possession of the Agency or a person or entity with which the Agency has a contract, the Agency Open-Records Officer will (1) notify the Requester in writing that they do not possess the record requested, and (2) where possible, direct the request to an appropriate person in another agency.
4. If the Agency receives a request for records in possession of a person or entity with which the Agency has a contract, the Agency Open-Records Officer will send a written notice extending the Agency’s time to respond to the request in accordance with the procedures outlined above and, if appropriate, notify the contractor of the request.
5. If the Agency receives a request that contains in whole or in part confidential proprietary information or trade secrets, the Agency Open-Records Officer will, within five business days, notify the third party that provided the information requested. The third party will then have five business days from receipt of the notice to provide input on the release of the record.
 - a. If the Agency Open-Records Officer believes that the third party’s assertion of whether the requested records are exempt as confidential proprietary information or trade secrets are based on a reasonable interpretation of law, the Agency Open-Records Officer will deny the request and notify the third party.
 - b. If the Agency Open-Records Officer believes that the third party’s assertion of whether the requested records are exempt as confidential proprietary information or trade secrets is **not** based on a reasonable interpretation of law, the Agency Open-Records Officer will, instead, grant the request and notify the third party. The Agency Open-Records Officer will make every effort to notify the third party that it will release the requested records prior to actually releasing

the records to the Requester.

VI. OPERATING PROCEDURES FOR RESPONSES TO REQUESTS

A. Duties of Agency Open-Records Officer

1. The Agency Open-Records Officer will:
 - a. within five business days of receipt of a written request, date-stamp the request, record the request in a spreadsheet, compute the day that the five-business-day response period expires, and make a notation of that date on the request;
 - b. initiate a thorough search for the records requested and determine whether they are public records as provided under the Right-to-Know Law;
 - c. prepare, review, sign, issue, and log an extension notice, if one is necessary;
 - d. prepare, review, sign, issue, and log a written response; and
 - e. notify legal counsel of the request.
2. The Agency Open-Records Officer will retain requests, information submitted with requests, related communications, and the Agency's response for two years in accordance with the Municipal Records Manual.
3. The Agency Open-Records Officer will discard requests, information submitted with requests, related communications, and the Agency's response after two years in accordance with the Municipal Records Manual.

B. Extension of Time to Respond to Records Request

1. The Agency Open-Records Officer may send a notice to the Requester indicating that the Agency will be taking additional time (not exceeding 30 calendar days) to respond, if such time is necessary because:
 - a. the request for access requires redaction of a public record due to the existence of confidential, proprietary, or otherwise restricted or protected information;
 - b. the request for access requires retrieval of a record stored in a remote location;
 - c. a timely response to the request for access cannot be accomplished due to bona fide and specified staff limitations;
 - d. a legal review of the request is necessary to determine whether the record is a public record subject to access under the Right-to-Know Law;
 - e. the person or entity requesting access to the public record has not complied with the Agency's policies regarding access to public records;
 - f. the person requesting access to the record refuses to pay applicable fees as contained herein; or
 - g. the extent or nature of the request precludes a response within the required time period.
2. The Agency Open-Records Officer may obtain an additional extension of time to respond to a request with the agreement of the Requester or as otherwise permitted by law. The Agency Open-Records Officer will document such an agreement in writing.
 - a. If the Agency Open-Records Officer does not send a response by the date agreed to by the Requester, the request will be considered to have been deemed denied on that date.
3. If the Agency Open-Records Officer does not send a response within 30 calendar days following the five-business-day response period, the request will be considered to have been deemed denied on the last day of the extension period.

C. Grant of Request for Records

1. If the Agency Open-Records Officer determines that some or all of the requested records are

available, the written response will grant access to records upon the payment of applicable fees, if any, and state the applicable reason(s), if any, for denying access to responsive records or parts of responsive records.

2. When granting access to records, the Agency Open-Records Officer may issue:
 - a. a response that includes a copy of the requested record. The Agency may provide records on paper, electronically through email, or by other means;
 - b. a response notifying the Requester that the records are available through publicly accessible electronic means such as a website;
 - c. a response that grants access to records upon the payment of the applicable fees;
 - d. a response seeking to schedule a time for a Requester to inspect records; or
 - e. a response indicating that all or a portion of requested records will be available upon prepayment of more than \$100.00 of applicable fees, including duplication and postage costs.
3. If a Requester fails to retrieve the requested records within 60 days of the Agency's response, the Agency may dispose of any copies that have not been retrieved by the Requester and retain any fees paid to date. A Requester will be considered to owe all applicable fees for records produced in response to a request, regardless of whether a Requester actually retrieves the records prior to their disposal.

D. Denial of Request for Public Records

1. If the Agency Open-Records Officer determines that a request for records should be denied, in whole or in part, the denial will be issued in writing. The denial letter must include:
 - a. a description of the record requested;
 - b. the specific reasons for the denial, including a citation of supporting legal authority;
 - c. contact information for Agency Open-Records Officer, along with a signature or email signature;
 - d. the date of the response; and
 - e. the procedure to appeal the denial.
2. If an outstanding fee for records requested under the Right-to-Know Law is owed to the District Attorney's Office, the Sheriff's Office, or to a judicial agency, the Agency may deny access to future Right-to-Know Law requests until the outstanding balance is paid to the appropriate agency.

E. Fees

1. The Agency will follow as closely as possible the fee schedule adopted by the Pennsylvania Office of Open Records, unless contrary to statutory law. Notwithstanding this fee schedule, the following fees are applicable to requests for access to public records made pursuant to the Right-to-Know Law:
 - a. standard-size black and white photocopying fees—25 cents per page;
 - b. standard-size color photocopying fees—35 cents per page;
 - c. certification of a public record—five dollars per record certified;
 - d. facsimile/microfiche/other media—actual cost established by the County;
 - e. copying records onto electronic media—actual cost established by the County;
 - f. specialized documents (for example, blueprints, color copies, non-standard-sized documents)—actual cost established by the County;
 - g. conversion to paper—if a record is only maintained electronically or in other non-paper media, duplication fees are 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;

- h. postage fees—actual cost of first-class postage;
 - i. exempt record fee—if the Agency exercises its discretion to release a record exempt under the Right-to-Know Law, the Agency may assess a fee of one dollar per page; and
 - j. necessarily incurred fees—actual cost.
2. The above list is not exhaustive. Additional fees may apply for specialized printing or copying or for specific types of records. Prior to printing or copying any such record, the Agency will inform the person or entity requesting access to the record of the projected costs.
 3. The County, in its sole discretion, may waive the fees for duplication of public records if the Agency determines that it is in the public interest to do so.
 4. If a request for public records is not addressed to the Agency Open-Records Officer as set forth in section IV(1)(C) of this Policy, the Agency may assess fees in excess of the fees set forth above.

VII. APPEALS

A. Appealing the Agency's Response

1. The Right-to-Know Law provides an appeal process through the Pennsylvania Office of Open Records and/or the Office of the District Attorney.
2. Except in the case of criminal investigative records, if a Requester wishes to dispute the denial of a request, the Requester must notify the Pennsylvania Office of Open Records in writing of his or her desire to appeal the decision. The Requester's appeal must include true and correct copies of the Requester's request and the Agency's response, in its entirety. The Requester's appeal must state the grounds upon which the Requester asserts that the record is a public record and must address any grounds stated by the Agency for delaying or denying the request. The appeal must be sent to the following address:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
openrecords@pa.gov

3. Denials of requests for criminal investigative records in possession of the Agency must be directed to the Appeals Officer with the Office of the District Attorney. The Appeals Officer is designated by the District Attorney and will determine if the record requested is a criminal investigative record. The Requester's appeal must state the grounds upon which the Requester asserts that the record is a public record and must address any grounds stated by the Agency for delaying or denying the request.
4. The appeal must be received by the applicable Appeals Officer within 15 business days of the mailing date indicated on the Agency's response. If the Agency did not timely issue a response, the appeal must be filed within 15 business days of the date the request was deemed denied.
5. Unless the Requester agrees otherwise, the Appeals Officer will make a final determination within 30 calendar days of the date the appeal is mailed. Prior to issuing its determination, the Appeals Officer may conduct a hearing. The Appeals Officer will provide a written explanation of the reason for the decision to the Requester and the County. If the Appeals Officer fails to issue a final determination within 30 calendar days, the appeal is deemed denied.
6. Either a Requester or the Agency may seek judicial review of decisions rendered by the Appeals Officer for the Office of Open Records or the Appeals Officer for the District Attorney's Office before the Court of Common Pleas of Beaver County as provided by 65 P.S. § 67.1302(a).