



POLICY NUMBER: GI – 6.3

EFFECTIVE DATE: August 17, 2022

SUBJECT: Open Records

PREPARED BY: Policy Committee

APPROVED BY COMMISSIONERS: August 17, 2022

This policy applies to all departments and employees except if superseded by bargaining unit agreement or court-appointed policy.

I. PURPOSE

The purpose of this policy is to provide guidelines that conform to the requirements of Act 3 of 2008, and its amendments, commonly known as the “Right-to-Know Law”. Effective January 1, 2009, the Right-to-Know Law mandates a presumption of disclosure and shifts the burden of denial to provide information to the government.

II. POLICY

It is the policy of the County of York that requests for and duplication of public records will adhere to the requirements and procedures of the Right-to-Know Law and the requirements of this policy and any amendments thereto.

III. DEFINITIONS

- A. *Act or Right to Know Law*** – The *Act of June 21, 1957 (P.L. 390, No. 212)*, titled the “*Right-to-Know Law, (RTKL)*” as amended, 65 P.S. §§ 67.101-67.3104 by Act 2002-50 and Act 3 of 2008 also commonly referred to as the “*Open Records Law*”. The principal change in the RTKL is the fundamental change in presumption. The Act, in Section 305 states:

“A record in the possession of a Commonwealth agency or local agency shall be presumed to be a public record. The presumption does not apply if the record is exempt under Section 708 of the RTKL Act, if it is protected by privilege or if it is exempt from disclosure under other federal or state law or regulation or by judicial order or decree.” 65 P.S. §67.305.

- B. *Business Day*** – Any weekday or regular business day, except those days when the offices of the County are closed for all or part of the day due to a holiday, severe weather, natural or other disaster, pandemic, epidemic or other public health and welfare emergencies, emergency declarations or at the request or direction of local, state or federal officials. Record requests received after the close of regular business hours will be considered as being received on the next business day.

C. County – County of York**D. County Offices** – Any office of the legislative and/or executive branch of the government of the County of York, no matter where physically located and whether headed by an appointed or an elected official, except for the following:

The District Attorney, the York County Court of Common Pleas and the Departments under their control.

Departments under the control of the York County Court of Common Pleas include the following offices – Domestic Relations, Adult Probation, Juvenile Probation, Divorce Masters, Court Administration, Clerk of Courts, Prothonotary, Recorder of Deeds, Register of Wills, Clerk of Orphans' Court and Magisterial District Justices.

For the purpose of this Policy, the York County Planning Commission and the York County Conservation District shall be considered a County Office.

E. County Open Records Offices – Those Office(s) designated by the County Commissioners for the County of York; that Office designated by the York County Court of Common Pleas for the 19th Judicial District; and the Office designated by the District Attorney to receive Open Records requests.**F. Deemed denied** – Any request that (i) the applicable Open Records Office receiving a written Open Records Request fails to respond to within the initial five (5) business day period; (ii) the Open Records Office extends the five (5) business day period by up to thirty (30) calendar days, but then fails to respond by the end of that extended period; or (iii) the Open Records Office notifies the Requester that it requires additional time to respond in excess of the permitted thirty (30) calendar day period.**G. Mailing date** – The date affixed to a response to a request for access to records, which is to be the date the response is deposited in the U.S Mail or, for a person submitting a request or exceptions, the date of the postmark on the envelope transmitting the request.**H. Office of Open Records** – The Administrative office established in the Department of Community and Economic Development (DCED) for the Commonwealth of Pennsylvania, whose purposes set forth in Section 1310 of the “Right-To-Know Law” (hereinafter “OOR”).**I. Open Records Official** – Any official or employee designated by the County Commissioners, York County Court of Common Pleas, District Attorney to receive Open Records requests pursuant to 65 P.S. §67.502.**J. Open Records Request** – Either (i) an electronic request through the York County Right to Know Records Center; or (ii) a written request submitted to the applicable Open Records Office or Open Records Official asking for access to a document, a copy of a document or information purported to be in the possession of the County; or (ii) a written request (but not appeal) presented to the applicable Open Records Office that invokes that Act. Requests must comply in form with County or State specifications.**K. Privilege** – The attorney-work product doctrine, the attorney-client privilege, the doctor- patient privilege, the speech and debate privilege, correspondence between a member of the General

Assembly and a constituent, which would identify a person requesting assistance or constituent services, or other privilege recognized by a court interpreting the laws of this Commonwealth.

- L. *Public Record*** – A record, including a financial record, of a Commonwealth or local agency that:
- (1) is not exempt under Section 708 of the Open Records Act; or
 - (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
 - (3) is not protected by a privilege 65 P.S. §67.305
- M. *Record*** – 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 including documents maintained by the County of York, or the York County Court of Common Pleas, in any form, and maintained in the regular course of business.
- N. *Requester*** – A resident of the United States who requests a record pursuant to the Act and this policy.
- O. *Response*** – The applicable Open Records Office reply to a request made pursuant to the Act. A response may be either (i) the act of providing the Requester electronic access to a record through the York County Right to Know Records Center, such response shall notify the requester that a response and any responsive records shall be available through a publicly accessible electronic means, or (ii) the applicable Open Records Office’s written notice granting, denying or partially granting and partially denying access to a record.
- P. *Solicitor*** – Office of the York County Solicitor.
- Q. *Written Notice***. Notice provided in writing sent by U.S. Mail, overnight mail, email or mail to a third-party facility or clearinghouse for mail for prison inmates or notice received through the York County Right to Know Records Center.
- R. *Written Request***. All requests for access to records must be in writing submitted in person or by other method as outlined herein for written notice to the appropriate Open Records Official for the designated County and Court offices and as designated in the policy.
- S. *York County Right to Know Records Center***- The electronic open records submission website for all public record requests to be addressed by the County of York. This does not include public record request submissions for the 19th Judicial District or the York County District Attorney’s Office. The York County Right to Know Center can be accessed as follows: [https://yorkcountypa.govqa.us/WEBAPP/rs/\(S\(w32suykfs5m3hlcpotcco3yp\)\)/support/home.aspx](https://yorkcountypa.govqa.us/WEBAPP/rs/(S(w32suykfs5m3hlcpotcco3yp))/support/home.aspx)

IV. PROCEDURE

A. Open Records Office Functions

1. The function of the applicable Open Records Office is to receive all Open Records requests

- directed to any County office as designated herein, to track the progress in responding to Open Records requests, to coordinate the preparation of a response and to prepare and issue interim and final responses to Open Records requests.
2. The Open Records Official for each division as is identified in the County Open Records policy shall determine, on an ad hoc basis, the building and room where records will be made available to a Requester and the hours of availability. The applicable Open Records Official has the discretion to establish separate written policies governing the use of that room including, but not limited to, the hours of access, the need and adequacy of proof of residency, restrictions or prohibitions on the removal of records, the use of written requests and the ability of a Requester to bring his or her own photocopying or other equipment into the room regarding the access to such records as is permitted to be disclosed under the Act.
 3. The County's Open Records Officials as determined for each division and as designated by the County Commissioners and/or pursuant to the Act, is responsible for receiving, tracking and responding to Open Records requests to the County and the departments under the control of the County and each division.
 4. If the request seeks records maintained by the County of York or Departments under its control, the written request must be directed to the York County Open Records Official. Denials to requests issued by the Open Records Official for the County of York may be appealed to the OOR as provided in Section D.
 5. If the request seeks records maintained by the York County Court of Common Pleas or Departments under its control, the written request must be directed to the Open Records Official for the York County Court of Common Pleas. Denials to requests issued by the Open Records Official for the York County Court of Common Pleas may be appealed to the Appeals Officer for the York County Court of Common Pleas.
 6. If the request seeks records maintained by the District Attorney's Office, the written request must be directed to the Open Records Official for the District Attorney's Office.
 7. The County of York, the York County Court of Common Pleas through the Court Administrator's Office and the District Attorney's Office will not respond to oral or anonymous requests.

B. Requests and Designations.

1. The Office of the Solicitor of the County of York is the office designated by the County as the recipient of all Open Records requests addressed to the County and all of the departments and agencies under their control. All electronic Open Records Requests for the County shall be submitted through the York County Right to Know Records Center, which can be found at the following link: [https://yorkcountypa.govqa.us/WEBAPP/rs/\(S\(w32suykfs5m3hlcpotcco3yp\)\)/support/home.aspx](https://yorkcountypa.govqa.us/WEBAPP/rs/(S(w32suykfs5m3hlcpotcco3yp))/support/home.aspx). Requests may also be submitted in person, by mail, by facsimile. Written requests shall be addressed to County of York Open Records Official, York County Administrative Center, 28 East Market Street, Room 241, York, PA 17401-1588. The applicable facsimile number for requests is (717) 771-4341.
2. Requests seeking records maintained by the York County Court of Common Pleas

or departments under its control shall be directed to the Open Records Official for the 19th Judicial District, Court Administrator's Office, 45 North George Street, York, PA 17401. The applicable phone number is 717-771-9234. The form to request records from the 19th Judicial District can be found at: <https://yorkcountypa.gov/578/Open-Records-Right-to-Know>. The email address is: JudicialOpenFinancialRecords@YorkCountyPA.gov

3. Requests seeking records maintained by the District Attorney's Office shall be directed to District Attorney Open Records Official, York County Judicial Center, 45 North George Street, 3rd Floor District Attorney's Office, York, PA 17401. The applicable phone number is (717) 771-9740. The applicable facsimile number is (717) 771-9738. The form to request records from the York County District Attorney's Office can be found at: <https://yorkcountypa.gov/578/Open-Records-Right-to-Know>. The email address is DAOpenRecordsOfficial@york-county.org.
4. Each written request shall include the name of the Requester and the address to which York County or the York County Court of Common Pleas should address its response. The request should also identify or describe the records sought with sufficient specificity to enable York County or the York County Court of Common Pleas to ascertain which records are being requested. A Request may be submitted using the Open Records Request Form as identified by each Open Records Official within York County or the Court of Common Pleas.
 - a. The Requester must be a resident of the United States. In determining whether the Requester meets this requirement, the applicable Open Records Officer may, in its discretion, require that the Requester produce photographic identification or other identification, such as a driver's license or passport, showing an address.
5. A written request does not need to include an explanation of the Requester's reason for requesting or intended use of the records, unless otherwise required by law. A request must be reasonably specific so as to enable the reviewing officer to determine the nature and extent of the records requested. Failure to be reasonably specific may result in a denial of the request.
6. Upon receiving a written Open Records Request, the applicable Open Records Office, will:
 - a. Date-stamp the request.
 - b. Assign a reference number to the request.
 - c. Compute and make a notation of the date by which a response must be provided.
 1. York County and the York County Court of Common Pleas must make a good faith effort to determine if the requested record is a public record and respond as promptly as possible under the circumstances existing at the time of the request.
 2. The first day of the five (5) business day period will be the County's next business day after receipt of the request by the appropriate Open Records Office.
 3. If the Open Records Official fails to respond within the five (5) business day period with an interim or final response, the Open Records request is deemed denied.

- d. Create an official electronic or other file for the retention of the original request.

C. Response

1. Physical access provided to a Requester of a document or copy of a requested document, in the applicable Open Records Office, will be considered a “response” to an Open Records request. The appropriate Open Records Official will provide authorization for such access.
 - a. Public records of York County or the Court of Common Pleas will be accessible for inspection by a Requester during the regular business hours of the County. The regular business hours of the York County and Court of Common Pleas for purposes of this policy are from 9:00 a.m. until 4:00 p.m. on any business day.
 - b. York County and the Court of Common Pleas is not required and will not create a public record that does not already exist, nor is York County or the Court of Common Pleas, required to compile, maintain, format, or organize a public record in a manner in which York County or the County of Common Pleas does not currently maintain.
 - c. In compliance with the Open Record Law’s redaction requirements, York County nor the Court of Common Pleas is required to alter their original records.
 - d. In order to prevent the Requester from having access to information to which they are not entitled or have not requested, York County and the Court of Common Pleas will redact, or remove, a portion of a document while retaining the remainder for review. An agency record that is exempt under the Right to Know Law is not a public record and shall not be disclosed, nor shall it be converted to a “public” record through redaction.
 - e. York County and the Court of Common Pleas does not make duplication equipment available to a Requester, but does provide for York County and/or Court of Common Pleas staff to make copies or may contract for duplication services and require that the Requester pay the contractor for those services. In both instances, a reasonable set fee as outlined in Section F below that is consistent with prevailing charges for duplication may be charged.
2. Where timely access is not provided as listed in C.1. above or otherwise requested, the appropriate County Open Records Official is required to provide a response in writing. The Open Records Official has the duty to prepare and send written responses and may consult, as necessary, with the Solicitor and other County Officials and employees having a concern or interest in the records.
3. The York County Open Records Office shall send written responses to Requesters via the York County Right to Know Records Center. If the Requester is unable to access the records electronically, the Requester may within thirty (30) days following receipt of the notification that the record is available electronically, submit in writing a request to have the response and record provided in another manner, including in printed form, and any necessary costs shall be paid in advance of providing such response. If an email address is provided in any request, it shall be deemed an agreement to access such responses electronically, unless the other provisions as stated herein have been followed.
4. The appropriate Open Records Official may respond to such requests via facsimile transmission, e-mail, overnight or parcel delivery service or courier delivery, at the discretion of the applicable Open Records Official.

5. The Act provides circumstances in which the County can obtain an extension of time in which to provide a final response to a request. The County must provide the Requester with written notice that additional time will be required. This notice is referred to as an “interim response”.
 - a. Such extension of time to be calculated to commence after the expirations of the five (5) business day initial notification/response period. The County Open Record Officer and the Requester may agree on additional extensions of time as needed to respond to a request.
 - b. If an extension is invoked and then there is no timely final response, the Open Records request is deemed denied.
6. Written Final Responses for York County or the Court of Common Pleas may be one of three types:
 - a. York County or the Court of Common Pleas grants the entire request.
 - b. York County or the Court of Common Pleas refuses the entire request.
 - c. York County or the Court of Common Pleas grants part of the request and refuses the remainder.
7. Final responses that deny requests in whole or in part will list the reasons relied on by the County, Court of Common Pleas or District Attorney for denying the request. The response shall also contain a notice informing the Requester of his or her right to file exceptions and shall set forth the name and mailing address of the Open Records Appeal Office.

D. Appeals

1. York County and Departments Under Its Control.
 - a. If a written request for access to records is denied in whole or in part or deemed denied, the Requester may file an appeal with the Pennsylvania OOR within fifteen (15) business days of the mailing date of the County’s Open Records Official’s response or within fifteen (15) days of a deemed denial.
 - b. The appeal shall state the specific grounds upon which the Requester asserts that the record is a public record, and shall address all grounds stated by the County’s Open Records Official for delaying or denying the request and shall attach all required information required under the RTKL.
2. York County Court of Common Pleas and Departments Under Its Control.
 - a. If a written request for access to records is denied in whole or in part or deemed denied, the Requester may file an appeal with the Appeals Officer for the Court of Common Pleas within fifteen (15) business days of the mailing date of the York County Court of Common Pleas Open Records Officer’s response or within fifteen (15) days of the deemed denial.
 - b. The Appeals Officer for the Court of Common Pleas and Departments under its control is the President Judge. The address is Appeals Officer, Court of Common Pleas, Court Administrator’s Office, 45 North George Street, York, PA 17401.
 - c. The appeal shall be in writing and shall state the specific grounds upon which the

Requester asserts that the record is a public record, or financial record and shall address any grounds stated by the Court of Common Pleas Open Records Official for delaying or denying the request.

- d. The Appeals Officer may or may not conduct a hearing in the appeal as he or she feels appropriate.
- e. The Appeals Officer shall render a written decision on the appeal within thirty (30) days of receipt of the appeal.
- f. Either party may file a Petition of Review of the written decision of the Appeals Officer within thirty (30) days of the mailing date of the written decision with the York County Court of Common Pleas.

E. Appeals to Common Pleas Court for County Open Records Requests

1. Where the Office of Open Record's final determination upholds the refusal of access to a document, the Requester may, within thirty (30) calendar days of the mailing date of that final determination, file a Petition for Review in Common Pleas Court.
2. Where the OOR's final determination grants access to a document, where partial or full access has been denied by the County Open Records Official, or where such request is deemed denied, the County shall have the right to file a Petition for Review in the court of Common Pleas within 30 days of the date of the OOR's final determination.

F. Fees

1. The County will not charge for redaction services, if completed in house.
2. A duplicating fee for photocopying, printing from electronic media or microfilm will be imposed at .50 cents per page, per side. York County, the Court of Common Pleas and the District Attorney's Office may issue their own fee resolution to address fees stated herein.
3. A duplicating fee for copying onto electronic media will be imposed at \$7.00 per type of media used. Media may not be provided by Requester or reused for subsequent requests.
4. Facsimile transmission fees will be imposed at .50 cents per page faxed.
5. For other means of duplication and other costs incurred, reasonable fees based on prevailing fees for comparable duplication by local business entities or actual costs will be imposed.
6. The County may, in its discretion, insist that payment for duplication be made by certified check. If the fee is for copying only, the County shall provide access to the records but shall refuse to make any copies until the fee is paid. If the fee is for service that is necessary in order for access to be provided, the County shall deny access to the records until the fee is paid.
7. The County shall not be prohibited from exercising its discretion to waive collection of fees for documents to non-profit organizations and governmental agencies and authorities.
8. Election law or policies of the York County Board of Elections may provide that

certain records and/or data can be provided to candidates or political organizations at no cost. This policy shall not supersede Election law requirements or the policies of the York County Board of Elections.

9. The County may require a requester to prepay an estimate of the fees if the fees required to fulfill the request are expected to exceed \$100.00.
10. The fee schedule for GIS documents, tax records, assessment records and other records involving large datasets, as well as, historical documents maintained by Archives, may be different from that set forth in this policy and may be set by the applicable Department or Agency and such request may be redirected to that Department or Agency and the request pursuant to the Act may be denied.

G. Retention and Disposal of Public Records

1. The Open Records Law does not modify, rescind or supersede any statutes, regulations and other laws that regulate the County’s retention and disposal of records.

H. Posting Record Requests and Responses Thereto

1. The County reserves the right to post and/or release records requests and responses thereto to the public in any manner as determined by the County including but not limited to posting on the York County Right to Know Records Center. Individuals and entities submitting records requests have no expectation of privacy concerning requests or responses thereto.

<p>RELATED COUNTY POLICIES: HIPPA – Request for Copies of Records RELATED FORM: Right-to-Know Request Form – York County Right to Know Request Form – District Attorney Open Financial Records Request Form – Nineteenth Judicial District ORIGINAL DATE ESTABLISHED: June 2004 (as Right-To-Know Act) REVISIONS DATES: December 2008, March 2009, August 2022</p>
--