

County of Delaware

Amended and Restated Right-to-Know Law Policy

(Adopted October 29, 2024 pursuant to 65 P.S. § 67.504(a). This policy amends and supersedes the “Open Records Law Policies and Procedures” originally adopted on June 17, 2003, as amended on September 9, 2008)

Effective Date: October 29, 2024

I. Authority

The County of Delaware (“Agency”) adopts this policy pursuant to Section 504(a) of the Right-to-Know Law, 65 P.S. §§ 67.101-67.3104 (“RTKL”). The Agency has made this policy available to the public at its administrative office and on its public website along with the Delaware County Request form (titled “Delaware County Standard Right-to-Know Law Request Form”) or the RTKL Uniform Request Form. *See* 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

II. Definitions

All of the definitions set forth in the RTKL are incorporated into this policy by reference. *See* 65 P.S. § 67.102.

Agency. Any office of the legislative and/or executive branch (but not the judicial branch) of the government of the County of Delaware no matter where physically located, and whether headed by an appointed or an elected official, except for the following: the District Attorney (and any other agency/department that may hereafter appoint its own Open Records Officer).

AORO. The Agency Open Records Officer designated by the Agency pursuant to Section IV of this policy.

Business day. The regular business hours of the Agency are **Monday through Friday from 9:00am to 4:00pm**. Business days exclude Saturday and Sunday and a weekday on which the Agency is closed for business.

III. Agency Website

The Agency maintains a public website at <https://www.delcopa.gov> with a separate page for RTKL inquiries at <https://www.delcopa.gov/departments/openrecords.html>.

Many of the records most commonly requested from the Agency are available on the website, such as agendas and minutes of County Council meetings and many records presented at County Council meetings. The following information is also posted on the RTKL-specific page: AORO contact information; contact information for the OOR; a form which may be used to file a RTKL request; and a copy of this policy; and a copy of the Agency's Fee Schedule. *See* 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

IV. Submitting a RTKL Request to the Agency

A. *Open Records Officer.* The Agency has designated an AORO to respond to RTKL requests.

The contact information for the AORO is:

Leah Lewis, AORO

By Mail or Hand Delivery: Government Center Building, 201 West Front Street, Room 205, Media, PA 19036

Phone: (610) 891-4072

Fax: (610) 891-4816

Email: OpenRecords@co.delaware.pa.us

The contact information for the AORO is posted on the Agency website.

B. *Request.* Requests should be submitted in writing using the Delaware County Request form or the RTKL Uniform Request Form (published by the OOR) available on the Agency website and should be addressed to the AORO. *See* 65 P.S. § 67.703. Requesters may also use the option to submit a request through the website. If a requester chooses not to use the request form or request through the website, the request should clearly indicate that it is seeking records under the RTKL. The Agency may, in its discretion, respond to informal written requests (e.g., a request which does not indicate that it is seeking records under the RTKL, a request made on social media, or a request made in a comment on the Agency's

YouTube channel, etc.). However, such requests may not be reviewed on a daily basis and will not be processed as a request submitted under the RTKL and subject to the RTKL's deadlines and remedies.

To allow the Agency to locate requested records and determine whether those records are public, requests for records should be specific and concise and clearly identify as precisely as possible the records sought. See 65 P.S. § 67.703. Requesters should clearly indicate the preferred method of access – paper copies, electronic copies or by inspection. Requesters should retain a copy of the request for their file, as a copy of the request is necessary should a requester appeal the Agency response.

- C. *Receipt of the request.* For the purpose of calculating the response deadline, the Agency is deemed to have received the request on the business day that the AORO receives the request. See 65 P.S. § 67.901. Any request that is received by the AORO after the close of regular business hours shall be deemed to be received on the next business day. If the request is submitted during a period where the AORO is out of office for vacation, illness, personal days or any other authorized time off, the response deadline does not begin to toll until the AORO returns. In addition, if the request is received by an Agency employee other than the AORO, the request will be forwarded to AORO as soon as practical and the response deadline does not begin to toll until the AORO receives such forwarded request.
- D. *Verbal requests.* The Agency will not respond to verbal requests for records.
- E. *Anonymous requests.* The Agency will not respond to anonymous requests for records.
- F. *Response period generally.* The Agency has 5 business days from the day the AORO's receipt to respond to a request for records under the RTKL. If an Agency does not respond, the request is considered "deemed denied," and a requester's appeal rights commence.
- G. *Legal Resident Status.* The Act provides that the County is only required to respond to requests from legal residents of the United States. The Agency will not consider any request until and unless provided a physical mailing address for the requester. The County may also require that the Requester produce photographic identification, to determine proof of legal residency. Requests from non-natural persons, such as "bots," or in the name of a corporate entity without identifying an

actual resident of the United States shall not be considered legal residents of the United States for purposes of this policy.

V. Agency Response

- A. *Extension of time for response.* The Agency is permitted by right to take an additional 30 calendar days to respond to any request for the reasons set forth in Section 902 of the RTKL. *See* 65 P.S. § 67.902. If the Agency invokes such extension, the Agency will inform the requester in writing, in accordance with the requirements set forth in Section 902(b)(2) of the RTKL. The 30 calendar day extension shall be in addition to the initial 5 business day response period (i.e. the 30-day period commences on the first day following the 5-business day period).
- B. *Requester's agreement to extend the response period.* The requester may agree, in writing, to extend the Agency response period beyond the standard 30 calendar day extension period. *See* 65 P.S. § 67.902(b)(2). The requester must agree to such additional extension during the applicable response period.
- C. *Trade secrets.* If a request involves records provided to the Agency by a third party and the third party previously provided the Agency with a written statement that the record contains a trade secret or confidential proprietary information, the Agency shall provide notice to the third party. *See* 65 P.S. § 67.707(b).
- D. *Response.* The Agency may grant a request, partially grant and partially deny a request, or deny a request in its entirety. The final response of the Agency will be in writing. Should the Agency fail to issue a response within the applicable response period, the request is deemed denied. *See* 65 P.S. § 67.901.
 1. *Granting access to records.* The Agency may grant a request for records by issuing a response: (1) granting access to inspect Agency records during the Agency's regular business hours; (2) sending copies of the records to the requester; or (3) by notifying the requester that the records are available on the Agency website or other publicly accessible electronic means. *See* 65 P.S. §§ 67.701(a), 704.
 2. *Denying or partially denying access to records.* Should the Agency deny or partially deny a request for records through redaction or otherwise, the Agency will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the Agency does not possess the responsive records or, if the records are exempt from public

access, provide a citation to the relevant legal basis for withholding the requested records. *See* 65 P.S. § 67.903. Additionally, the response will provide the name, signature, title, business address and telephone number of the Open Records Officer who denied the request, as well as the date of the response and the procedure to appeal the denial. *See* 65 P.S. § 67.903.

Fees. The Agency will charge fees consistent with the RTKL Fee Structure, available at <http://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>. The Agency may, in its discretion, choose to waive some or all of the fees owed on a case-by-case basis. Fees for certain records (example: coroner's reports, documents recorded with the Recorder of Deeds Office and Records of the Register of Wills) may be governed in whole or in part by other state or Federal laws, and accordingly, those fees will apply and shall supersede the RTKL Fee Structure.

VI. RTKL Appeals

- A. *Generally.* To challenge the denial, partial denial, or deemed denial of a request for Agency records, an appeal may be filed using the OOR appeal form, available at <http://www.openrecords.pa.gov/Appeals/AppealForm.cfm>, or by contacting the OOR at the following address:

Office of Open Records
Commonwealth of Pennsylvania
333 Market St., 16th Floor
Harrisburg, PA 17101-2234
openrecords@pa.gov

Criminal investigative records. To challenge the denial of a request or portion of a request on the basis that records were withheld because they are related to criminal investigative records, an appeal should be filed by contacting:

Melissa Muroff, Assistant District Attorney
Delaware County District Attorney's RTKL Chapter 11 Appeals Officer
Office of the District Attorney
201 West Front Street
Media, PA 19063
OpenRecordsDAappeal@co.delaware.pa.us

- B. *Requirements of an appeal.* All appeals must be filed within 15 business days of the mailing date of the Agency's denial, partial denial, or deemed denial of the request. All appeals must be in writing; must state the grounds upon which the requester asserts that the requested records are public records; must address any

grounds stated by the Agency for denying the request; and must include a copy of the request and the Agency's response, if any. *See* 65 P.S. § 67.1101(a)(1).

VII. Agency Notification of Third Parties on Appeal

Agency must notify third parties. If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, the Agency must notify such parties of the appeal immediately and provide proof of that notice to the OOR within 7 business days from the date of the OOR's Official Notice of Appeal. Such notice must be made by (1) providing a copy of all documents included with the appeal to the OOR; and (2) advising that interested persons may request to participate in the appeal. *See* 65 P.S. § 67.1101(c).

VIII. Mediation

The RTKL requires the OOR to establish an informal mediation process to resolve disputes under the RTKL. 65 P.S. § 67.1310(a)(6). This is a voluntary process to help parties reach a mutually agreeable settlement on records disputes before the OOR. Mediation, a facilitated conversation between the parties that can serve as a fair and efficient tool to resolve conflict, can save time and expense. When appropriate, the Agency is open to resolving RTKL disputes through the OOR's mediation process.

IX. Record Retention

The Agency's record retention policy is governed by the *County Records Manual with Retention and Disposition Schedules* published in the Pennsylvania Historical & Museum Commission, as the same may be amended from time to time.

Notwithstanding any other existing record retention policy, once a RTKL request is received, the Agency shall maintain, preserve, retain, protect, and not destroy any and all records, both electronic and hard copy, that are potentially responsive to the request until such time as the request is fulfilled and all associated appeals are resolved.

X. Other Applicable Laws. The RTKL states that if the provisions of the RTKL "regarding access to records conflict with any other federal or state law, the provisions of [the RTKL] shall not apply." Access to records of each of the following County offices are governed in whole or in part by other state laws, and accordingly, all or a portion of the RTKL may not apply with respect to requests for records from such

offices: the Office of the Recorder of Deeds; the Office of Judicial Support; the Register of Wills; the Office of the Sheriff; Voter Registration Commission and Office; and the Election Board and/or Bureau of Elections.

XI. Additional Information about the RTKL

Additional information about the RTKL, the request process, and the appeal process is available on the OOR website at <https://www.openrecords.pa.gov>.