Open Records Policy– City of Philadelphia

Effective January 1, 2009
Last updated on February 4, 2020

The City of Philadelphia has adopted a policy to comply with the Commonwealth’s Act 3 of 2008, 65 P.S. §§ 67.101 et seq., commonly known as the “Right to Know Law.” With certain exceptions, members of the public have the right to inspect and/or copy such records upon request.

1. Definitions


b. **Business day.** Monday through Friday during regular business hours\(^1\), except those days when the City, the main office of the Law Department, or the office, department, board or commission to which a request is submitted (hereinafter any one of which a “City Agency”) is closed. For the purpose of this Open Records Policy, City Agencies are closed when any of the following apply: (a) the City, the Law Department, or the particular City Agency operates on an “essential services only” basis; (b) the City, the main office of the Law Department, or the particular City Agency is closed for four or more hours during regular business hours; or (c) the City, the main office of the Law Department, or the particular City Agency closes for any portion of regular business hours on an emergency basis.

c. **Public Record.** Any document that satisfies the general definition of “public record” set forth in the Law and does not fall within any of the exceptions set forth therein, as the definition and exceptions are amended from time to time and as the definition and exceptions are interpreted by state, federal and/or local courts.

d. **Open Records Officer.** Any official or employee of the City of Philadelphia who is officially assigned responsibility for receiving, tracking and responding to requests for information under the Right to Know Law. The City of Philadelphia may designate a Deputy or Secondary Open Records Officer to act in the absence of an Open Records Officer.

e. **Requester.** A person who requests a record under the Right to Know Law.

f. **State Office of Open Records.** The State Office, under the Department of Economic and Community Development, as explained in §1310 of the Right to Know Law. The Office of Open Records shall be responsible for many duties, which include (but are not limited to): issuing advisory opinions, training agencies and public employees, assigning appeals officers to review decisions and conducting a biannual review of fees allowed under the Law.

\(^1\) 8:30AM-5:00PM.
2. Open Records Officer

Please see below for the Open Records Officer specific to each City Agency. Should no Officer be listed, the request should be directed to the Officer for the City of Philadelphia Law Department (Office of the City Solicitor). Please indicate the City Agency the request is seeking records from. Please note that some independently elected officials, including the District Attorney’s Office and City Controller’s Office, may have their own separate and distinct policies. You should consult their respective websites for information specific to their offices, including information concerning their respective Open Records Officers.

Direction of Specific Requests:

• The City of Philadelphia Law Department represents the City of Philadelphia\(^2\) on all Right to Know matters. Requests from lawyers or law firms must be directed to the Open Records Officer for the City of Philadelphia Law Department and should indicate the Office, Department, Board and/or Commission the request is seeking records from.

• Requests for Police Incident Reports must be directed to the Open Records Officer for the City of Philadelphia Department of Records.

The current list of Officers can be found below:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Officer &amp; Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mayor’s Office</td>
<td>Kathleen Lonie&lt;br&gt;Room 204 City Hall&lt;br&gt;Philadelphia, PA 19107&lt;br&gt;(215) 686-0338 (phone)&lt;br&gt;(215) 686-2555 (fax)&lt;br&gt;<a href="mailto:kathleen.lonie@phila.gov">kathleen.lonie@phila.gov</a></td>
</tr>
<tr>
<td>City Council</td>
<td>Mary McDaniel, Esq.&lt;br&gt;City Council Technical Staff&lt;br&gt;Room 576 City Hall&lt;br&gt;Philadelphia, PA 19107&lt;br&gt;(215) 686-1945&lt;br&gt;(215) 686-1941 (fax)&lt;br&gt;<a href="mailto:mary.mcdaniel@phila.gov">mary.mcdaniel@phila.gov</a></td>
</tr>
</tbody>
</table>

\(^2\) Please be advised that the Law Department is not authorized to accept Right to Know Requests on behalf of the Philadelphia District Attorney. The Office of the District Attorney maintains a separate Open Records Policy and requests for that office should be directed to the Open Records Officer for the Office of the District Attorney.
Office of the Controller

Nicole McCormac
Office of the Controller
1401 JFK Blvd, 12th Floor
Philadelphia, PA 19102
(215) 686-6159 (phone)
(215) 686-3823 (fax)
Nicole.McCormac@phila.gov

Office of the City Commissioners Officer

Nick Custodio
Deputy Commissioner
Office of Commissioner Deeley;
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Director of Communications
Philadelphia Historical Commission
Division of Housing and Community Development
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3. Procedure

The Law requires that the City of Philadelphia act upon each non-anonymous written request when such request is made in person, by mail, by facsimile or by e-mail. The Law does not require that the City of Philadelphia act upon an oral request, and the City of Philadelphia shall refuse to accept oral requests. Furthermore, the Law does not require that the City of Philadelphia act upon an anonymous request, and the City of Philadelphia will refuse to honor an anonymous request.

Pursuant to the Law, the State Office of Open Records has created and published on its website a standard statewide form which must be accepted by the City of Philadelphia for the filing of a request. (http://openrecords.state.pa.us/portal/server.pt). Effective February 1, 2012, the City of Philadelphia will require the standard statewide form be used for the submission of Right to Know requests, and will not consider a request to be a written request pursuant to the Right to Know Law unless the request is submitted on or with the standard statewide form. Beginning February 1, 2012, the City of Philadelphia will consider any request not submitted on or with the standard statewide form to be an informal request not subject to the Right to Know Law.³ If a requester submits a request on or with the standard statewide form after submitting an informal request for the same (or similar) records, the City of Philadelphia will consider the informal request to have been withdrawn. The City of Philadelphia reserves the right, at its sole discretion, to require a written request pursuant to the Right to Know Law before releasing records. A copy of the standard statewide form appears at the end of this policy.

The Law sets forth various specifications for the contents of a written request. To qualify as a written request under the Right to Know Law and the City of Philadelphia Open Records Policy the request must (a) be directed to the appropriate Open Records Officer designated above, (b) be submitted on or with the standard statewide form (beginning February 1, 2012), and (c) contain, at a minimum, the following information:

i. name of requester;

ii. address of requester; and

iii. records being sought, identified or described with sufficient specificity to allow the City of Philadelphia to ascertain which records are being requested.

³ The City of Philadelphia reserves the right, at its sole discretion, to use the Right to Know Law as guidance in responding to informal requests for records and/or information.
Under the Law, the City of Philadelphia has a duty to make a good faith effort to determine if the record(s) requested 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 request is received by the agency’s Open Records Officer. The Law provides that either a final or interim response be provided to the requester within five (5) business days from the date of receipt by the agency. If the agency fails to respond within this five (5) day time period, the Open Records Request is deemed denied.

The Law and the City of Philadelphia’s policy contemplates that requesters will receive a response within five (5) business days. The Law, however, does provide the City of Philadelphia with specific reasons that may be invoked to receive a single extension of time which shall not exceed thirty (30) calendar days. If an extension is invoked and no response is provided to the requester within the thirty (30) day time period, the Open Records Request is deemed denied. Additionally, should the City of Philadelphia notify the requester it needs more than the maximum thirty (30) day extension, the request is deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

The City of Philadelphia’s final response to a request will do one of the following:

i. grant the request;
ii. deny the request;
iii. grant the request in part and deny the request in part; or
iv. grant the request and redact part of the information provided pursuant to the Law and/or other applicable federal, state and local law.

4. Appeals of Denied Requests

If a request for access to a record is denied (in whole or in part) or deemed denied, the requester may file an appeal as follows within fifteen (15) business days of the mailing date of the City of Philadelphia’s denial as follows:

Records Other Than Criminal Investigative Records

Appeals of denials related to requests for records other than criminal investigative records must be directed to the Pennsylvania Office of Open Records at the following address: Commonwealth of Pennsylvania, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225.
Criminal Investigative Records

Appeals of denials related to requests for criminal investigative records must be directed to the Philadelphia District Attorney’s Office within fifteen (15) business days of the mailing date of the City of Philadelphia’s denial. Appeals to the Philadelphia District Attorney’s Office should be directed to the following address: District Attorney’s Office, Civil Litigation Unit, Open Records Appeals Officer, Three South Penn Square, Philadelphia, PA 19107-3499.

For All Administrative Appeals

Unless the requester agrees otherwise, the Appeals Officer shall make a final determination which shall be mailed to the requester and the City of Philadelphia within thirty (30) days of receipt of the appeal. Should the Appeals Officer fail to issue a ruling within thirty (30) days, the appeal is deemed denied.

Before a final determination is issued, a hearing may be held. The determination by the Appeals Officer shall be a final order. The Appeals Officer shall provide a written explanation of the reasons for the decision to the requester and the City of Philadelphia.

Within thirty (30) days of the mailing date of the final determination of the Appeals Officer, a requester or the City of Philadelphia may file a petition for review or other document(s) as required by rule of court with the Philadelphia Court of Common Pleas.

5. Fees and Charges

Fees for duplication of records have been established and posted by the State Office of Open Records. The City of Philadelphia will charge fees consistent with the State Office of Open Records regulations.

The City of Philadelphia reserves the right to impose additional fees if it incurs costs for complying with a request, pursuant to the Right to Know Law; such additional fees, when charged, must be reasonable. This includes, but is not limited to, fees for enhanced electronic access and certified copies of documents.

6. Written Policies and Regulations

The City of Philadelphia and each Open Records Officer shall retain the discretion and authority to adopt any other written policies that are consistent with the Right to Know Law, and these policies, as amended from time to time, that they deem to be necessary or prudent, consistent with the Right to Know Law.
ATTACHMENT
STANDARD RIGHT TO KNOW REQUEST FOR
Standard Right-to-Know Law Request Form

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

SUBMITTED TO AGENCY NAME: ___________________________________________________________(Attn: AORO)

Date of Request: __________________________ Submitted via: □ Email □ U.S. Mail □ Fax □ In Person

PERSON MAKING REQUEST:

Name: ___________________________________________ Company (if applicable): ________________________________

Mailing Address: __________________________________________________________________________________________

City: __________________________ State: ______ Zip: __________ Email: ____________________________________________

Telephone: __________________________ 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. Use additional sheets if necessary. 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.

___________________________________________________________________________________________________________________________

___________________________________________________________________________________________________________________________

___________________________________________________________________________________________________________________________

___________________________________________________________________________________________________________________________

___________________________________________________________________________________________________________________________

DO YOU WANT COPIES? □ Yes, electronic copies preferred if available
□ Yes, printed copies preferred
□ 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 Requestor: $___________

□ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: In most cases, a completed RTKL request form is a public record.

Form updated Nov. 27, 2018

More information about the RTKL is available at https://www.openrecords.pa.gov