

RESOLUTION #284
JEFFERSON TOWNSHIP, BUTLER COUNTY PENNSYLVANIA
RIGHT-TO-KNOW POLICY FOR PUBLIC RECORDS

I. Introduction

Jefferson Township (the “Township”), Butler County, Pennsylvania, is a body corporate and politic, being a second class township, governed by the Second Class Township Code, 53 P.S. § 65101 et seq. As such, the Township is local agency for purposes of the Pennsylvania Right to Know Law, Act 3 of 2008 (the “Right to Know Law”).

All local agencies shall provide public records in accordance with the Right-to-Know Law. Therefore, any record in the possession of the Township shall be presumed to be a public record, except in the following circumstances:

- (a) The record is exempt under section 708 of the Right-to-Know Law;
- (b) The record is protected by the attorney-work product doctrine, the attorney-client privilege, or other privilege recognized by the laws of the Commonwealth of Pennsylvania (i.e., statute or case law); or
- (c) The record is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree.

Records are broadly defined under the Right-to-Know Law. 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. Requests for public records can be made by any person who is a legal resident of the United States, including resident aliens. Requests to the Township can also be made by other local agencies, Commonwealth agencies (e.g., The Department of the Auditor General or the Treasury Department), judicial agencies (i.e., the courts), or legislative agencies (e.g., the Senate and House of Representatives).

II. Access and Procedure

Requesters may make oral requests for access to records. However, if the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, the request for access to records must be a written request. A written request for access to records may be submitted in person, by mail, by e-mail, or by facsimile.

The Township has designated the township secretary/treasurer Lois Fennell to act as the Open-Records Officer (“Officer”). The Officer’s contact information is set forth below:

Jefferson Township
157 Great Belt Road
Butler, PA 16002-9026
phone: (724) 352-2324
fax: (724) 352-8850
jefftwpbutlerpa@zoominternet.net

Questions regarding this policy may be directed to the Officer at the telephone or e-mail address listed above.

All written requests must be addressed to the Officer. In the event that a written request for records is addressed to a Township employee other than the Officer, the Township employee is hereby directed to promptly forward such requests to the Officer. Requests for records must be in writing on the required form and directed to the Open Records Officer.

Written requests should identify or describe the record sought with sufficient specificity to enable the Township to ascertain which records are being requested. Unless otherwise required by law, a written request need not include any explanation of the requester's reason for requesting the records or the intended use of such records. A form which may be used to file a request is attached hereto and posted on the Township's internet website at <http://jeffersonbutler.com/images/Righttoknowrequestform.pdf>. The Township shall assign a tracking number to each filed form so as to track the Township's progress in responding to requests under the Right-to-Know Law. Requests must identify the medium in which the record is requested. Requests must include a name and address to which the Township may address its response.

Prior to granting a request for access in accordance with the Right-to-Know Law, the Township may require a requester to prepay an estimate of the fees authorized by law if the fees required to fulfill the request are expected to exceed \$100.00. The fees must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities. Except 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. A list of fees shall be posted and provided to each requester.

In all circumstances, the requester must agree to pay applicable fees authorized by the Right-to-Know Law, such as (but not limited to) postage (not to exceed actual cost of mailing), duplication and certification. **All applicable fees shall be paid before a requester receives access to the record(s) 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. **In other words, the Township shall not be required to create a record which does not currently exist or to otherwise compile, maintain, format or organize a record in a manner in which it does not currently compile, maintain, format or organize such record.** The Township 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.

Upon receipt of a written request for a public record, the Officer shall do the following:

- (a) Note the date of the receipt on the written request;
- (b) Compute the day on which the five business day period (see discussion of response, below) will expire, and make a notation of that date on the written request; and

- (c) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

III. Township's Response

1. Upon receipt of a written request for access to a record, the Township shall make a good faith effort to determine if the record requested is a public record and whether the Township has possession, custody or control of the identified record.
2. The Township shall respond to requests within 5 business days of receipt of the request by the Open Records Officer.
3. If the Township does not respond to a request within 5 business days of receipt of a written request, the request shall be deemed denied.
4. The Open Records Officer shall determine as to each written request:
 - a. Whether redaction of records is required;
 - b. Whether access requires retrieval of records stored in a remote location;
 - c. Whether timely response is not possible due to staffing limitations;
 - d. Whether legal review is necessary to determine whether the record is accessible;
 - e. Whether the requestor has complied with the Township's policies regarding access to records;
 - f. Whether the requestor refuses to pay applicable fees;
 - g. Whether the extent or nature of the request precludes a response within the required time period.
5. If one of the above factors applies, the Open Records Officer shall send written notice to the requestor within 5 business days of receipt of the request which includes:
 - a. Statement that the request is being reviewed;
 - b. The reason for the review;
 - c. A reasonable date that a response is expected to be provided;
 - d. Estimate of applicable fees.

6. If the date a response is expected under section 4 above is greater than 30 days after the 5 business days allowed for the initial response, the request shall be deemed denied unless the requester agrees in writing to an extension to the date specified in the notice.
7. If the requester agrees to an extension as provided in section 5 above, the request shall be deemed denied on the day following the date specified in the notice if no response is provided by that date.

For purposes of this policy, the “mailing date” shall be the date affixed to a: (1) response from the Officer to a request, which is to be the date the response is deposited in the U.S. mail; (2) final determination from the Officer, which is to be the date the final determination is deposited in the U.S. mail.

IV. Denial

1. A denial of a request, in whole, or in part, shall include:
 - a. A description of the record requested;
 - b. The specific reasons for the denial, including citation of supporting legal authority;
 - c. The typed or printed name, title, business address, business telephone number and signature of the Open Records Officer on whose Township the denial is issued;
 - d. Date of the response;
 - e. The procedure for appeal.

V. Appeal of Township’s Determination

1. If a request is denied or deemed denied, the requester may file an appeal with the Office of Open Records within 15 business days of the mailing date of the Township’s response or within 15 business days of a deemed denial.
2. The appeal must state the grounds on which the requester asserts that the record is a public record and shall address any grounds stated by the Township for delaying or denying the request.
3. The address for the Office of Open Records is:

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
717-346-9903

The Office of Open Records has established an internet website with information relating to the Right-to-Know Law, including information on fees, advisory opinions and decisions, plus the name and address of all Open-Records Officers in the Commonwealth of Pennsylvania. For information on the Office of Open Records, please go to openrecords.state.pa.us. (Please note: among other matters, the Office of Open Records shall establish fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, and other means of duplication.)

VI. Notification to Third Parties

1. If the Township produces a record that is not a public record in response to a request, the Open Records Officer shall notify any third party that provided the record to the Township, the person that is the subject of the record, and the requestor.
2. The Open Records Officer shall notify a third party of a record request if the requested record contains a trade secret or confidential proprietary information.

VI. Retention of Records

By adoption of Resolution #_285_, the Township publicly declared its intention to follow the Municipal Records Act, 53 Pa. C.S.A. § 1381 et seq., with respect to the retention and disposition of public records. Nothing in the Right-to-Know Law shall be construed to modify, rescind or supercede the Township's lawfully adopted record retention and disposition policy. Moreover, nothing in the Right-to-Know Law shall be construed to require access to any computer of the Township, or that of an individual or employee of the Township.

Adopted this ____ day of _____, 2009 by the Jefferson Township Board of Supervisors.

Secretary

Chairman