

PENNSYLVANIA'S STATE SYSTEM OF HIGHER EDUCATION



Pennsylvania State System of Higher Education Office of the Chancellor Right-to-Know Policy (effective January 1, 2009)

Requests for public records from Pennsylvania's State System of Higher Education Office of the Chancellor under the Right-to-Know Law, as amended, 65 P.S. §§ 67.101 et seq, are subject to the following guidelines:

A. Requests

1. Requests for information under the Right-to-Know Law must be submitted in writing to the designated Agency Open Records Officer. A request may be delivered in person, by mail, by electronic mail or by facsimile. Verbal or oral requests will not be accepted.
2. Each request must include the name of the requester and the address to which the response will be delivered. The request should identify or describe the records sought with sufficient specificity to enable the State System to ascertain which records are being requested.
3. The Open Records Officer may ask the requester the reason for the request or the intended use of the records in order to help identify the records of actual relevance to the requester. The State System cannot insist that such a statement be provided, nor can it use the lack of such a statement as a reason for denying the request.

B. Submittal of Right-to-Know Requests

1. All requests to the Office of the Chancellor under the Right-to-Know Law must be submitted in writing to:

Mr. Kenneth Marshall
Agency Open Records Officer
Media Relations Manager
Office of the Chancellor
Pennsylvania's State System of Higher Education
2986 North Second Street
Harrisburg, PA 17110
Fax: 717-720-4059
Email: righttoknow@passhe.edu

Requests may be delivered in person or sent by regular mail to the address listed above. Requests also may be made by electronic mail, or by facsimile.

2. If a request is delivered to someone other than the Open Records Officer, it shall be forwarded to the Open Records Officer in a reasonable time. The 5-business-day period for a response to the request begins once the designated Open Records Officer receives the request.
3. The Open Records Officer will inform the requester of receipt of the request, including the date the request was deemed received.

C. State System's Duty to Provide a Prompt Response to a Right-to-Know Request

1. Upon receipt of a written request, the State System will make a good faith effort to determine if the requested record is a public record and to respond as promptly as possible under the circumstances existing at the time of the request. This time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer. If the State System fails to respond within that time period, the request is deemed denied.
2. The State System may inform the requester of the need for additional time to comply with a specific request, in accordance with provisions of the Act. Such an extension may not exceed thirty (30) calendar days unless agreed to by the requestor. If the State System fails to make a timely final response pursuant to the extension the request is deemed denied. The Open Records Officer shall send written notice to the requester within five (5) business days of the need for an extension. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided, and an estimate of applicable fees owed when the record become available.

D. Processing of Right-to-Know Requests

1. Upon receiving a written Right-to-Know request, the Open Records Officer shall complete the following tasks:
 - (a.) Date-stamp the request.
 - (b.) Assign a tracking number to the request.
 - (c.) Compute the day on which the 5-business-day period will expire and make a notation of that date on the first page of the request.

- (d.) Inform the requester of receipt of the request.
- (e.) Make an electronic or paper copy of the request, including all documents submitted with it and the envelope (if any) in which it came.
- (f.) Create an official file for the retention of the original request.
- (g.) Provide a copy to the Chancellor's Executive Office Administrator.

2. For purposes of determining the 5-business-day period:

- (a.) A business day shall be any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of the agency are closed for all or part of a day due to a state holiday, due to severe weather (such as a blizzard or ice storm); due to natural or other disaster; or due to the request or direction of local, state, or federal law enforcement agencies or officials.
- (b.) Requests may be submitted during regular business hours, which are 8 a.m. to 4 p.m. Requests received after 4 p.m. will be deemed to have been received on the following business day.
- (c.) For purposes of determining the end of the 5-business-day period, the day that a request is received (or deemed to be received) is not counted; the first day of the 5-business-day period is the agency's next business day.

E. Initial Review by the Right-to-Know Official

- 1. Upon receiving a Right-to-Know request, the Open Records Officer shall promptly review it. The purpose of this review is to determine the following:
 - (a.) Whether the request possesses an obvious defect that permits it to be rejected without further consideration. Such defects include the following:
 - (1.) The documents sought by the requester are not identified with sufficient particularity.
 - (2.) The identified records unquestionably fall outside the Act's definition of "public records."

- (3.) The identified records unquestionably fall within one of the Act's statutory exemptions under 65 P.S. §67.708 to the definition of "public records."
 - (4.) The Open Records Officer has personal knowledge that the identified records do not exist.
 - (5.) The Open Records Officer has personal knowledge that the identified records are not in the possession or control of the agency.
 - (6.) Whether the request can be granted without further consideration. For example, if the Open Records Officer knows that the requested documents exist and are public records and that they are immediately accessible, no further analysis is necessary.
 - (7.) Whether the request implicates a right protected by the Pennsylvania or United States Constitution, including but not limited to, the constitutional right of privacy. If the Open Records Officer concludes that the request implicates such a right, he shall consult with counsel regarding the balancing of the requester's interest in access to the records versus the constitutionally protected interests.
- 2. In conducting this initial review, the Open Records Officer may contact (or attempt to contact) the requester in order to obtain clarification or additional information.
 - 3. If the Open Records Officer determines that the request should be refused for any of the grounds set forth in (1) above, he shall immediately draft a proposed denial letter. This letter should set forth each and every ground that the right-to-know official believes is a proper ground for refusal.

F. Responses, In General

- 1. The act of providing a requester with physical access to a document in the offices of the agency is a "response" for purposes of the Right-to-Know Law.
- 2. A record will be provided, whenever available, in the medium requested by the requester (i.e., an electronic file if the information is already available in this form.). A record does not have to be converted to a media other than that in which it is maintained.
- 3. A requester may either view original records by making an appointment during regular business hours with the Open Records Officer, or may

request written copies, which will be provided for a fee as established by the Office of Open Records. The fee can be waived at the discretion of the Open Records Officer.

4. The State System will not create a public record that does not already exist, nor will it compile, maintain, format, or organize a public record in a manner in which the agency does not currently do so.

G. Responses

1. Types of responses.

(a.) The request is granted in its entirety.

(b.) The request is refused in its entirety.

(c.) The request is partially granted.

2. Deemed denials. The failure to make a timely response is deemed a denial.

3. Final responses granting requests.

(a.) A written request for a record will be granted if the record requested is within the statutory definition of a “public record.”

(b.) Written responses granting requests may be provided in any format (mail, facsimile, electronic mail, etc.) permitted by law.

4. Final responses that deny requests, either in whole or in part.

(a.) A written response that denies a request must list the entire specific reasons relied on for denying the request.

(b.) If a request is denied all or in part, the written response must also contain a notice informing the requester of his or her right to file an appeal with the Office of Open Records.

(c.) Any final written response that sets for a denial, whether in whole or in part, must contain the following:

(1.) The name, title, business address, business telephone number and signature of the public official or employee on whose authority the denial is issued.

- (2.) The words "Mailing Date" followed by the date that is the mailing date of the response.
- (3.) A statement of the procedure that the requester may follow in order to file an appeal contesting the denial.
- (d.) Grounds for a denial. A written request for access to, or a copy of, a record may be denied if any of the following circumstances exists:
 - (1.) The requester has not identified any of the requested records with sufficient specificity.
 - (2.) The record does not exist.
 - (3.) The requester has not prepaid the costs of fulfilling the request, if the anticipated costs would exceed \$100.
 - (4.) The record in question does not satisfy the Act's general definition of "public record."
 - (5.) The record in question falls within one or more of the Act's statutory exceptions to the definition of "public record." 65 P.S. §67.708.
 - (6.) The request constitutes a disruptive request pursuant to 65 P.S. §67.506(a) or the request is not able to be granted due to disaster or potential damage pursuant to 65 P.S. §67.506(b).

H. Redaction

1. Redaction means the eradication of a portion of a document while retaining the remainder. Redaction must be performed in such a way as to prevent the requester from having access to the redacted information.
2. If it is determined that a public record contains information subject to access, as well as information not subject to access, the Right to-Know Law requires that the response must grant access to the information subject to access, but deny access to the information not subject to access.
3. The Office of Chief Counsel, or designee, before delivery of the response, will review any response that includes information that must be redacted.

I. Appeals

1. Right to file an appeal.

(a.) An appeal to a denial must be filed with the Office of Open Records within 15 business days of the mailing date of the written denial.

(b.) An appeal to a deemed denial must be filed with the Office of Open Records within 15 calendar days of the date the request is deemed denied.

J. Fees and charges

1. All fees charged will be in accordance with the fee structure established by the Office of Open Records. <http://openrecords.state.pa.us> .