

State Public School Building Authority
RIGHT TO KNOW LAW POLICY
Effective January 1, 2009

Pursuant to Section 504 of the Right-to-Know Law, 65 P.S. §67.101 et seq. (RTKL), the State Public School Building Authority (“Authority”) sets forth the following policies, process and procedures, regarding responses by the Authority to requests made pursuant to the RTKL.

I. REQUESTS

A. A written request to the Authority under the RTKL must:

1. Be addressed to the Authority Open Records Officer (AORO):

Beverly M. Nawa
Open Records Officer
State Public School Building Authority
1035 Mumma Road, Suite 300
Wormleysburg, PA 17043
e-mail - bnawa@spsba.org

2. Identify a name and address to which the Authority should address its response;
3. State that the request is being made pursuant to the RTKL;
4. Be submitted in person, by mail or by e-mail;
5. Be sufficiently specific to enable the Authority to ascertain which records are being requested; and
6. Be from a person that is a legal resident of the United States.

B. While verbal requests may be fulfilled by the Authority, the requester cannot pursue the relief and remedies provided under the RTKL unless the request is in writing.

C. RTKL requests may be on the form available at the website of the Office of Open Records, at: <http://openrecords.pa.gov>.

D. The regular business hours of the Authority are 7:30 am to 4:00 pm, Monday through Friday. Any RTKL request received by the RTKL Office after the close of regular business hours shall be deemed to have been received by that office on the following business day.

II. RESPONSES

The AORO may respond by providing a requester with access to inspect a record electronically or as otherwise maintained by the Authority, either: 1) by providing access in the offices of the Authority, 2) by sending a copy to the

requester or 3) by notifying the requester that the record is available through publicly accessible electronic means. Each of these options is a "response" for purposes of the RTKL, as is the Authority's written notice to the requester granting, denying or partially granting and partially denying access to a record. The Authority may send written responses to requesters by United States mail, by hand (in person or by delivery service), by fax or, by e-mail. Generally, an agency is to respond to an RTKL request within five business days. For purposes of determining the end of the five business day period, the day that a RTKL request is received (or deemed to be received) is not counted. The first day of the five business day period is the Authority's next business day.

A. Interim Responses.

The Authority must provide a final response to a RTKL request within 5 business days unless one or more specific conditions are satisfied and the AORO gives the requester written notice that additional time will be required. That notice is referred to as an "interim response."

The AORO may send an interim response, if any, of the following apply:

1. The RTKL request requires redaction of a public record;
2. The RTKL request requires retrieval of a record from a remote location;
3. A response within the 5 business day period cannot be accomplished due to bona fide staffing limitations, which limitations must be specified in the interim response;
4. A legal review is necessary to determine whether the record requested is subject to access under the Act;
5. The requester has not complied with the Authority's policies regarding access to public records;
6. The requester has not complied with a demand for prepayment of fees, which are required to fulfill the RTKL request and which are estimated to exceed \$100; further, if prepayment of fees is required by the Authority, the time period for response shall be tolled from the time the demand for payment is made until such time as payment is actually received; or
7. The extent or nature of the request precludes a response within the required time period.

An interim response must: 1) be sent to the requester on or before the last day of the 5 business day period; 2) state that the request is being reviewed and the reason for the review; and 3) state a reasonable date that a response is expected to be provided. This date must not be more than 30 calendar days from the end of the 5 business day period.

If the date of an expected response is in excess of 30 days following the five days allowed for in Section 901, the request will be deemed denied unless the

requester has agreed in writing to the date specified in the notice.

B. Final Responses.

There are three possible final responses. Either the request is: 1) granted; 2) denied; or 3) granted in part and denied in part. The failure to make a timely response is considered a deemed denial.

If a written request is denied in whole or in part, the Authority will issue a final written response that will include an explanation of the procedure for the requester to appeal, if the requester chooses to do so. The written denial will also set forth the specific reasons for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that that the record requested is exempt from disclosure, the specific reasons for the Department's determination shall be included.

C. Redaction

If only portions of a record are public records, the Authority will not deny access to the record based upon the fact that portions are not public records. The Authority will redact the portions that are not public records and produce the portions that are public records.

D. Access

The Authority may provide a requester with access to inspect a record electronically or as otherwise maintained by the Authority, either: 1) by providing access in the offices of the Authority, 2) by sending a copy to the requester or 3) by notifying the requester that the record is available through publicly accessible electronic means.

The Authority has the discretion to determine the building(s) and room(s) that will be used to provide a requester with access to the Authority's public records. The selection of buildings and rooms for access to the Authority's public records is a matter within the discretion of the AORO.

The Authority will provide a public record to a requester in the medium requested if the record exists in that medium. Otherwise, the public record must be provided in the medium in which it exists. If a public record only exists in one medium, the Authority is not required to convert that public record to another medium, except that if the public record is only available in an electronic form, the Authority must print it out on paper if the requester so requests.

The Authority is not required to create a public record that does not already exist, nor is it required to compile, maintain, format, or organize a public record in a manner in which the Authority does not currently do so.

E. Duplication of Public Records.

The Authority may either make copies itself or, in its discretion, allow the requester to bring the necessary equipment to make its own copies. The Authority may make its duplication equipment available to a requester but require that the requester operate the equipment; assign Authority staff to make the duplications; or contract for duplication services and require the requester to pay the applicable rate.

III. APPEALS

When a request is denied or deemed denied, whether in whole or in part, the requester may file an appeal with the Office of Open Records, where it will be assigned to an Appeals Officer. This appeal must be filed within 15 business days of the denial or deemed denial. The appeal must state the grounds upon which the requester asserts that the record is public, and should address any grounds stated by the Authority for delaying or denying the request. The appeal shall be sent to:

Commonwealth of Pennsylvania Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2345
Phone: 717-346-9903
Email: openrecords@pa.gov

A person other than the Authority or the requester, with a direct interest in the record that is subject to an appeal, has 15 days following actual knowledge of the appeal, but no later than the date the Appeals Officer issues an order, to file a written request to provide information or to appear before the Appeals Officer in support of the requester's or the Authority's position in the appeal. The Appeals Officer may, but needs not, grant the request.

IV. FEES

No charge shall be made for an Authority or legal review of the record to see whether the requested records are public records that are subject to production.

If the estimated fees that are required to fulfill the RTKL request exceed \$100, it may be necessary for the requester to pay the estimated amount in advance, either by certified check or by ordinary check, which must first have cleared to be considered received by the Authority. The demand for prepayment may specify a reasonable period of time in which the requester must make such prepayment. If the requester fails to make prepayment within the specified time, the Authority may deny the RTKL request on that basis.

All applicable fees shall be paid in order to receive access to the record requested. 65 P.S. §67.901.

Applicable fees to be charged by the Authority under the RTKL are as follows:

A. Duplication

Fees for duplication are as established by the Office of Open Records, as posted on its website at <http://openrecords.pa.gov>.