

LEHIGH COUNTY OPEN RECORDS POLICY

Section 1 – Purpose

The purpose of this policy is to assure compliance with Act 3 of 2008, the Pennsylvania Right-to-Know Law, as amended (the “Law”), to provide access to public records of Lehigh County (the “County”), to preserve the integrity of the County’s records, and to minimize the financial impact to the residents of the County regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 2 – Designating Open Records Officer

The County has designated an Open Records Officer to respond to requests under the Law. The Open Records Officer’s contact information is as follows:

Lehigh County Government Center
Department of Law
Attn: Open Records Officer
17 S. 7th St., Room 440
Allentown, PA 18101
Phone – 610-782-3180
Fax – 610-871-2796
Email – OpenRecords@lehighcounty.org

It is the policy of the County to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplicating of public records of the County.

The Open Records Officer for Lehigh County is the individual in position #51427 – Open Records Officer. The name of the individual serving in the position of Open Records Officer shall be posted on the County website and on the Pennsylvania Office of Open Records’ website. The Open Records Officer shall be responsible for assuring compliance with the Law, in accordance with the following guidelines.

- A. The Open Records Officer may designate certain employee(s) to process public record requests.
- B. The Open Records Officer is responsible for minimizing, where possible, the financial impact to the County regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

Section 3 – Request for Open Records

- A. All requests for public records of the County under this policy shall be specific in identifying and describing each public record requested. In no case shall the County be required to create a public record which does not exist or to compile, maintain, format, or organize a public record in a manner which the County does not currently compile, maintain, format, or organize the public record. All requests for public records shall be submitted in writing and shall include the date of the request, requester’s name, address,

telephone number, and email address, if requesting electronic copies, and if duplication is requested, appropriate payment. The Standard Right-to-Know Law Request Form is attached hereto as Exhibit "A" and can be accessed on the County website and on the Pennsylvania Office of Open Records' website.

- B. The Open Records Officer or designee shall make a good faith effort to determine whether each record requested is a public record.
- C. The County shall facilitate a reasonable response to a request for the County's public records. In no case is the County expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the County's administrative responsibilities and consistent with the requirements of the Law.
- D. The Open Records Officer shall respond to the requester within five (5) business days from the date of the Open Records Officer's receipt of the written request. Any request that is sent after the close of regular business hours or during a time that the Open Records Officer is not in the office shall be deemed to be received on the next business day. If the Open Records Officer does not respond within five (5) business days of the receipt thereof, the request is deemed denied. The regular business hours of the County are Monday through Friday from 8:00 am to 4:00 pm. Business days exclude Saturday, Sunday, and any weekday on which the County is closed for business.
- E. The Open Records Officer may grant a request, partially grant and partially deny a request, or deny a request in its entirety. The final response of the Open Records Officer shall be in writing. Should the Open Records Officer fail to issue a response within the applicable response period, the request is deemed denied.
 - a. *Granting access to records.* The Open Records Officer may grant a request for records by issuing a response: (1) granting access to inspect County records during the County'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 County website or other publicly accessible electronic means.
 - b. *Denying or partially denying access to records.* Should the Open Records Officer deny or partially deny a request for records through redaction or otherwise, the Open Records Officer will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the County 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. 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.
- F. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the County. The designated employee

shall cooperate fully with the requester, while also taking reasonable measures to protect County public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

- G. The County may fulfill verbal, written, or anonymous verbal or written requests for access to records. However, if the requester wishes to pursue the relief and remedies provided for in the Law, the request for access to records must be a written request.
- H. A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.

Section 4 – Extended Responses

- A. If the request requires an extensive review by the Open Records Officer, the Open Records Officer shall send a written notice to the requester within five (5) business days of receipt of the request for access. 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. If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for, the request for access shall be deemed denied, unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the County has not provided a response by that date.
- B. Review of the request is limited to situations where:
 - a. The record requested contains information, which is subject to access, as well as information, which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
 - b. The record required retrieval from a remote location;
 - c. A timely response cannot be accomplished due to staffing limitations;
 - d. A legal review is necessary to determine whether the record requested is a public record;
 - e. The requester has failed to comply with the County's policy and procedure requirements;
 - f. The requester refuses to pay the applicable fees; or
 - g. The extent or nature of the request precludes a response within the required time period.

Section 5 – Fees

The Open Records Officer will charge fees consistent with the Law’s Fee Structure, available at <https://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>, as updated from time to time. The current Office of Open Records – Official RTKL Fee Schedule is attached hereto as Exhibit “B.” Revisions to the Office of Open Records – Official RTKL Fee Schedule can be accessed on the Pennsylvania Office of Open Records’ website, as noted above.

Section 6 – Appeals

- A. To challenge the denial, partial denial, or deemed denial of a request for County 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 Office of Open Records at the following address:

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

- B. All appeals must be filed within 15 business days of the mailing date of the Open Records Officer’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 Open Records Officer for denying the request, and must include a copy of the request and the Open Records Officer’s response, if any.

Section 7 – Additional Information about the RTKL

Additional information about the Law, the request process, and the appeal process is available on the Pennsylvania Office of Open Records’ website at <https://www.openrecords.pa.gov>.



Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: _____ (Attn: AORO)

Date of Request: _____ Submitted via: [] Email [] U.S. Mail [] Fax [] In Person

PERSON MAKING REQUEST:

Name: _____ Company (if applicable): _____

Mailing Address: _____

City: _____ State: _____ Zip: _____ Email: _____

Telephone: _____ Fax: _____

How do you prefer to be contacted if the agency has questions? [] Telephone [] Email [] U.S. Mail

RECORDS REQUESTED: Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law. Use additional pages if necessary.

DO YOU WANT COPIES? [] Yes, printed copies (default if none are checked)
[] Yes, electronic copies preferred if available
[] No, in-person inspection of records preferred (may request copies later)

Do you want certified copies? [] Yes (may be subject to additional costs) [] No
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than [] \$100 (or) [] \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? [] Yes [] No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: [] Granted [] Partially Granted & Denied [] Denied Cost to Requester: \$_____

[] Appropriate third parties notified and given an opportunity to object to the release of requested records.

Office of Open Records – Official RTKL Fee Schedule

Updated December 30, 2022

Record Type / Delivery Method	Fee
Black & White Copies (first 1,000)	Up to \$0.25 per copy.
Black & White Copies (beyond 1,000)	Up to \$0.20 per copy. ¹
Color Copies	Up to \$0.50 per copy. ²
Specialized Documents ³	Up to actual cost.
Records Delivered via Email	No additional fee may be imposed. ⁴
CD / DVD	Up to actual cost, not to exceed \$1.00 per disc.
Flash Drive	Up to actual cost.
Facsimile	Up to actual cost. ⁵
Other Media	Up to actual cost.
Redaction	No additional fee may be imposed. ⁶
Conversion to Paper	Up to \$0.25 per page. ⁷
Photographing a Record	No additional fee may be imposed. ⁸
Postage	Up to actual cost of USPS first-class postage.
Certification of a Record	Up to \$5.00 per record. ⁹

¹ A “copy” is either a single-sided copy, or one side of a double-sided copy, on 8.5”x11” or 8.5”x14” paper.

² A “copy” is either a single-sided copy, or one side of a double-sided copy, on 8.5”x11” or 8.5”x14” paper. Note that a requester may ask for black and white copies even if the original is in color and color copies are available.

³ Including, but not necessarily limited to, non-standard sized documents and blueprints.

⁴ If a requester asks to receive records which require redactions in electronic format and the agency is unable to securely redact the records by electronic means, an agency may print the records to provide for secure redaction, then scan them in for delivery by email. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁵ If an agency must print records to send them by facsimile, the agency may charge the fees noted above for B&W copies.

⁶ If a requester seeks records requiring redaction and the agency is unable to securely redact the records by electronic means, an agency may copy or print the records to provide for secure redaction. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁷ 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. *See § 1307(d)*.

⁸ This assumes the requester is using his or her own camera, such as a cellphone camera, to photograph the records. *See Muenz v. Township of Reserve, OOR Dkt. AP 2015-1021, 2015 PA O.O.R.D. LEXIS 1176*. If redaction is required prior to the requester being granted access to photograph records and the agency is unable to securely redact the records by electronic means, an agency may copy or print the records to provide for secure redaction. Accordingly, the agency may charge the fees noted above for either B&W or color copies, as appropriate.

⁹ Under the RTKL, 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 OOR recommends no more than \$5 per record to certify a public record. Certification fees do not include notarization fees.

Additional Notes

Fees May Be Waived: All fees established herein may be waived at the discretion of the agency.

Medium Requested: A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. *See § 701.*

Other Statutory Fees: If a statute other than the RTKL governs the amount an agency may charge for a certain type of record, the other statute controls. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page (42 P.S. § 21051). Police departments may charge up to \$15 for a copy of a vehicle accident report (75 Pa.C.S. §3751 (b)(2)); the Philadelphia Police Department 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)). Other examples include the History Code, the Municipalities Planning Code, and the Criminal History Record Information Act.

Inspection of Redacted Records: If a requester wishes to inspect, rather than receive copies of, records which contain both public and non-public information, the agency may redact the non-public information. An agency may not charge the requester for the redaction itself. However, an agency may charge (in accordance with the OOR’s Official Fee Schedule) for any copies it must make in order to securely redact the material before allowing the requester to view the records. 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. 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. Such fees 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. **NOTE: Fees for enhanced electronic access must be reasonable and must be pre-approved by the OOR. Please [submit enhanced electronic access fee requests to the OOR.](#)**

Fee Limitations: Except as otherwise provided by statute, the RTKL 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 subject to access under the RTKL. 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. No fee may be charged for an agency’s response letter.

Prepayment: Prior to granting a request for access in accordance with the RTKL, 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 a request is fulfilled and prepared for release, the OOR recommends that an agency obtain payment prior to releasing the records.

Questions: If you have any questions regarding the OOR’s Official Fee Schedule, please [contact the OOR](#) (email: openrecords@pa.gov, telephone: 717-346-9903).