

SOUTHWESTERN PENNSYLVANIA COMMISSION

RIGHT TO KNOW LAW POLICY

INTENT

The Right to Know Law, 65 P.S. §67.101 et seq. (RTKL) establishes the provision of access to public information held by Commonwealth, Local, Legislative, and Judicial agencies, as those terms are defined by the RTKL. It is likely that the Southwestern Pennsylvania Commission (SPC) falls within the definition of a “Local Agency” under the RTKL and is therefore, subject to the RTKL rules concerning public access to records. This policy hereby sets forth the guidelines, process and procedures with respect to responses by SPC to requests made for access to SPC’s records.

PUBLIC RECORDS FOR THE PURPOSE OF THIS POLICY

Public Records Generally

SPC shall generally presume that its records are “public records” subject to disclosure under this Policy unless they fall into the following categories:

- 1) any record that would be exempted from disclosure by a Local Agency in accordance with 6.5 P.S. §67.708;
- 2) any record that is protected by the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege, or any other privilege recognized by a court interpreting the laws of Pennsylvania.
- 3) any record that is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.

REQUESTS FOR PUBLIC RECORDS

Requests for public records may be oral or written.

The requester’s intended use of the record(s) is a private matter. No SPC employee or representative shall require an explanation of the use of the record(s) requested.

Oral Requests

While oral requests may be fulfilled by SPC, SPC’s Open Records Officer shall authorize access to public records requested orally on a case-by-case basis. Requesters shall be informed by SPC that they may only pursue relief remedies provided under the RTKL if their request for records is submitted in writing.

Written Requests

In order to be covered by the RTKL, a written request should satisfy the following requirements:

Right to Know Law Policy

1. It is addressed to SPC's Open Records Officer at:

SPC Open Records Officer, Vincent Massaro
Southwestern Pennsylvania Commission
425 Sixth Avenue, Suite 2500
Pittsburgh, PA 15219
PHONE: 412-391-5590
FAX: 412-391-9160
EMAIL: openrecords@spcregion.org

2. It identifies the name and address for SPC to direct its response; and
3. Be sufficiently specific to enable SPC to ascertain which records are being requested. The requester may include a telephone number or email address to facilitate clarification of requests, if necessary.

Forms

Requests for SPC public records may be made using SPC's form. SPC will also accept the form available at the website of the Office of Open Records at www.openrecords.state.pa.us.

SPC shall post this information along with its Records Request Form, copy of this Policy and a link to the Commonwealth of Pennsylvania Office of Open Records on its website: <http://www.spcregion.org/>

RESPONSES

Unless a longer period of time is needed and communicated to the requester by an "interim response" as defined below, SPC shall respond to a public record request within five (5) business days of receiving it. Otherwise, the written request shall be deemed to be denied. For purposes of determining the end of the five (5) business day period, the day that a record request is received is not counted. The first day of the five (5) business day period is SPC's next business day. Further, if prepayment of fees is necessary to process the request and such fees are estimated to exceed \$100, SPC may require prepayment of the fee prior to fulfilling the request. The time period for response shall be tolled from the time SPC demands payment until such time as payment is actually received.

The SPC Open Records Officer may respond by providing a requester with access to inspect a record electronically or as otherwise maintained by SPC, either:

- 1) by providing access in the offices of SPC;
- 2) by sending a copy to the requester via email or United States mail; or
- 3) by notifying the requester that the record is available through publicly accessible electronic means.

Each of these options is considered a "response" to a record request under this Policy. In addition, SPC may respond with written notice to the requester granting, denying or partially granting and partially denying access to a record. SPC may send written notices to requesters by United States mail, by hand (in person or by delivery service), by facsimile or, by email.

Interim Responses

The SPC Open Records Officer may provide the requester written notice that additional time beyond the 5-day response period will be required to respond to the request if certain requirements are satisfied. That notice is referred to as an "interim response."

The Open Records Officer may send an interim response if any of the following apply:

1. The request requires redaction of a public record;
2. The request requires retrieval of a record from a remote location;
3. A response within the five (5) business day period cannot be accomplished due to bona fide staffing limitations, which shall be specified in the interim response;
4. A legal review is necessary to determine whether the record requested is a public record that is subject to public disclosure under the RTKL;
5. The requester has not complied with SPC's policies regarding access to public records;
6. The requester has not complied with SPC's demand for prepayment of fees required to fulfill the record request, which are estimated to exceed \$100; or
7. The extent or nature of the request precludes a response within the required time period.

An interim response shall:

1. be sent to the requester on or before the last day of the five (5) business day period;
2. state that the request is being reviewed and the reason for the review;
3. give an estimate of applicable fees owed when the record becomes available; and
4. state a reasonable date that a response is expected to be provided. This date shall not be more than thirty (30) calendar days from the end of the five (5) business day period.

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 deemed to be a denial.

If a written request is denied in whole or in part, SPC will issue a final written response that will include a description of the record requested, an explanation of the specific reasons for the denial, the date of the response, the typed name, title, address, telephone number and signature of the SPC Open Records Officer, and the procedure to appeal a denial under the RTKL, including citations of supporting legal authority.

PRODUCTION OF CERTAIN RECORDS

SPC shall notify a third party of a request for a record if the third party provided the record and included a written statement that the record contains a trade secret or confidential proprietary information. The SPC shall provide such notice to the third party within five (5) days of the SPC's receipt of the request. The third party shall have five (5) days from such notice to provide input for the release of the record. The SPC shall deny release of the record, or release the record within ten (10) days of its notice to the third party and shall notify the third party of its decision in writing.

DOCUMENTATION

Upon receiving a request for an SPC record, the SPC Open Records Officer shall:

1. Note the date of receipt of the request;
2. Compute the day on which the 5-day response period will expire and notate the same on the written request; and
3. Maintain an electronic or paper copy of the request, including all documents submitted with the request until the request has been fulfilled. If denied the written request shall be maintained for thirty (30) days.

REDACTION

SPC will redact from a record that is not otherwise exempt from disclosure, those portions that would not qualify as public records under the RTKL in accordance with 65 P.S. §67.706. SPC will redact the portions of such records that are not public records and produce the portions that are public records. SPC may not deny access to a record if the information that is not subject to access is able to be redacted. Redacted information shall be deemed a denial of a request to disclose such information.

ACCESS TO PUBLIC RECORDS

The regular business hours of SPC Office for the acceptance of public access requests are 8:30 a.m. to 4:30 p.m. Eastern Time, Monday through Friday. Any record request received by SPC after the close of regular business hours, on a weekend, a state or federal holiday, or any closure of Allegheny County or Commonwealth Offices shall be deemed to have been received by that office on the following business day.

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

SPC has the discretion to determine the room(s) within its offices that will be used to provide a requester with access to public records. The selection of room(s) for access to SPC's public records is a matter within the discretion of the SPC Open Records Officer.

SPC 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, SPC is not required to convert that public record to another medium, except that if the public record is only available in an electronic form, SPC must print it out on paper if the requester so requests.

SPC will provide identifiable and existing public records; however, SPC 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 SPC does not currently do so.

If a requester fails to pick up requested records that have been duplicated for the requester, SPC may dispose of the copies after sixty (60) days and is not required to send reminder letters. Any fees paid to date by the requester will be retained by SPC, in accordance with 65 P.S. §67.705.

DUPLICATION OF PUBLIC RECORDS

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

FEES

No fees for the examination of public records on site will apply. All applicable fees described below must be paid in order to receive access to the record requested.

Charges for duplication and delivery of public records are as follows:

Paper Copies

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" or 8.5" x 14" page.

The first ten pages of black-and-white paper copies shall be free of charge. Additional paper copies will be \$.10 per page.

Color copies will be \$0.25 per page for all pages.

Scanned pages will be \$0.25 per page for all pages.

If mailing is requested, the actual cost of postage will be charged.

Electronic Copies

CDs, if requested by the requestor or deemed necessary by SPC to respond, will be \$1.00 each.

If records exist in electronic form, requests for electronic records will be accommodated. Electronic files can be copied to a CD at a cost of \$1 per request. Certain files, dependent upon size, may be emailed as an attachment free of charge. If the requester is unwilling or unable to access the record electronically, the requester may, within thirty (30) days following receipt of SPC's notification, submit a written request to SPC to have the record converted to paper. SPC shall provide access to the record in printed form within five (5) days of the receipt of the written request for conversion to paper.

Requests for records in electronic form must indicate the format required.

Records that do not exist in electronic format will not be created to satisfy a request. SPC is not required to convert that public record to another medium, except that if the public record is *only* available in an electronic form, SPC must print it out on paper if the requester so requests.

Faxes

Fax copies will be available at the cost of \$.50 per page, plus any toll charges. This per page rate shall apply to all pages faxed, including one cover page. No document faxed shall be, in any part, free of charge.

Certification

If document certification is requested, an additional charge of \$2 per document will be added.

Prepayment

If the estimated fees that are required to fulfill the record request exceed \$100, SPC will require 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 SPC. 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, SPC is not is not required to produce the records requested. If the requester refuses to pay the applicable fee, the request will be deemed denied and subject to the applicable appeal procedures outlined in this Policy.

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 fifteen (15) business days of the denial or deemed denial, whether in whole or in part. The appeal must state the grounds upon which the requester asserts that the record is public and should address any grounds stated by the SPC in delaying or denying the request.

EFFECTIVE DATE

This policy is effective immediately.



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425 Sixth Avenue, Suite 2500
Pittsburgh, PA 15219-1852
Telephone: 412.391.5590
Fax: 412.391.9160
www.spcregion.org

RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR:

STREET ADDRESS:

CITY/STATE/COUNTY/ZIP (Required):

TELEPHONE (Optional):

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

FOR LOCAL AGENCY USE

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.)
Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*