

# Right to Know Policy and Procedure

## Public Access to Information

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### Lancaster County Conservation District

*Adopted December 3, 2008*

#### I. GENERAL

This policy establishes the District's procedures for meeting its obligations under the Pennsylvania Right to Know Law, which was revised in 2008. It applies to all requests for "public records." This document establishes the framework within which the district will exercise its administrative discretion in the future. The district recognizes the value of making information available to the public, and is committed to continually improving public access to public information and fostering public participation in the decision-making process.

The Office of Open Records may promulgate regulations setting forth different or additional requirements and procedures, and these should be consulted.

#### A. Open Records Officer

The District has designated the following person who shall serve as its Open Records Officer. All requests for public records are administered by the Open Records Officer. Requests should be directed to the Open Records Officer at the following address:

Name: Kevin R. Seibert

Title: Open Records Officer

Address: 1383 Arcadia Road, Room 200, Lancaster, PA 17601

Phone: 717-874-2524

Fax: 717-299-9459

Email: kevinseibert@lancasterconservation.org

Any time that the Agricultural Compliance Coordinator will be out of the office for more than three consecutive days, the Business Manager shall serve as the Open Records Officer during that period.

## B. Requests for Public Records

All Right to Know Law requests must be received by the District's Open Records Officer. A requester may make, and the Conservation district may fulfill verbal, written (including email or fax) or anonymous verbal or written requests for access to records under this policy. If the requester wishes to pursue the relief and remedies provided for under the Pennsylvania Right to Know Law (i.e. pursue an appeal of a denial), the request must be in writing.

Requests must describe the records sought with sufficient specificity to enable the District to ascertain which records are being requested. The request must include the name and address to which the response is to be sent. See Appendix A for a sample request form.

If the district receives a request for a public record that is not in the possession of the district, the Open Records Officer will: 1) notify the requester that they do not possess the record requested; 2) direct the request to appropriate persons in another agency.

## C. Classification of Records

### **Public Records**

"Public records" are defined as

1. Information that documents a transaction or activity of the district, and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the District,
2. **Except** where a record meets any of the following:
  - a. it falls into one the exemptions under the RTK law,
  - b. access is restricted under any state or federal law or regulation or
  - c. it is protected by a legal privilege, such as attorney-client privilege.

### **Records Exempt from being Public Records**

Under the law some types of records are not available to the public. In this category are personal notes, computer security information, draft minutes, notes from an executive session, confidential proprietary information or trade secrets, medical information, personal identifiers, employee records, labor relations, criminal and non-criminal investigative records, non-real estate tax records, driver records, attorney-client communications, or records that if disclosed could jeopardize state or federal funds. This is a partial list of the exempted records. For a complete list the requester may request a copy of Section 708 of the Right to Know Law from the district. The district will assume that the requester is not asking for these types of records unless specifically requested. In most cases, these exempted records will not be provided.

## **D. Procedures for Reviewing Requests for Public Records**

### **Operating Procedures**

The District's Open Records Officer will ensure that the Operating Procedures described in Section II of this Policy are followed.

### **Reviewing Records**

Following the submittal of a request the district will make every effort to fulfill the request within five business days of receipt by the District's Open Records Officer. This may include notifying the requestor that the records will be made available for review and copying at the District.

If the request cannot be fulfilled in five business days, the District's Open Records Officer will send written notice, including email, to the requester stating the reason(s) why additional time is needed, when the office expects to be able to fulfill the request, and any fees that may be required. See Operating Procedures, Section II.

If the District's Open Records Officer believes that a record contains confidential proprietary information or trade secrets, the Officer will notify the third party that provided the information of the request, within five days of the request. The third party will then have five days from receipt of the notice to provide input on the release of the record. The Officer will decide whether the information qualifies as confidential proprietary information or trade secrets within ten days after that third party has received the notice.

## **E. Denial of request for Public Records**

If an agency's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

1. A description of the record requested
2. The specific reasons for the denial, including a citation of supporting legal authority.
3. The printed name, title, business address, business phone number, and signature of the open records officer on whose authority the denial is issued.
4. Date of the response
5. The procedure to appeal the denial

## **F. Access to Records**

The District may respond by notifying the requestor that a record is available through publicly-accessible electronic means such as the District's website, or another agency's website. The District may also provide the records electronically through email or other means such as a CD.

The District may also choose to make the records available for review and copying at the District. However, the district's copying facilities are limited. No records may be removed from the district offices except by district staff. If the district is unable to send the requested documents to the requestor, in house arrangements will be made to have them duplicated. Copying and other fees are listed in Appendix B.

## II. OPERATING PROCEDURES

### A. *Within 5 business days of receipt of written request by the District Open Records Officer:*

1. Immediately upon receipt of a request the District Open Records Officer will date stamp the request, record the request in a logbook, compute the day that the five-day response expires and make a notation of that date on the request.
2. The district will do a thorough search for the records requested and determine whether they are public records as provided in the Right to Know Law.
3. For records involving programs delegated to or contracted with the district by DEP, the State Conservation Commission or other agency, the district will confer with the State Conservation Commission, DEP or other agency as needed. The district will also confer with district legal counsel as needed (DEP or Department of Agriculture legal counsel (or the county solicitor where appropriate)).
4. The District Open Records Officer reviews, signs, mails and logs response. **A response will be sent within 5 business days of receiving any written request.**
  - The response can be information about how and when the requestor can visit the district to view the records.
  - The response can include information that the requested materials are available upon payment of applicable fees.
  - The response can be a denial of the request in whole or in part; any denials will specify:
    - i. A description of the record requested
    - ii. The specific reasons for the denial, including a citation of supporting legal authority
    - iii. The printed name, title, business address, business phone number, and signature of the open records officer on whose authority the denial is issued
    - iv. Date of the response
    - v. The procedure to appeal the denial
  - The response may be a statement that the Open Records Officer will be taking additional time (not exceeding 30 calendar days) to respond, if one or more of the following reasons applies:
    - i. Removal of confidential proprietary (or otherwise restricted) information
    - ii. Records are at a remote location
    - iii. Specified staffing limitations prevent a timely response
    - iv. Legal review is required
    - v. Requester is not complying with the district's policies, including failure to pay fees
    - vi. The extent or nature of the request precludes a response within the required time period.

**B.** *After (if) the District Open Records Officer responds that some or all of records requested are available:*

1. The Open Records Officer provides access to the records as arranged with the requestor.
2. If records are electronic, Open Records Officer arranges for computer viewing, duplication or the District may respond by notifying the requestor that a record is available through publicly-accessible electronic means such as the District's website, or another agency's website.
3. If the district will make copies, and if copying costs exceed \$100, Open Records Officer collects costs before copying and logs payment; upon delivery of copies, Open Records Officer collects any unpaid fees and logs payment.
4. If the requester fails to retrieve the requested records within 60 days of the districts response the district may dispose of any copies which have not been retrieved and retain any fees paid to date.

### **III. APPEALS**

#### **A. Appealing the District's Response**

The Right to Know Law provides an appeal process through the Office of Open Records. Here is a summary of that process:

1. You have the right to appeal the District's denial of request for Public Records.

**a) Appeals may be submitted in writing to:**

Office of Open Records  
Commonwealth Keystone Building  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, Pennsylvania 17101-2234

If you choose to dispute the District's denial and file an appeal, **you must do so within 15 business days of the mailing date of the District's response or the date that the request was deemed denied** and send to the Office of Open Records (OOR):

- 1) A copy of the RTK request
- 2) A copy of the Agency's response
- 3) A written statement explaining the grounds on which the requestor asserts that the record is a public record
- 4) A written statement addressing any grounds stated by the Agency for denying the request

**b) Appeals may also be submitted via fax (717-425-5343)**

**c) You also have the right to appeal this response through an online form or by email.**

You can access the OOR website page "How to File an Appeal" by going to:

<http://www.openrecords.pa.gov/Appeals/HowToFile.cfm>

2. Appeal Process. Unless the requestor agrees otherwise to the timing, the appeals officer will make a final determination within 30 calendar days of the date the dispute letter is mailed. Prior to issuing its determination, the appeals officer may, at its discretion, conduct a hearing. The appeals officer will provide a written explanation of the reason for the decision to the requester and the District. If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied.



## Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. 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. Use additional sheets if necessary. 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.*

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**DO YOU WANT COPIES?**  Yes, electronic copies preferred if available  
 Yes, printed copies preferred  
 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.

**Appendix B**

**Right to Know Law Record Request  
Schedule of Fees**

**Fee Structure**

Section 1307 of the Right-To-Know law requires the Office of Open Records to establish a fee structure for Commonwealth Agencies and Local Agencies. To promote uniformity among all agencies, the Office of Open Records encourages Judicial and Legislative agencies, which can set their own fees, to adopt the following fee structure. All agencies are advised that duplication fees can be waived.

The Office of Open Records establishes the following fee structure in accordance with the law.

**Fee Structure**

<b>Record Type</b>	<b>Fee</b>
<b>Copies:</b> ( A “photocopy” is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5” x 11” page )	<b>25 cents per page</b> as per LCCD Board motion on December 3, 2008.
<b>Certification of a Record:</b>	\$1 per record, not per page. Please note that certification fees do not include notarization fees.
<b>Specialized documents :</b> For example, but not limited to, blue prints, color copies, non-standard sized documents	Actual Cost
<b>Facsimile/Microfiche/Other Media:</b>	Actual Cost
<b>Redaction Fee:</b>	No Redaction Fee May be Imposed
<b>Conversion to Paper:</b>	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. (Sec. 1307(e)).
<b>Postage Fees:</b>	Fees for Postage May Not Exceed the Actual Cost of Mailing

**Please Also Be Advised:**

- **Statutory Fees:** 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. Police departments have the authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). Philadelphia police 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).
- **Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. 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, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by this Act. 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. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and 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.** Please submit any request to the  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg , PA. 17101-2234
- **Fee Limitations:** Except as otherwise provided by statute, the law 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, legislative record or financial record subject to access in accordance with this Act. 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.
- **Prepayment:** Prior to granting a request for access in accordance with this Act, 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 the request is fulfilled and prepared for release, the Office of Open Records recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.