FORTY FORT BOROUGH

REQUESTING INFORMATION UNDER THE RIGHT-TO-KNOW LAW

To request records under Pennsylvania's Right-to-Know Law, you may file a request with this Agency's Open Records Officer:

Bonnie Arnone
Forty Fort Borough
1271 Wyoming Ave., Forty Fort, PA 18704
570-287-8586 Ext. 124
barnone@fortyfort.org
fortyfort.org

Alternate RTK Officer:

Michele Pascarella
Forty Fort Borough
1271 Wyoming Ave., Forty Fort, PA 18704
570-287-8586 Ext. 133
boroughsecretary@fortyfort.org
fortyfort.org

To challenge this Agency's response to a RTKL request, you may file an appeal within 15 business days with:

Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 346-9903
Fax: (717) 425-5343
Email: openrecords@pa.gov
Website: http://openrecords.pa.gov

To challenge this Agency's response to a RTKL request for criminal investigative records, you may file an appeal within 15 business days with:

Luzerne County District Attorney
200 N. River St., Wilkes-Barre, PA 18711
570-825-1674
Luzernecounty.org

In compliance with Section 504 of the RTKL, the following documents have also been posted at this Agency:

A form which may be used to file a request.

FORTY FORT BOROUGH

RIGHT-T0-KNOW POLICY

Requests for public records from Forty Fort Borough under the Right-to-Know Law, as amended, 65 P.S. §§ 67.101 et seq, are subject to the following guidelines:

A. Requests

1. Requests for information under the Right-to-Know Law must be submitted in writing to the designated Agency Open Records Officer or Alternate Open Records Officer. A request may be delivered in person or via letter, facsimile or electronic mail. Verbal or oral requests will not be accepted.

2. Each request must include the name of the requestor and the address to which the response will be delivered. The request should identify or describe the records sought with sufficient specificity to enable Forty Fort Borough to ascertain which records are being requested.

3. The Open Records Officer may ask the requestor the reason for the request or the intended use of the records in order to help identify the records of actual relevance to the requestor. Forty Fort Borough cannot insist that such a statement be provided, nor can it use the lack of such a statement as a reason for denying the request.

B. Submittal of Right-to-Know Requests

Here is the link to the Right-to-Know Request Form.

1. All requests to Forty Fort Borough under the Right-to-Know Law may be submitted in writing to:

Bonnie Arnone,Agency Open Records Officer
Forty Fort Borough
1217 Wyoming Ave.
Forty Fort, PA 18704
barnone@fortyfort.org

Requests may be delivered in person to the address listed above or sent by regular mail. They also may be submitted via electronic mail to barnone@fortyfort.org.

2. If a request is delivered to someone other than the Open Records Officer, it shall be forwarded to the Open Records Officer in a reasonable time. The 5-business day period for a response to the request begins once the designated right-to-know officer receives the request.

C. Forty Fort Borough's Duty to Provide a Prompt response to a Right-to-Know Request

1. Upon receipt of a written request, Forty Fort Borough will make a good faith effort to determine if the requested record is a public record and to respond as promptly as possible under the circumstances existing at the time of the request. This time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer.

2. Forty Fort Borough may inform the requestor of the need for additional time to comply with a specific request, in accordance with provisions of the Act. Such an extension may not exceed thirty (30) calendar days unless agreed to by the requestor. If Forty Fort Borough fails to make a timely final response pursuant to the extension, the request is denied. The Open Records Officer shall send written notice to the requestor within five (5) business days of the need for an extension. The notice shall include a statement notifying the requestor that the request is expected to be provided, and an estimate of applicable fees owed when the record becomes available.

D. Processing of Right-to-Know Requests

1. Upon receiving a written Right-to-Know request, the Open Records Officer shall complete the following tasks:

   1. Date the request.

   2. Compute the day on which the 5-business-day period will expire and make a notation of that date on the request.

   3. Make an electronic or paper copy of the request, including documents submitted with it and the envelope (if any) in which it came.

   4. Create an official file for the retention of the original request.

2. For purposes of determining the 5-business-day period:

   (a) A business day shall be any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of the agency are closed for all or part of a day due to a state holiday, or severe weather (such as a blizzard or ice storm), or natural or other disaster, or at the request or direction of local, state or federal law enforcement agencies or officials.

   (b) Requests may be submitted during regular business hours, which are 8:30 a.m. to 4:30 p.m. Requests received after 4:30 p.m. will be deemed to have been received on the following business day.

   (c) For purposes of determining the end of the 5-business-day period, the day that a request is received (or deemed to be received) is not counted: the first day of the 5-business-day period is the agency's next business day.

E. Initial Review by the Right-to-Know Official

1. Upon receiving a Right-to-Know request, the Open Records Officer shall promptly review it. The purpose of this review is to determine the following:

   (a) Whether the request possesses an obvious defect that permits it to be rejected without consideration. Such defects include the following:

      i. The documents sought by the requestor are not identified with sufficient particularity.

      ii The identified records unquestionably fall outside either of the two parts of the Act's general definition of "public records."

      iii. The identified records unquestionably fall within one of the Act's statutory exemptions under 65 P.S. § 67.708 to the definition of "public records."

iv. The Open Records Officer has personal knowledge that the identified records do not exist.

v. The Open Records Officer has personal knowledge that the identified records are not in the possession or control of the agency.

vi. Whether the request can be granted without further consideration. For example, if the Open Records Officer knows that the requested documents exist and are public records and that they are immediately accessible, no further analysis is necessary.

vii. Whether the request implicates a right protected by the Pennsylvania or U.S. Constitution, including but not limited to, the constitutional right of privacy. If the Open Records Officer concludes that the request implicates such a right, he shall consult with counsel regarding the balancing of the requestor's interest in access to the records versus the constitutionally protected interests.

2. In conducting this initial review, the Open Records Officer may contact (or attempt to contact) the requestor in order to obtain clarification or additional information.

3. If the Open Records Officer determines that the request should be refused for any of the grounds set forth in (A) above, he shall immediately draft a proposed refusal letter. This draft should set forth each and every ground that the right-to-know official believes is a proper ground for refusal.

F. Responses, In General

1. The act of providing a requestor with physical access to a document in the offices of the agency is a "response" for purposes of the Right-to-Know Law.

2. A record will be provided, whenever available, in the medium requested by the requestor (i.e. an electronic file if the information is already available in this form.) A record does not have to be converted to a media other than that in which it is maintained.

3. A requestor may either view original records by making an appointment during regular business hours with the Open Records Officer, or may request written copies, which will be provided for a fee as established by the Office of Open Records. **(Fees are listed under section J.)**

4. Forty Fort Borough will not create a public record that does not already exist, nor will it compile, maintain, format, or organize a public record in a manner in which the agency does not currently do so.

G. Responses

1. Types of Responses

(a) The request is granted.

(b) The Agency notifies the requestor of the need for a 30 day extension.

(b) The request is refused in its entirety.

(c) The request is partially granted.

2. Deemed denials. The failure to make a timely response is deemed a denial.

3. Final responses granting requests.

   (a) A written request for a record will be granted if the record requested is within the statutory definition of a "public record."

   (b) Written responses granting requests may be provided in any format (mail, facsimile, electronic mail, etc.) permitted by law.

4. Final responses that deny requests, either in whole or in part.

   (a) A response that denies a request must list the entire specific reasons relied on for denying the request.

   (b) If a request is denied all or in part, the response must also contain a notice informing the requestor of his or her right to file an appeal with the Office of Open Records.

   (c) Any final response that sets forth a denial, whether in whole or in part, must contain the following:

      i. The name, title, business address, business telephone number and signature of the public official or employee on whose authority the denial is issued.

      ii. The words "Mailing Date" followed by the date that is the mailing date of the response.

      iii. A statement of the procedure that the requestor may follow in order to file an appeal contesting the denial.

   (d) Grounds for a denial. A written request for access to, or a copy of, a record may be denied if any of the following circumstances exists:

      i. The requestor has not identified any of the requested records with sufficient specificity.

      ii. The record does not exist.

      iii. The requestor has not prepaid the costs of fulfilling the request, if the anticipated costs would exceed $100.

      iv. The record in question does not satisfy the Act's general definition of "public record."

      v. The record in question falls within one or more of the Act's statutory exceptions of the definition of "public record." 65 P.S. §67.708.

      vi. The request constitutes a disruptive request pursuant to the 65 P.S. §67.506(a) or the request is not able to be granted due to disaster or potential damage pursuant to 65 P.S. §67.506(b).

H. Redaction

A. Redaction means the eradication of a portion of a document while retaining the remainder. Redaction must be performed in such a way as to prevent the requestor from having access to the redacted information.

B. If it is determined that a public record contains information subject to access, as well as information not subject to access, the Right-to-Know Law requires that

the response must grant access to the information subject to access, but deny access to the information not subject to access.

I. Appeals

1. Right to file an appeal.

(a) An appeal to a denial must be filed with the Office of Open Records, Harrisburg, PA within 15 business days of the mailing of the written denial.

(b) An appeal to a deemed denial must be filed with the Office of Open Records within 15 calendar days of the date of the request is deemed denied.

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225
Phone: 717.346.9903
Fax: 717.425.5343
E-mail: openrecords@state.pa.us

J. Fees

All fees charged will be in accordance with the fee structure established by the Office of Open Records (http://openrecords.state.pa.us).