

Frequently Asked Questions (FAQs)

When does the new Right-To-Know law take effect? [Section 3104]

Governor Edward G. Rendell signed the new law on February 14, 2008. Most of the new law takes effect on January 1, 2009, but the entire law takes effect in three stages:

- The title, definitions and creation of the Office of Open Records took effect on February 14, 2008.
- July 1, 2008: All state contracts exceeding \$5,000 must be posted on Treasury's Web site. Each agency must submit to the Treasury these contracts or a summary of thereof.
- January 1, 2009, the remaining portion of the law.

What is the single biggest change under the new law? [Section 305]

Agencies now have the burden to establish why a record should not be released. The old law put the burden on a requestor to establish why the record was a public record.

When will the Office of Open Records establish rules and regulations or guidelines regarding the new law? [Section 504, 1102]

OOR is in the process of establishing interim guidelines and a statement of policy that will outline rules and regulations. Those will be available by November, 2008. These guidelines will serve as guidance until the formal regulations are approved during the 2009-2010 Legislative session. OOR intends to gather as much public comment and input as possible prior to the regulations being published in final form.

How can I request information from my local government or state agency? [Section 703]

You can make a request four ways: mail, fax, e-mail or in person. The request must be sufficiently "specific" to allow the public body to identify what you are seeking.

Is there a form I can use to use to obtain records? [Section 505]

Yes, a standard Office of Open Records request form is available on this Web site ([LINK TO FORMS](#)) that you can use. A local government agency can use its own form, but they also must accept the Office of Open Records Request form.

Can a public body ask why a person wants obtain the information? [Section 1308]

No. The law prohibits a public body from requiring a person "to disclose the purpose or motive in requesting access to records."

Can a request be denied because the requestor is not a citizen of Pennsylvania? [Section 102]

No. Any legal resident of the United States can request a record, including a person with a green card.

Can a state agency or local agency charge me for copying records? [Section 1307] Yes.

However, the law states that the Office of Open Records will establish fees for duplication, and we will have a fee structure available for review by October 15, 2008.

Can a state agency or local agency charge additional fees? [Section 1307] Generally, no.

The law states that, "[e]xcept as otherwise provided by statute, 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, legislative record or financial record subject to access in accordance with this act." If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a

copy fee of 50 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051.

What should state and local agencies be doing before January 1, 2009? Appoint an open records officer. Make sure this person is senior level so that he or she can manage requests and be aware of the implication of a request. [Section 502] Create a records management policy and make sure you are in compliance with it. This is the most critical component for local governments to undertake immediately. Understand what your record retention law requires and organize your records. Do not wait until December to undertake this enormous project because it will appear as though you are simply destroying documents before the new law takes effect. Write a memo to your staff outlining that this new law takes effect January 1; it will be a highly monitored law and all employees should make these requests a priority; indicate that the Office of Open Records will be a resource to them for questions. Attend training. Plan to have your open-records officer and other officials attend a training session on this new law. A training schedule is available on this Web site.

If our local or state agency receives a right-to-know request what must we do to be in compliance with the new law? [Section 502, 703, 901]

Make sure the request is received by the designated open-records officer as fast as possible, preferably the same day it is received by agency staff. The law requires the open-records officer to do the following:

- Stamp the date of receipt on the written request.
- Compute the day on which the five-day period under Section 901 will expire and make a notation of that date on the written request.
- Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled.
- If the request is denied, the written request shall be maintained for 30 days
- If an appeal is filed keep the records until a final determination is issued or the appeal is deemed denied.
- Create a file and keep all of the following:
 - The original request.
 - A copy of the response
 - A record of written communications with the requester

Are emails public record? [Section 102]

Yes. That does not mean there is wholesale release of e-mail records. It means that an email, like any other record, goes through the same analysis to determine whether it is a public record.

Can a public body limit the number of requests that a citizen can make? [Section 1308(1)].

No. The law states that a state or local agency cannot limit “the number of records which may be requested or made available for inspection or duplication.” However, citizens should use good judgment in seeking records from the public body and not use this law to harass or overburden a public body from performing its job. Also, a public body can deny repeated requests for the same records by the same requestor. [Section 506]

Can a requestor ask for records in person?

Yes. However, if a person wishes to take advantage of the appeal process, the request must be in writing.

Can a requestor ask for records by telephone?

No. A public body could provide information in this way if they so choose, but they are not required to.

Are itemized cell phone bills public record?

Yes. However, the Pennsylvania Supreme Court is considering whether an agency can redact all incoming and outgoing telephone numbers before producing them. *Tribune-Review v. Bodack*, 875 A.2d 402 (Pa. Commonwealth 2005). We will update our website when the Court issues its decision.

What are some examples of public records?

- 911 time response logs
- Grant Applications
- Contracts
- Agreements
- Agency decisions
- Name, title, Salary of public employees and officials

What are some types of information that will NOT be available?

- Social Security numbers
- Drivers license numbers
- Employee numbers
- Home, cellular or personal phone numbers
- Personal financial information
- Spouse's name, marital status, beneficiary or dependent information
- Home addresses of law enforcement and judges
- Identity of confidential informants.
- Autopsy reports – except that name, cause and manner of death, which are public.
- Records that identify social service recipients, including welfare recipients
- A minor's name, home address, date of birth.
- Constituent requests to a member of the House or Senate
- Library circulation cards
- Pre-decisional deliberations

Does the new law cover records created before January 1, 2008?

Yes. All records in the possession of an agency are covered even if they are decades old.

What personal liability does an open-records officer or agency have?

[Section 1304, 1305, 1306]

If an agency denies a record in bad faith, the court may impose a civil penalty of up to \$1,500 per record. If the agency still refuses to disclose the record, the court may impose a penalty of up to \$500 per day until the record is disclosed. In general, an open-records officer is immune from civil penalties for denying a request. However, the court has discretion in regards to imposing penalties and costs for willful and wanton disregard of the law.