

NORTH EAST BOROUGH

RIGHT-TO-KNOW POLICY

Requests for public records from North East Borough of Pennsylvania under the Right-to-Know Law, as amended, 65 P.S. §§ 67.101 et seq, (“Law”) 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. 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 North East 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 only in order to help identify the records of actual relevance to the requestor. North East 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

- a. All requests to North East Borough under the Right-to-Know Law will be submitted in writing to:

Agency Open Records Officer
North East Borough
31 W. Main St.
North East, PA 16428

- b. Requests may be delivered in person to the address listed above or sent by regular mail. They also may be submitted via facsimile to: 814-725-4996 or via electronic mail to righttoknow@northeastborough.com.
- c. 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.
- d. The Open Records Officer will inform the requestor of receipt of the request, including the date the request was deemed received.

C. North East Borough's Duty to Provide a Prompt response to a Right-to-Know Request

1. Upon receipt of a written request, North East 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. If North East Borough fails to make a timely final response, the request is deemed denied.
2. North East Borough may inform the requestor of the need for additional time to comply with a specific request, in accordance with provisions of the Law. Such an extension may not exceed thirty (30) calendar days unless agreed to by the requestor. If North East 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:
 - (a) Date-stamp the request.
 - (b) Compute the day on which the 5-business-day period will expire and make a notation of that date on the first page of the request.
 - (c) Make an electronic or paper copy of the request, including documents submitted with it and the envelope (if any) in which it came.
 - (d) 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 8:00 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 denied 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 denied 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. The fee can be waived at the discretion of the Open Records Officer. **(Fees are listed under section J.)**
4. North East 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 request is denied 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 in whole 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.
 - 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

1. 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.
2. 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.
3. The Borough Solicitor, or designee, before delivery of the response, will review any response that includes information that must be redacted.

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

1. All fees charged will be in accordance with the fee structure established by the Office of Open Records.
2. If a written request for records is granted in whole or in part, the following fees will be charged to the requester:
 - (a) Photocopy - either a single sided copy or one side of a double-sided black and white copy of a standard 8.5"x11" page - \$0.25 per page
 - (b) Certification of a public record - legal verification of a public record performed at the behest of the requester, does not include notarization - \$5.00 per record to certify

- (c) Copying records onto electronic media - Actual Cost
- (d) Specialized Documents - non-standard sized documents including but not limited to blue prints or color copies - Actual Cost
- (e) Postage - Actual Cost to the Borough of North East of mailing the record
- (f) Facsimile/Microfiche/Other Media - Actual Cost

3. Prepayment of Fees

- (a) Estimated Cost Exceeds \$100 – In the event the estimated cost of fulfilling a request submitted under this Part is expected to exceed \$100, the Open Records Officer shall obtain payment of 50% of the expected cost in advance of fulfilling (copying) the request to avoid unwarranted expense of Borough of North East resources.
- (b) Prior to Release – The Borough may obtain the cost of the records prior to releasing the records.

4. Additional Fee Considerations

- (a) Redaction - A fee to redact documents may not be charged. If a requester wishes to inspect rather than receive a copy of a record and the records contains both public and non-public information, the Borough shall redact the non-public information and shall charge for copies, in accordance with the above fee schedule, it must make of the redacted material in order for the requester to view the public record. Should the requester choose to obtain copies of the redacted documents after reviewing the records, no additional fee may be charged.
- (b) Statutory Fees – If a separate statute authorizes the Borough to charge a set amount for a certain type of record, the Borough may charge no more than that statutory amount.
- (c) Conversion to Paper – If a record is only maintained electronically or in other non-paper media, duplication fee 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 media.

5. All costs must be paid by cash, check, or money order payable to the “Borough of North East”.