

Everything you need to know about the Right to Know in Pennsylvania.

Government accountability is a keystone of our society. We're blessed with the right to know how and where our tax dollars are being spent, and what government bodies are doing and talking about, which is not true in some less-free societies. One way that the state of Pennsylvania achieves government accountability is through its "Right to Know" process.

The Right to Know process is a way in which someone can request documents from any state or local government agency. Imagine you want to know what is in your children's curriculum, to see if it matches your own values. Or perhaps you want to know who the state has hired for a state-funded employee training, to see if you think your tax money is being well spent. These are things you can find out with a Right to Know request.

This document will explain what a Right to Know request is, what you can and can't do with them, how to file one, how to appeal one if it's denied, and some potential roadblocks you might encounter.

Note to the reader: although Pennsylvania is a Commonwealth, not a state, we will use the word "state" in place of "Commonwealth" for this article for the sake of readability.

What is a Right to Know Request?

A Right to Know request is a request for information from a state or local government body in Pennsylvania. You are allowed to request any kind of information, and aside from a list of exceptions, the government body receiving the request must provide the information requested. They may not deny your request based upon what they think you intend to do with the information.

There are some reasons for which agencies are allowed to deny your request. They are as follows:

- The record is exempt under section 708 (a list of possible exemptions, see appendix)
- The record is protected by a privilege (such as attorney-client privilege)
- The record is exempt under another federal or state law

Aside from those exceptions, you can request whatever you want. If exempted content can be redacted, then the agency must still fulfill your request.

It is free to file a Right to Know request, but an agency may bill you for the costs of fulfilling the request.

Agencies are not allowed to ask the reason for your Right to Know request, and you're not required to disclose it, either.

Any legal US resident can file a request, and many other entities that enjoy legal "personhood", such as corporations, can as well.

What Might I Want to Know?

Clearly, everyone's situation is going to be different. Since FAIR is committed to promoting pro-human values in our social institutions, against unfairness toward people because of their immutable characteristics, and for open discourse, here are some examples that might help someone achieve those ends:

- School curriculum documents
- Budgets for diversity, equality/equity, and inclusion programs
- The nature of diversity, equality/equity, and inclusion programs
- Documents related to hiring practices and policies

Although those are only a few examples, you might find that what you're looking for is something else.

How Do I File a Request?

The first step to filing a Right to Know request is to find the correct agency. Each state and local government agency has an Open Records Officer, and you will need to identify which one to ask. For a school district, you can often go to their website and find a "Right to Know" section with relevant information. For other government agencies, a search online is usually enough to find out where to send your request. One helpful resource the state has established is a list of commonly misdirected requests that you can find [here](#).

Once you've identified the Open Records Officer who can help you, you'll need to fill in a [Right to Know request form](#). The form in that link is the standard Pennsylvania form, which can be used at any agency in the state, but some agencies may have their own forms. It's worth checking with the agency you're requesting from if they have their own form, because it may make it easier for them to process your request.

Forms can be filled out on a computer in PDF format, or printed out and filled in by hand.

Here's an example of a filled in standard Right to Know request:



Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: [your school district here] (Attn: AORO)

Date of Request: July 28th, 2021 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Jane Jameson Company (if applicable):

Mailing Address: 221B Baker St.

City: Anytown State: PA Zip: 156XX Email: janejames@email.com

Telephone: 412-123-4567 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. 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. Use additional pages if necessary.*

Curriculum documents with language related to "white privilege" or "systemic oppression"
Lesson plans with language related to "affinity groups" based on race or gender

DO YOU WANT COPIES? ☒ Yes, printed copies (default if none are checked)

☐ Yes, electronic copies preferred if available

☐ 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.

The first thing you can see is the agency name. This will be the name of the agency you identify when you find out which Open Records Officer to send your request to. Then, fill in the date of

request and select which means of communication you're using to submit it. The name, address, phone number, and contact information section is much like many other forms you've filled out. Then, you can select how you'd like to be contacted by the agency if they have questions. When selecting how to communicate, bear in mind that if you think you'll need paper records of all communications, you can choose U.S. Mail. However, that will slow the process significantly.

In the "Records Requested" section, you need to specify what you actually want to know. Being specific and detailed here is key. The example here may not even be specific enough. Perhaps for the curriculum documents, the requester could have specified the grade level of the students. Just think about it this way: if you were the Open Records Officer, what would make your job easier? That's the key to requesting records well.

Here's a quote from the state's own guide to filing a Right to Know request that can help you formulate your request:

Don't ask questions. The RTKL is designed to provide access to records; it does not require agencies to answer questions. For example, do not submit a RTK request saying, "Why didn't my street get plowed until a day after the latest snow storm?" A better RTK request would be, "I'm seeking records regarding the snowplowing schedule in this municipality. If possible, specific records related to the snowplowing schedule for Main Street would be ideal."

Below the "Records Requested" box are some options. You can choose if you want copies, or if you just want to see the records in person.

You can also ask for certified copies, which are copies of documents that, during a trial, would not need a witness to verify that they are true and correct copies of agency documents. Certified copies may incur fees, so it will be up to your unique situation to decide whether they're necessary.

Finally, you can ask for notification if the fees associated with a request will exceed either \$100, or an amount you specify.

Once you've filled out your form, you should send it to the relevant Open Records Officer through the medium you specified on the form.

It's good to keep a copy of the request for yourself, too. Without a copy of your own, you won't be able to appeal the request if it's denied.

Once it's submitted, an agency has five business days to respond to the request. During those five business days, the agency may notify the requester if the request will take more than five business days to fulfill. In such a case, they have 30 days from the end of the 5-day period to respond. If they say it will take longer than 30 days, and you don't agree to the estimated date they give you, the request will be deemed denied. That is, it will be denied by default.

If your request isn't denied, you'll receive the information you requested, and you may be asked to pay fees related to processing the request. You can see details of the fee structure [here](#).

What if my Request is Denied?

If your request is denied, the first step is to find out if the denial of the request was for a legitimate reason. If you think it wasn't denied for a legitimate reason, based on the Right to Know Law, you must submit an appeal to the Appeals Officer for Right to Know requests within 15 business days of the mailing date of the agency's denial. Requests must be sent to:

Office of Open Records
Commonwealth Keystone Building
400 North St.,
Harrisburg, PA 17120-0225.

Fax: 717-425-5343

Email: openrecords@pa.gov (Word or PDF attachments only)

Appeals must be in writing, may be submitted using the [Office of Open Records Appeals Form](#) online, and must include these things, or it will be dismissed.

- A copy of the Right to Know request
- A copy of the agency's denial letter
- The specific reason you believe the record is public
- The specific reason that the agency's grounds for denial are incorrect

A final determination must be issued within 30 calendar days.

Now, once you have your final determination, you do have one more option if you're not satisfied. You can submit it for judicial review. That's beyond the scope of this guide, but if you want to do that, you have 30 more calendar days to make the petition.

What Else Might Go Wrong?

While the tools an agency that's determined to deny a Right to Know request might use are endless, here are two examples of roadblocks put in the place of Right to Know requests that agencies didn't want to fulfill:

One example is in Rhode Island, where [a teacher's union is suing a mother for repeated requests related to school curriculum](#). They're doing so on the grounds that the requested records, emails to and from a teacher, are protected by personal privacy. We're not here to pass judgement on any party in the case, but making repeated requests for the same information is discouraged. Since this mother ultimately has no control over what the records

office does, it might have helped her accomplish her goals if she opted not to submit repeated requests.

Another is from Michigan, where [a request for documents mentioning Critical Race Theory from a school district was met with the district saying the fees to process it would add up to \\$400,000](#). The district later brought the cost down to \$2,200. The reader might assume that this was done by people who were in favor of CRT to frustrate people who weren't. That may be true, but we're not in the minds of these people, so we don't know. One more concrete reason was that the request was overly broad and ended up being related to about 2,000 individual emails. The requester could have avoided this problem by creating a more specific request.

Additional Notes

An agency may deny repeated requests for the same records from the same requester.

Requests should not be used to harass or overburden agencies.

Conclusion

Now you know all about how to make a Pennsylvania Right to Know request! This tool can help you keep the government accountable and promote pro-human, anti-discrimination values in your community.

Appendix: Section 708 Exemptions

The following is a list of the kinds of exemptions that may make a record ineligible for request under the Right to Know Law.

Section 708. Exceptions for public records.

(a) Burden of proof.--

(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.

(2) The burden of proving that a legislative record is exempt from public access shall be on the legislative agency receiving a request by a preponderance of the evidence.

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(3) The burden of proving that a financial record of a judicial agency is exempt from public access shall be on the judicial agency receiving a request by a preponderance of the evidence.

(b) Exceptions.--Except as provided in subsections (c) and (d), the following are exempt from access by a requester under this act:

(1) A record, the disclosure of which:

(i) would result in the loss of Federal or State funds by an agency or the Commonwealth; or

(ii) would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.

(2) A record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that, if disclosed, would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.

(3) A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system, which may include:

- (i) documents or data relating to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act;
 - (ii) lists of infrastructure, resources and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security and response needs assessments; and
 - (iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems.
- (4) A record regarding computer hardware, software and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.
- (5) A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

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- (6) (i) The following personal identification information:
- (A) A record containing all or part of a person's Social Security number, driver's license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number.
 - (B) A spouse's name, marital status or beneficiary or dependent information.
 - (C) The home address of a law enforcement officer or judge.

(ii) Nothing in this paragraph shall preclude the release of the name, position, salary, actual compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or an agency employee.

(iii) An agency may redact the name or other identifying information relating to an individual performing an undercover or covert law enforcement activity from a record.

(7) The following records relating to an agency employee:

(i) A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.

(ii) A performance rating or review.

(iii) The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.

(iv) The employment application of an individual who is not hired by the agency.

(v) Workplace support services program information.

(vi) Written criticisms of an employee.

(vii) Grievance material, including documents related to discrimination or sexual harassment.

(viii) Information regarding discipline, demotion or discharge contained in a personnel file. This subparagraph shall not apply to the final action of an agency that results in demotion or discharge.

(ix) An academic transcript.

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(8) (i) A record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. This subparagraph shall not apply to a final

or executed contract or agreement between the parties in a collective bargaining procedure.

(ii) In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, an exhibit entered into evidence at an arbitration proceeding, a transcript of the arbitration or the opinion. This subparagraph shall not apply to the final award or order of the arbitrator in a dispute or grievance procedure.

(9) The draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by or for an agency.

(10) (i) A record that reflects:

(A) The internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.

(B) The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.

(ii) Subparagraph (i)(A) shall apply to agencies subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) in a manner consistent with 65 Pa.C.S. Ch. 7. A record which is not otherwise exempt from access under this act and which is presented to a quorum for deliberation in accordance with 65 Pa.C.S. Ch. 7 shall be a public record.

(iii) This paragraph shall not apply to a written or Internet application or other document that has been submitted to request Commonwealth funds.

(iv) This paragraph shall not apply to the results of public opinion surveys, polls, focus groups, marketing research or similar effort designed to measure public opinion.

(11) A record that constitutes or reveals a trade secret or confidential proprietary information.

(12) Notes and working papers prepared by or for a public official or agency employee used solely for that official's or employee's own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.

(13) Records that would disclose the identity of an individual who lawfully makes a donation to an agency unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the agency, including lists of potential donors compiled by an agency to pursue donations, donor profile information or personal identifying information relating to a donor.

(14) Unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material and scholarly correspondence of a community college

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or an institution of the State System of Higher Education or a faculty member, staff employee, guest speaker or student thereof.

(15) (i) Academic transcripts.

(ii) Examinations, examination questions, scoring keys or answers to examinations.

This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.

(16) A record of an agency relating to or resulting in a criminal investigation, including:

(i) Complaints of potential criminal conduct other than a private criminal complaint.

(ii) Investigative materials, notes, correspondence, videos and reports.

(iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.

(iv) A record that includes information made confidential by law or court order.

(v) Victim information, including any information that would jeopardize the safety of the victim.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

(B) Deprive a person of the right to a fair trial or an impartial adjudication.

(C) Impair the ability to locate a defendant or codefendant.

(D) Hinder an agency's ability to secure an arrest, prosecution or conviction.

(E) Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b) (relating to accident prevention investigations).

(17) A record of an agency relating to a noncriminal investigation, including:

(i) Complaints submitted to an agency.

(ii) Investigative materials, notes, correspondence and reports.

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(iii) A record that includes the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.

(iv) A record that includes information made confidential by law.

(v) Work papers underlying an audit.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.

(B) Deprive a person of the right to an impartial adjudication.

(C) Constitute an unwarranted invasion of privacy.

(D) Hinder an agency's ability to secure an administrative or civil sanction.

(E) Endanger the life or physical safety of an individual.

(18) (i) Records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings.

(ii) This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

(19) DNA and RNA records.

(20) An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.

(21) (i) Draft minutes of any meeting of an agency until the next regularly scheduled meeting of the agency.

(ii) Minutes of an executive session and any record of discussions held in executive session.

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(22) (i) The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by an agency relative to the following:

(A) The leasing, acquiring or disposing of real property or an interest in real property.

(B) The purchase of public supplies or equipment included in the real estate transaction.

(C) Construction projects.

(ii) This paragraph shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.

(23) Library and archive circulation and order records of an identifiable individual or groups of individuals.

(24) Library archived and museum materials, or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.

(25) A record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.

(26) A proposal pertaining to agency procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes and other records of agency proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).

(27) A record or information relating to a communication between an agency and its insurance carrier, administrative service organization or risk management office. This paragraph shall not apply to a contract with an insurance carrier, administrative service organization or risk management office or to financial records relating to the provision of insurance.

(28) A record or information:

(i) identifying an individual who applies for or receives social services; or

(ii) relating to the following:

(A) the type of social services received by an individual;

(B) an individual's application to receive social services, including a record or information related to an agency decision to grant, deny, reduce or restrict benefits, including a quasi-judicial decision of the agency and the identity of a caregiver or others who provide services to the individual; or

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(C) eligibility to receive social services, including the individual's income, assets, physical or mental health, age, disability, family circumstances or record of abuse.

(29) Correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or

constituent services. This paragraph shall not apply to correspondence between a member of the General Assembly and a principal or lobbyist under 65 Pa.C.S. Ch. 13A (relating to lobbying disclosure).

(30) A record identifying the name, home address or date of birth of a child 17 years of age or younger.

(c) Financial records.--The exceptions set forth in subsection (b) shall not apply to financial records, except that an agency may redact that portion of a financial record protected under subsection (b)(1), (2), (3), (4), (5), (6), (16) or (17). An agency shall not disclose the identity of an individual performing an undercover or covert law enforcement activity.

(d) Aggregated data.--The exceptions set forth in subsection (b) shall not apply to aggregated data maintained or received by an agency, except for data protected under subsection (b)(1), (2), (3), (4) or (5).

(e) Construction.--In determining whether a record is exempt from access under this section, an agency shall consider and apply each exemption separately