
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1

Session of
2007

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EICHELBERGER, MARCH 29, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
DECEMBER 10, 2007

AN ACT

1 Providing for access to public information, for a designated
2 open-records officer in each Commonwealth agency, local
3 agency, judicial agency and legislative agency, for
4 procedure, for appeal of agency determination, for judicial
5 review and for an ~~Open Records Clearinghouse~~ THE PENNSYLVANIA <—
6 PUBLIC RECORDS OFFICE; imposing penalties; providing for
7 reporting by State-related institutions; requiring the
8 posting of certain State contract information on the
9 Internet; and making related repeals.

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3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 CHAPTER 1

6 PRELIMINARY PROVISIONS

7 Section 101. Short title.

8 This act shall be known and may be cited as the Right-to-Know
9 Law.

10 Section 102. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Administrative proceeding." A proceeding by an agency the
15 outcome of which is required to be based on a record or
16 documentation prescribed by law or in which a statute or
17 regulation is particularized in application to individuals. The
18 term includes an appeal.

19 "Agency." A Commonwealth agency, a local agency, a judicial
20 agency or a legislative agency.

21 "Aggregated data." A tabulation of data which relate to
22 broad classes, groups or categories so that it is not possible
23 to distinguish the properties of individuals within those
24 classes, groups or categories.

25 ~~"Appeals officer." As follows:~~ <—

26 ~~(1) For a Commonwealth agency or a local agency, the~~
27 ~~appeals officer designated under section 503(a).~~

28 ~~(2) For a judicial agency, the individual designated~~
29 ~~under section 503(b).~~

30 ~~(3) For a legislative agency, the individual designated~~

1 ~~under section 503(c).~~

2 ~~"Clearinghouse." The Open Records Clearinghouse established~~
3 ~~pursuant to the provisions of section 1310.~~

4 "Commonwealth agency." Any of the following:

5 (1) Any office, department, authority, board, multistate
6 agency or commission of the executive branch; an independent
7 agency; and a State-affiliated entity. The term includes:

8 (i) The Governor's Office.

9 (ii) The Office of Attorney General, the Department
10 of the Auditor General and the Treasury Department.

11 (iii) An organization established by the
12 Constitution of Pennsylvania, a statute or an executive
13 order which performs or is intended to perform an
14 essential governmental function.

15 (2) The term does not include a judicial or legislative
16 agency.

17 "Confidential proprietary information." Commercial or
18 financial information received by an agency:

19 (1) which is privileged or confidential; and

20 (2) the disclosure of which would cause substantial harm
21 to the competitive position of the person that submitted the
22 information.

23 "Financial record." Includes:

24 (1) Any account, voucher or contract dealing with:

25 (i) the receipt or disbursement of funds by an
26 agency; or

27 (ii) an agency's acquisition, use or disposal of
28 services, supplies, materials, equipment or property.

29 (2) The salary or other payments or expenses paid to an
30 officer or employee of an agency, including the name and

1 title of the officer or employee.

2 (3) Results of a financial audit.

3 (4) APPLICATION AND DATABASE COMPILATION OR LOG OF
4 APPLICATIONS BY POLITICAL SUBDIVISIONS, NONPROFIT
5 ORGANIZATIONS, OTHER ENTITIES AND INDIVIDUALS FOR THE RECEIPT
6 OF STATE-FUNDED GRANTS AWARDED ON A DISCRETIONARY BASIS BY A
7 COMMONWEALTH AGENCY, INCLUDING LEGISLATIVE INITIATIVE GRANTS,
8 REGARDLESS OF WHETHER THE APPLICANT RECEIVES THE GRANT FOR
9 WHICH IT HAS APPLIED. FOR PURPOSES OF THIS PARAGRAPH,
10 FINANCIAL RECORD SHALL INCLUDE INFORMATION REGARDING:

11 (I) WHERE APPLICABLE, THE APPLICATION SEQUENCE
12 NUMBER;

13 (II) THE DATE THE APPLICATION WAS RECEIVED BY THE
14 COMMONWEALTH AGENCY;

15 (III) THE APPLICANT NAME AND CONTACT PERSON;

16 (IV) THE PROJECT DESCRIPTION;

17 (V) THE PROJECT LOCATION;

18 (VI) THE AMOUNT OF FUNDING REQUESTED;

19 (VII) ANY NOTATIONS AS TO WHETHER THE APPLICATION
20 WAS COMPLETE AND CONSISTENT WITH PROGRAM GUIDELINES;

21 (VIII) WHETHER OR NOT THE COMMONWEALTH AGENCY HAD
22 APPROVED THE APPLICATION;

23 (IX) WHERE APPLICABLE, THE AMOUNT OF THE GRANT
24 AWARDED;

25 (X) WHERE APPLICABLE, THE DATE ON WHICH THE
26 COMMONWEALTH AGENCY NOTIFIED THE APPLICANT THAT IT
27 APPROVED THE APPLICATION;

28 (XI) IN THE CASE OF A LEGISLATIVE INITIATIVE GRANT,
29 THE NAME OF ANY MEMBER OF THE GENERAL ASSEMBLY WHO
30 RECOMMENDS THE GRANTEE; AND

1 (XII) ANY OTHER RELEVANT INFORMATION THAT QUALIFIES
2 AS A PUBLIC RECORD OR FINANCIAL RECORD UNDER THIS ACT.

3 "Homeland security." Governmental actions designed to
4 prevent, detect, respond to and recover from acts of terrorism,
5 major disasters and other emergencies, whether natural or
6 manmade. The term includes activities relating to the following:

7 (1) emergency preparedness and response, including
8 preparedness and response activities by volunteer medical,
9 police, emergency management, hazardous materials and fire
10 personnel;

11 (2) intelligence activities;

12 (3) critical infrastructure protection;

13 (4) border security;

14 (5) ground, aviation and maritime transportation
15 security;

16 (6) biodefense;

17 (7) detection of nuclear and radiological materials; and

18 (8) research on next-generation securities technologies.

19 "Independent agency." Any board, commission or other agency
20 or officer of the Commonwealth, that is not subject to the
21 policy supervision and control of the Governor. The term does
22 not include a legislative or judicial agency.

23 "Judicial agency." A court of the Commonwealth or any other
24 entity or office of the unified judicial system.

25 "Legislative agency." Any of the following:

26 (1) The Senate.

27 (1.1) POLITICAL PARTY CAUCUSES OF THE SENATE. <—

28 (2) The House of Representatives.

29 (2.1) POLITICAL PARTY CAUCUSES OF THE HOUSE OF
30 REPRESENTATIVES. <—

- 1 (3) The Capitol Preservation Committee.
- 2 (4) The Center for Rural Pennsylvania.
- 3 (5) The Joint Legislative Air and Water Pollution
- 4 Control and Conservation Committee.
- 5 (6) The Joint State Government Commission.
- 6 (7) The Legislative Budget and Finance Committee.
- 7 (8) The Legislative Data Processing Committee.
- 8 (9) The Independent Regulatory Review Commission.
- 9 (10) The Legislative Reference Bureau.
- 10 (11) The Local Government Commission.
- 11 (12) The Pennsylvania Commission on Sentencing.
- 12 (13) The Legislative Reapportionment Commission.

13 "LEGISLATIVE INITIATIVE GRANT." A GRANT THAT IS AWARDED, IN <—
14 WHOLE OR IN PART, ON THE BASIS OF A RECOMMENDATION MADE BY OR ON
15 BEHALF OF A MEMBER OF THE GENERAL ASSEMBLY.

16 "Legislative record." ~~Includes the following information~~ ANY <—
17 OF THE FOLLOWING relating to a legislative agency ~~or standing~~ <—
18 committee:

- 19 (1) A financial record.
- 20 (2) A bill or resolution that has been introduced and
- 21 amendments offered thereto in committee or in legislative
- 22 session, including resolutions to adopt or amend the rules of
- 23 a chamber.
- 24 (3) Fiscal notes.
- 25 (4) A cosponsorship memorandum.
- 26 (5) The journal of a chamber.
- 27 (6) The minutes of, record of attendance of members at A <—
28 PUBLIC HEARING OR A PUBLIC COMMITTEE MEETING and all recorded
29 votes taken in a public committee meeting.
- 30 (7) The transcript of a public hearing when available.

1 (8) Executive nomination calendars.

2 (9) The rules of a chamber.

3 (10) A record of all recorded votes taken in a
4 legislative session.

5 (11) Any administrative staff manuals or written
6 policies.

7 (12) An audit prepared pursuant to the act of June 30,
8 1970 (P.L.442, No.151) entitled, "An act implementing the
9 provisions of Article VIII, section 10 of the Constitution of
10 Pennsylvania, by designating the Commonwealth officers who
11 shall be charged with the function of auditing the financial
12 transactions after the occurrence thereof of the Legislative
13 and Judicial branches of the government of the Commonwealth,
14 establishing a Legislative Audit Advisory Commission, and
15 imposing certain powers and duties on such commission."

16 (13) Final or annual reports required by law to be
17 submitted to the General Assembly.

18 (14) Legislative Budget and Finance Committee reports.

19 (15) Daily Legislative Session Calendars and marked
20 calendars.

21 (16) A record communicating to an agency the official
22 appointment of a legislative appointee.

23 (17) A record communicating to the appointing authority
24 the resignation of a legislative appointee.

25 (18) PROPOSED REGULATIONS, FINAL-FORM REGULATIONS AND
26 FINAL-OMITTED REGULATIONS SUBMITTED TO A LEGISLATIVE AGENCY.

27 (19) THE RESULTS OF POLLING CONTRACTED FOR OR CONDUCTED
28 BY A LEGISLATIVE AGENCY AND PAID FOR WITH FUNDS OF THE
29 LEGISLATIVE AGENCY.

30 "Local agency." Any of the following:

1 (1) Any political subdivision, intermediate unit,
2 charter school or public trade or vocational school.

3 (2) Any local, intergovernmental, regional or municipal
4 agency, authority, council, board, commission or similar
5 governmental entity.

6 "Personal financial information." An individual's personal
7 credit, charge or debit card information; bank account
8 information; bank, credit or financial statements; account or
9 PIN numbers and other information relating to an individual's
10 personal finances.

11 "Privilege." The attorney-work product doctrine, the
12 attorney-client privilege, the doctor-patient privilege or other
13 privilege recognized by a court interpreting the laws of this
14 Commonwealth.

15 "Public record." A record of a Commonwealth or local agency
16 that:

17 (1) is not exempt under section 708;

18 (2) is not exempt from being disclosed under any other
19 Federal or State law or regulation or judicial order or
20 decree; or

21 (3) is not protected by a privilege.

22 "Record." Information, regardless of physical form or
23 characteristics, that documents a transaction or activity of an
24 agency and that is created, received or retained pursuant to law
25 or in connection with a LEGAL transaction, business or activity
26 of the agency. The term includes a document, paper, letter, map, ←
27 book, tape, photograph, film or sound recording, information
28 stored or maintained electronically and a data-processed or
29 image-processed document. The term includes a financial record,
30 a legislative record and a public record.

1 "RECORDS OFFICE." THE PENNSYLVANIA PUBLIC RECORDS OFFICE <—
2 ESTABLISHED UNDER SECTION 1310.

3 "Requester." A person that is a resident of the United
4 States OR A LEGAL ENTITY and requests a record pursuant to this <—
5 act. The term includes a political subdivision.

6 "Response." Access to a record or an agency's written notice
7 TO A REQUESTER granting, denying or partially granting and <—
8 partially denying access to a record.

9 "Social services." Cash assistance and other welfare
10 benefits, medical, mental and other health care services, drug
11 and alcohol treatment, adoption services, vocational and
12 occupational training, education services, counseling services,
13 workers' compensation services and unemployment compensation
14 services, foster care services and services for victims of
15 crimes.

16 "State-affiliated entity." A Commonwealth authority or
17 Commonwealth entity. The term includes THE PENNSYLVANIA GAMING <—
18 CONTROL BOARD, THE PENNSYLVANIA GAME COMMISSION, THE
19 PENNSYLVANIA FISH AND BOAT COMMISSION, the Pennsylvania Higher
20 Education Assistance Agency AND ALL NONPROFIT CORPORATIONS <—
21 ESTABLISHED THEREBY, the Pennsylvania Housing Finance Agency,
22 the Pennsylvania Municipal Retirement Board, the State System of
23 Higher Education, a community college, the Pennsylvania Turnpike
24 Commission, the Pennsylvania Public Utility Commission, the
25 Pennsylvania Infrastructure Investment Authority, the State
26 Public School Building Authority, the Pennsylvania
27 Interscholastic Athletic Association and the Pennsylvania
28 Educational Facilities Authority. The term does not include a
29 State-related institution.

30 "Terrorist act." A violent or life-threatening act that

1 violates the criminal laws of the United States or any state and
2 appears to be intended to:

- 3 (1) intimidate or coerce a civilian population;
- 4 (2) influence the policy of a government; or
- 5 (3) affect the conduct of a government by mass
6 destruction, assassination or kidnapping.

7 "Trade secret." Information, including a formula, drawing,
8 pattern, compilation, including a customer list, program,
9 device, method, technique or process that:

- 10 (1) derives independent economic value, actual or
11 potential, from not being generally known to and not being
12 readily ascertainable by proper means by other persons who
13 can obtain economic value from its disclosure or use; and
- 14 (2) is the subject of efforts that are reasonable under
15 the circumstances to maintain its secrecy.

16 The term includes data processing software obtained by an agency
17 under a licensing agreement prohibiting disclosure.

18 CHAPTER 3

19 REQUIREMENTS AND PROHIBITIONS

20 Section 301. Commonwealth agencies.

21 (a) Requirement.--A Commonwealth agency shall provide public
22 records in accordance with this act.

23 (b) Prohibition.--A Commonwealth agency may not deny a
24 requester access to a public record due to the intended use of
25 the public record by the requester UNLESS OTHERWISE PROVIDED BY <—
26 LAW.

27 Section 302. Local agencies.

28 (a) Requirement.--A local agency shall provide public
29 records in accordance with this act.

30 (b) Prohibition.--A local agency may not deny a requester

1 access to a public record due to the intended use of the public
2 record by the requester UNLESS OTHERWISE PROVIDED BY LAW. <—

3 Section 303. Legislative agencies.

4 (a) Requirement.--A legislative agency shall provide
5 legislative records in accordance with this act.

6 (b) Prohibition.--A legislative agency may not deny a
7 requester access to a legislative record due to the intended use
8 of the legislative record by the requester.

9 Section 304. Judicial agencies.

10 (a) Requirement.--A judicial agency shall provide financial
11 records in accordance with this act or any rule or order of
12 court providing equal or greater access to the records.

13 (b) Prohibition.--A judicial agency may not deny a requester
14 access to a financial record due to the intended use of the
15 financial record by the requester.

16 Section 305. Presumption.

17 (A) GENERAL RULE.--A record in the possession of a <—
18 Commonwealth agency or local agency shall be presumed to be a
19 public record unless:

- 20 (1) the record is exempt under section 708;
21 (2) the record is protected by a privilege; or
22 (3) the record is exempt from disclosure under any other
23 Federal or State law or regulation or judicial order or
24 decree.

25 (B) LEGISLATIVE RECORDS AND FINANCIAL RECORDS.--A <—
26 LEGISLATIVE RECORD IN THE POSSESSION OF A LEGISLATIVE AGENCY AND
27 A FINANCIAL RECORD IN THE POSSESSION OF A JUDICIAL AGENCY SHALL
28 BE PRESUMED TO BE AVAILABLE TO THE PUBLIC UNLESS:

- 29 (1) THE RECORD IS EXEMPT UNDER 708(C) OR (D);
30 (2) THE RECORD IS PROTECTED BY A PRIVILEGE; OR

(3) THE RECORD IS EXEMPT FROM DISCLOSURE UNDER ANY OTHER
FEDERAL OR STATE LAW OR REGULATION OR JUDICIAL ORDER OR
DECREE.

Section 306. Nature of document.

Nothing in this act shall supersede or modify the public or
confidential nature of a record or document established in
Federal or State law, regulation or judicial order or decree.

CHAPTER 5

ACCESS

Section 501. Scope of chapter.

This chapter applies to all agencies.

Section 502. Open-records officer.

(a) Establishment.--

(1) An agency shall designate an official or employee to
act as the open-records officer.

(2) For a legislative agency other than the Senate or
the House of Representatives, OR A POLITICAL PARTY CAUCUS OF
THE SENATE OR THE HOUSE OF REPRESENTATIVES the open-records
officer designated by the Legislative Reference Bureau shall
serve as the open-records officer.

(b) Functions.--

(1) The open-records officer shall receive requests
submitted to the agency under this act, direct requests to
other appropriate persons within the agency or to appropriate
persons in another agency, track the agency's progress in
responding to requests and issue interim and final responses
under this act.

(2) Upon receiving a request for a public record,
legislative record or financial record, the open-records
officer shall do all of the following:

(i) Note the date of receipt on the written request.

(ii) Compute the day on which the five-day period under section 901 will expire and make a notation of that date on the written request.

(iii) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) or the appeal is deemed denied.

(iv) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester and a copy of other communications. This subparagraph shall only apply to Commonwealth agencies.

~~Section 503. Appeals officer.~~

~~(a) Commonwealth agencies and local agencies. Except as provided in subsection (d), the clearinghouse established under section 1310 shall designate an appeals officer under section 1101(a)(2) for all:~~

~~(1) Commonwealth agencies; and~~

~~(2) local agencies.~~

~~(b) Judicial agencies. A judicial agency shall designate an appeals officer to hear appeals under Chapter 11.~~

~~(c) Legislative agencies.~~

~~(1) Except as set forth in paragraph (2), the Legislative Reference Bureau shall designate an appeals officer to hear appeals under Chapter 11 for all legislative agencies.~~

~~(2) Each of the following shall designate an appeals officer to hear appeals under Chapter 11:~~

~~(i) The Senate.~~

~~(ii) The House of Representatives.~~

~~(d) Law enforcement records and Statewide officials.--~~

~~(1) The Attorney General, State Treasurer and Auditor General shall each designate an appeals officer to hear appeals under Chapter 11.~~

~~(2) The district attorney of a county shall designate one or more appeals officers to hear appeals under Chapter 11 relating to access to criminal investigative records in possession of a local law enforcement agency of that county. The appeals officer designated by the district attorney shall determine if the record requested is a criminal investigative record.~~

SECTION 503. (RESERVED).

Section 504. Regulations and policies.

(a) Authority.--An agency may promulgate regulations, rules or policies necessary for the agency to implement this act. The ~~clearinghouse~~ RECORDS OFFICE may promulgate regulations relating to appeals involving a Commonwealth agency, LEGISLATIVE AGENCY or local agency.

(b) Posting.--The following information shall be posted at each agency and, if the agency maintains an Internet website, on the agency's Internet website:

(1) Contact information for the open-records officer.

(2) Contact information for the ~~clearinghouse~~ RECORDS OFFICE or other applicable appeals officer.

(3) A form which may be used to file a request.

(4) Rules, regulations, policies and procedures of the

1 agency relating to this act.

2 Section 505. Uniform form.

3 (a) Commonwealth ~~agencies.~~ ~~The clearinghouse~~ AGENCIES AND <—
4 LEGISLATIVE AGENCIES.--THE RECORDS OFFICE shall develop a
5 uniform form which shall be accepted by all Commonwealth
6 AGENCIES, LEGISLATIVE AGENCIES and local agencies in addition to <—
7 any form used by the agency to file a request under this act.
8 The uniform form shall be published in the Pennsylvania Bulletin
9 and on the ~~clearinghouse's~~ RECORD OFFICE'S Internet website. <—

10 (b) Judicial agencies.--A judicial agency may develop a form
11 to request financial records or may use a form developed by the
12 Administrative Office of Pennsylvania Courts or the
13 ~~clearinghouse.~~ <—

14 ~~(c) Legislative agencies.~~ ~~A legislative agency may develop~~
15 ~~a form to request legislative records or may use the form~~
16 ~~developed by the clearinghouse.~~ RECORDS OFFICE. <—

17 Section 506. Requests.

18 (a) Disruptive requests.--

19 (1) An agency may deny a requester access to a record if
20 the requester has made repeated requests for that same record
21 which requests have placed an unreasonable burden on the
22 agency.

23 (2) A denial under this subsection shall not restrict
24 the ability to request a different record.

25 (b) Disaster or potential damage.--

26 (1) An agency may deny a requester access:

27 (i) when timely access is not possible due to fire,
28 flood or other disaster; or

29 (ii) to historical, ancient or rare documents,
30 records, archives and manuscripts when access may, in the

1 professional judgment of the curator or custodian of
2 records, cause physical damage or irreparable harm to the
3 record.

4 (2) To the extent possible, the contents of a record
5 under this subsection shall be made accessible to a requester
6 even when the record is physically unavailable.

7 (c) Agency discretion.--An agency may exercise its
8 discretion to make any otherwise exempt record accessible for
9 inspection and copying under this chapter, if all of the
10 following apply:

11 (1) Disclosure of the record is not prohibited under any
12 of the following:

13 (i) Federal or State law or regulation.

14 (ii) Judicial order or decree.

15 (2) The record is not protected by a privilege.

16 (3) The agency head determines that the public interest
17 favoring access SUBSTANTIALLY outweighs any individual, <—
18 agency or public interest that may favor restriction of
19 access.

20 (d) Agency possession.--

21 (1) A public record that is not in the possession of an
22 agency but is in the possession of a party with whom the
23 agency has contracted to perform a governmental function ~~for~~ <—
24 ON BEHALF OF the agency, and which directly relates to the <—
25 governmental function and is not exempt under section 305,
26 shall be considered a public record of the agency for
27 purposes of this act.

28 (2) Nothing in this act shall be construed to require
29 access to any other public record of the party in possession <—
30 of the PUBLIC record. <—

1 (3) A request for a public record in possession of a
2 party other than the agency shall be submitted to the open
3 records officer of the agency. ~~THE~~ UPON A DETERMINATION TO <—
4 GRANT THE REQUEST, THE open records officer shall assess the
5 duplication fee established under section 1307(b) and UPON <—
6 COLLECTION SHALL remit the fee to the party in possession of
7 the record if the party duplicated the record.

8 Section 507. Retention of records.

9 Nothing in this act shall be construed to modify, rescind or
10 supersede any record retention disposition schedule of an agency
11 established pursuant to law, regulation, policy or other
12 directive.

13 CHAPTER 7

14 PROCEDURE

15 Section 701. ~~Access to records.~~ <—

16 (a) General rule.--Unless otherwise provided by law, a
17 public record, legislative record or financial record shall be
18 accessible for inspection and duplication in accordance with
19 this act. A record BEING PROVIDED TO A REQUESTER shall be <—
20 provided ~~to a requester~~ in the medium requested if ~~the record~~ IT <—
21 exists in that medium; otherwise, it shall be provided in the
22 medium in which it exists. Public records, legislative records
23 or financial records shall be available for access during the
24 regular business hours of an agency.

25 (A.1) GAMING CONTROL BOARD POLICIES.--ALL INFORMATION <—
26 RELATED TO THE DEVELOPMENT OF GAMING CONTROL BOARD POLICIES,
27 REGULATIONS, PROCEDURES OR ANY OTHER RECOMMENDATIONS REGARDING
28 IMPLEMENTATION OF 4 PA.C.S. § 1212 (RELATING TO DIVERSITY GOALS
29 OF BOARD) OR 1325 (RELATING TO LICENSE OR PERMIT ISSUANCE),
30 INCLUDING, BUT NOT LIMITED TO, ANY DOCUMENTS OR OTHER MATERIALS

1 PREPARED FOR THE USE OF THE BOARD, ITS EMPLOYEES OR INDEPENDENT
2 CONTRACTORS, SHALL BE CONSIDERED A PUBLIC RECORD AND SUBJECT TO
3 DISCLOSURE.

4 (b) Construction.--Nothing in this act shall be construed to
5 require access to ~~the computer~~ ANY COMPUTER EITHER of an agency <—
6 or individual employee of an agency.

7 Section 702. Requests.

8 Agencies may fulfill informal verbal, written or anonymous
9 verbal or written requests for access to records under this act.
10 In the event that the requester wishes to pursue the relief and
11 remedies provided for in this act, the requester must initiate
12 such relief with a written request.

13 Section 703. Written requests.

14 A written request for access to records may be submitted in
15 person, by mail, by e-mail, by facsimile or, to the extent
16 provided by agency rules, any other electronic means. A written
17 request shall be addressed to the agency head or open-records
18 officer designated in PURSUANT TO section 502. A written request <—
19 should identify or describe the records sought with sufficient
20 specificity to enable the agency to ascertain which records are
21 being requested and shall include the name and address to which
22 the agency should address its response. A written request need
23 not include any explanation of the requester's reason for
24 requesting or intended use of the records UNLESS OTHERWISE <—
25 PROVIDED BY LAW.

26 Section 704. Electronic access.

27 (a) General rule.--In addition to the requirements of
28 section 701, an agency may make its records available through
29 any publicly accessible electronic means.

30 (b) Response.--

(1) In addition to the requirements of section 701, an agency may respond to a request by notifying the requester that the record is available through publicly accessible electronic means or that the agency will provide access to inspect the record electronically.

(2) If the requester is unwilling or unable to use the ~~electronic access~~ ACCESS THE RECORD ELECTRONICALLY, the requester may ~~submit a written request to the agency~~, within 30 days following receipt of the agency notification, SUBMIT A WRITTEN REQUEST TO THE AGENCY to have the record converted to paper. The agency shall provide the record in printed form within five days of the receipt of the written request for conversion to paper.

Section 705. Creation of record.

When responding to a request for access, an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.

Section 706. Redaction.

If an agency determines that a public record, legislative record or financial record contains information which is subject to access as well as information which is not subject to access ~~under section 305 or 708~~, the agency's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, the agency shall redact from the record the information which is not subject to access, and the response

1 shall grant access to the information which is subject to
2 access. The agency may not deny access to the record if the
3 information which is not subject to access is able to be
4 redacted. Information which an agency redacts in accordance with
5 this subsection shall be deemed a denial under Chapter 9.

6 Section 707. Production of certain records.

7 (a) General rule.--If, in response to a request, an agency
8 produces a record that is not a public record, legislative
9 record or financial record, the agency shall notify any third
10 party that provided the record to the agency, the person that is
11 the subject of the record and the requester.

12 (b) Requests for trade secrets.--An agency shall notify a
13 third party of a request for a record if the third party
14 provided the record and included a written statement signed by a
15 representative of the third party that the record contains a
16 trade secret or confidential proprietary information.
17 Notification shall be provided within five business days of
18 receipt of the request for the record. The third party shall
19 have five business days from receipt of notification from the
20 agency to provide input on the release of the record. The agency
21 shall deny the request for the record or release the record
22 within ten business days of the provision of notice to the third
23 party and shall notify the third party of the decision.

24 (c) Transcripts.--

25 (1) Prior to an adjudication becoming final, binding and
26 nonappealable, a transcript of an administrative proceeding
27 shall be provided to a requester by the agency stenographer
28 or a court reporter, in accordance with agency procedure or
29 an applicable contract.

30 (2) Following an adjudication becoming final, binding

1 and nonappealable, a transcript of an administrative
2 proceeding shall be provided to a requester in accordance
3 with the duplication rates established in section 1307(b).

4 Section 708. Exceptions for public records.

5 ~~(a) Burden of proof.--The burden of proving that a public~~ <—

6 (A) BURDEN OF PROOF.-- <—

7 (1) THE BURDEN OF PROVING THAT A PUBLIC record is exempt
8 from public access shall be on the ~~Commonwealth or local~~ <—
9 agency receiving a request by a preponderance of the
10 evidence.

11 (2) THE BURDEN OF PROVING THAT A LEGISLATIVE RECORD IS <—
12 EXEMPT FROM PUBLIC ACCESS SHALL BE ON THE LEGISLATIVE AGENCY
13 RECEIVING A REQUEST, BY A PREPONDERANCE OF THE EVIDENCE.

14 (3) THE BURDEN OF PROVING THAT A FINANCIAL RECORD OF A
15 JUDICIAL AGENCY IS EXEMPT FROM PUBLIC ACCESS SHALL BE ON THE
16 JUDICIAL AGENCY RECEIVING A REQUEST, BY A PREPONDERANCE OF
17 THE EVIDENCE.

18 (b) Exceptions.--In the case of a public record, unless
19 disclosure is otherwise required OR AUTHORIZED by law, the <—
20 following are exempt from access by a requester under this act:

21 (1) A record the disclosure of which:

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

24 (ii) would be reasonably likely to result in a
25 substantial and demonstrable risk of physical harm to an
26 individual.

27 (2) A record maintained by an agency in connection with
28 the military, homeland security, national defense, law
29 enforcement or other public safety activity that if disclosed
30 would be reasonably likely to jeopardize or threaten public

1 safety or preparedness or public protection activity or a
2 record that is designated classified by an appropriate
3 Federal or State military authority.

4 (3) A record, the disclosure of which creates a
5 reasonable likelihood of endangering the ~~life~~, safety or the <—
6 physical security of a building, public utility, resource,
7 infrastructure, facility or information storage system, which
8 may include:

9 (i) documents or data relating to computer hardware,
10 source files, software and system networks that could
11 jeopardize computer security by exposing a vulnerability
12 in preventing, protecting against, mitigating or
13 responding to a terrorist act;

14 (ii) lists of infrastructure, resources and
15 significant special events, including those defined by
16 the Federal Government in the National Infrastructure
17 Protections, which are deemed critical due to their
18 nature and which result from risk analysis; threat
19 assessments; consequences assessments; antiterrorism
20 protective measures and plans; counterterrorism measures
21 and plans; and security and response needs assessments;
22 and

23 (iii) building plans or infrastructure records that
24 expose or create vulnerability through disclosure of the
25 location, configuration or security of critical systems,
26 including public utility systems, structural elements,
27 technology, communication, electrical, fire suppression,
28 ventilation, water, wastewater, sewage and gas systems.

29 (4) A record regarding computer hardware, software and
30 networks, including administrative or technical records,

1 which, if disclosed, would be reasonably likely to jeopardize
2 computer security.

3 (5) A record of an individual's medical, psychiatric or
4 psychological history or disability status, including
5 evaluation, consultation, a prescription, diagnosis or
6 treatment; results of tests, including drug tests; enrollment
7 in a health care program or program designed for
8 participation by persons with disabilities, including
9 vocation rehabilitation, workers' compensation and
10 unemployment compensation; or related information that would
11 disclose individually identifiable health information.

12 (6) (i) The following personal identification
13 information:

14 (A) A record containing all or part of an ~~an~~ <—
15 ~~individual's~~ A PERSON'S Social Security number; DATE <—
16 OF BIRTH; driver's license number; personal financial
17 information of an individual; ~~home, cellular or~~ <—
18 ~~personal~~ telephone number NUMBERS; personal e-mail <—
19 ~~address~~ ADDRESSES; employee number; NUMBERS; OR <—
20 other confidential personal identification number <—
21 NUMBERS. <—

22 (B) A spouse's name; marital status, beneficiary
23 or dependent information.

24 ~~(ii) Nothing in this paragraph shall preclude the~~ <—

25 (II) NOTHING IN THIS PARAGRAPH SHALL: <—

26 (A) PREVENT AN AGENCY FROM PROVIDING ACCESS TO
27 THE DATE OF BIRTH OF A DECEASED PERSON FOR
28 GENEALOGICAL PURPOSES.

29 (B) PRECLUDE THE release of the name, position,
30 salary, actual compensation or other payments or

1 expenses, employment contract, employment-related
2 contract or agreement and length of service of a
3 public official or an agency employee.

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

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

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

16 (ii) A performance rating or review.

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

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

27 (v) Workplace support services program information.

28 (vi) Written criticisms of an employee.

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

(viii) (A) Information regarding discipline,
demotion or discharge contained in a personnel file.

(B) This subparagraph shall not apply to the
final action of an agency that results in demotion or
discharge.

(8) (i) A record pertaining to strategy or negotiations
relating to labor relations or collective bargaining or
arbitration ~~award~~ PROCEEDINGS. <—

(II) AN ARBITRATION OPINION AND AWARD, ANY EXHIBITS
ENTERED INTO EVIDENCE AT AN ARBITRATION PROCEEDING AND
ANY TRANSCRIPT OF AN ARBITRATION PROCEEDING.

~~(ii)~~ (III) This paragraph does not apply to any <—
final or executed contract or agreement between the
parties or to any ~~arbitration-award~~ FINAL ORDER IN AN <—
ARBITRATION PROCEEDING.

(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

1 achieve the successful adoption of a budget,
2 legislative proposal or regulation.

3 (ii) This paragraph applies to:

4 (A) The Governor's Office, the head of a
5 Commonwealth agency and the staff of the Governor or
6 agency.

7 (B) The chief executive officer or governing
8 body of a local agency, or a member or staff of the
9 local agency prior to the presentation of the
10 decision, policy, proposal or course of action to a
11 quorum of the governing body AT A MEETING SUBJECT TO <—
12 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

13 (iii) This paragraph does not apply to a written
14 application or other document used to request
15 Commonwealth funds.

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

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

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

1 (14) Unpublished lecture notes, unpublished manuscripts,
2 unpublished articles, creative works in progress, research-
3 related material and scholarly correspondence of a community
4 college or an institution of the State System of Higher
5 Education or a faculty member, staff employee, guest speaker
6 or student thereof.

7 (15) Examination questions, scoring keys or answers to
8 an examination.

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

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

13 (ii) Investigative materials, notes, correspondence, <—
14 VIDEOS and reports.

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

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

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

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

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

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

30 (C) Impair the ability to locate a defendant or

1 codefendant.

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

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

6 This paragraph shall not apply to information contained in a
7 police blotter as defined in 18 Pa.C.S. § 9102 (relating to
8 definitions) or in a traffic report.

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

11 (i) Complaints submitted to an agency.

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

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

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

20 (v) Work papers underlying an audit.

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

23 (A) Reveal the institution, progress or result
24 of an agency investigation, except the imposition of
25 a fine or civil penalty or the suspension,
26 modification or revocation of a license, permit,
27 registration, certification or similar authorization
28 issued by an agency.

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

1 (C) Constitute an unwarranted invasion of
2 privacy.

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

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

7 ~~(18) 911 recordings.~~ <—

8 (18) RECORDS OR PARTS OF RECORDS PERTAINING TO AUDIO <—
9 RECORDINGS, TELEPHONE OR RADIO TRANSMISSIONS RECEIVED BY
10 EMERGENCY DISPATCH PERSONNEL, INCLUDING 911 RECORDINGS.

11 HOWEVER, A TRANSCRIPT OF A RECORDING MAY BE RELEASED WHEN THE
12 AGENCY OR A COURT DETERMINES THAT THE PUBLIC INTEREST IN
13 DISCLOSURE OUTWEIGHS THE INTEREST IN NONDISCLOSURE.

14 (19) DNA records.

15 (20) An autopsy record of a coroner or medical examiner
16 and any audiotape of a postmortem examination or autopsy, or
17 a copy, reproduction or facsimile of AN AUTOPSY REPORT, a <—

18 photograph, negative or print, including a photograph or
19 videotape of the body or any portion of the body of a

20 deceased person at the scene of death or in the course of a
21 postmortem examination or autopsy taken or made by or caused
22 to be taken or made by the coroner or medical examiner. This
23 exception shall not limit the reporting of the name of the

24 deceased individual, ~~the cause of death and whether the death~~ <—

25 ~~was caused by criminal activity or criminal negligence~~ AND <—

26 THE CAUSE AND MANNER OF DEATH TO ALL PERSONS INTERESTED

27 THEREIN in accordance with section 1251 of the act of August
28 9, 1955 (P.L.323, No.130), known as The County Code.

29 (21) ~~Minutes~~ DRAFT MINUTES OF ANY MEETING OF AN AGENCY <—

30 AND MINUTES of an executive session and any record of

1 discussions held in executive session.

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

6 (A) The leasing, acquiring or disposing of real
7 property.

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

10 (C) Construction projects.

11 (ii) This paragraph does not apply once the decision
12 is made to proceed with the lease, acquisition or
13 disposal of real property or the purchase of public
14 supply or construction project.

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

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

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

24 (26) A proposal pertaining to agency procurement or
25 disposal of supplies, services or construction prior to the
26 award of the contract or prior to the opening and rejection
27 of all bids; financial information of a bidder or offeror
28 requested in an invitation for bid or request for proposals
29 to demonstrate the bidder's or offeror's economic capability;
30 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 does 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

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

(III) IDENTIFYING A PERSON THAT REQUESTS ASSISTANCE OR CONSTITUENT SERVICES FROM A MEMBER OF THE GENERAL ASSEMBLY.

(c) Financial records.--~~The~~ WITH RESPECT TO FINANCIAL ←

1 RECORDS, THE exceptions set forth in ~~subsection (b) shall not~~ <—
2 ~~apply to financial records, except for financial records~~
3 ~~protected under subsection (b)(1), (2), (3) or (4), personal~~ <—
4 ~~financial information or individual medical information~~
5 ~~protected under subsection (b)(5), (4) OR (5) SHALL APPLY.~~ <—
6 INFORMATION DESCRIBED IN PARAGRAPH (4) OF THE DEFINITION OF <—
7 "FINANCIAL RECORD" RELATING TO INDIVIDUALS AND PROTECTED UNDER
8 SUBSECTION (B)(28) SHALL ALSO BE EXEMPT FROM ACCESS BY A
9 REQUESTER UNDER THIS ACT. An agency may SHALL redact that <—
10 portion of a financial record which would disclose information
11 protected under subsection (b)(6) or disclose the identity of a
12 crime victim, confidential source or an individual performing an
13 undercover or covert law enforcement activity protected under
14 subsection (b)(16) or (17).

15 (d) Aggregated data.--The exceptions set forth in subsection
16 ~~(b) shall not~~ (B)(1), (2), (3), (4) OR (5) SHALL apply to <—
17 aggregated data, maintained or received by an agency, ~~except for~~ <—
18 ~~data protected under subsection (b)(1), (2), (3) or (4).~~

19 SECTION 709. INTERNET ACCESS. <—

20 THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT SHALL
21 POST ON ITS INTERNET WEBSITE A LIST OF COMMUNITY REVITALIZATION
22 GRANTS BY LEGISLATIVE AND SENATORIAL DISTRICTS.

23 CHAPTER 9

24 AGENCY RESPONSE

25 Section 901. General rule.

26 Upon receipt of a written request for access to a record, an
27 agency shall make a good faith effort to determine if the record
28 requested is a public record, legislative record or financial
29 record and whether the agency has possession, custody or control
30 of the identified record, and to respond as promptly as possible

1 under the circumstances existing at the time of the request. THE <—
2 RESPONSE SHALL INCLUDE A NOTICE OF APPLICABLE FEES. The time for
3 response shall not exceed five business days from the date the
4 written request is received by the agency head or open-records
5 officer for an agency. If the agency fails to send the response
6 within five business days of receipt of the written request for
7 access, the written request for access shall be deemed denied.

8 Section 902. Extension of time.

9 (a) Determination.--Upon receipt of a written request for
10 access, the open-records officer for an agency shall determine
11 if one of the following applies:

12 (1) the request for access requires redaction of a
13 record in accordance with section 706;

14 (2) the request for access requires the retrieval of a
15 record stored in a remote location;

16 (3) a timely response to the request for access cannot
17 be accomplished due to bona fide and specified staffing
18 limitations;

19 (4) a legal review is necessary to determine whether the
20 record is a record subject to access under this act;

21 (5) the requester has not complied with the Commonwealth
22 agency's policies regarding access to records;

23 (6) the requester refuses to pay applicable fees
24 authorized by this act; or

25 (7) the extent or nature of the request precludes a
26 response within the required time period.

27 (b) Notice.--

28 (1) Upon a determination that one of the factors listed
29 in subsection (a) applies, the open-records officer shall
30 send written notice to the requester within five business

1 days of receipt of the request for access under subsection
2 (a).

3 (2) The notice shall include a statement notifying the
4 requester that the request for access is being reviewed, the
5 reason for the review and a reasonable date that a response
6 is expected to be provided. If the date that a response is
7 expected to be provided is in excess of 30 days, following
8 the five business days allowed for in section 901, the
9 request for access shall be deemed denied unless the
10 requester has agreed in writing for an extension to the date
11 specified in the notice.

12 (3) If the requester agrees to the extension, the
13 request shall be deemed denied on the day following the date
14 specified in the notice if the agency has not provided a
15 response by that date.

16 Section 903. Denial.

17 If an agency's response is a denial of a written request for
18 access, whether in whole or in part, a written response shall be
19 issued and include:

20 (1) A description of the record requested.

21 (2) The specific reasons for the denial, including a
22 citation of supporting legal authority.

23 (3) The typed or printed name, title, business address,
24 business telephone number and signature of the agency head or
25 open-records officer on whose authority the denial is issued.

26 (4) Date of the response.

27 (5) The procedure to appeal the denial of access under
28 this act.

29 Section 904. Certified copies.

30 If an agency's response grants a request for access, the

1 agency shall, upon request, provide the requester with a
2 certified copy of the record if the requester pays the
3 applicable fees pursuant to section 1307.

4 SECTION 905. ADMINISTRATIVE DENIAL. <—

5 THE FOLLOWING SHALL APPLY:

6 (1) AN AGENCY MAY DENY ACCESS TO A PUBLIC RECORD,
7 LEGISLATIVE RECORD OR FINANCIAL RECORD DUE TO THE FAILURE OF
8 THE REQUESTER TO PAY THE APPLICABLE FEE.

9 (2) AN AGENCY MAY DENY ACCESS TO A PUBLIC RECORD,
10 LEGISLATIVE RECORD OR FINANCIAL RECORD DUE TO THE FAILURE OF
11 THE REQUESTER TO PAY ANY FEE ASSOCIATED WITH A PREVIOUS
12 REQUEST MADE BY THE REQUESTER TO THE SAME AGENCY.

13 SECTION 906. RECORD DISCARD.

14 IF AN AGENCY RESPONSE TO A REQUESTER PROVIDES THAT THE
15 REQUESTED RECORDS ARE AVAILABLE FOR DELIVERY AT THE OFFICE OF AN
16 AGENCY AND THE REQUESTER FAILS TO RETRIEVE THE RECORDS WITHIN 60
17 DAYS OF THE AGENCY'S RESPONSE, THE AGENCY SHALL SEND A WRITTEN
18 NOTICE TO THE REQUESTER SPECIFYING THAT THE REQUESTED COPIES
19 WILL BE HELD FOR AN ADDITIONAL 30 DAYS, WITHIN WHICH TIME THE
20 REQUESTER MAY RETURN TO THE AGENCY TO RETRIEVE THE RECORDS.
21 THEREAFTER, THE AGENCY MAY DISPOSE OF ANY COPIES WHICH HAVE NOT
22 BEEN RETRIEVED AND RETAIN ANY FEES PAID TO DATE.

23 CHAPTER 11

24 APPEAL OF AGENCY DETERMINATION

25 Section 1101. Filing of appeal.

26 (a) Authorization.--

27 (1) If a written request for access is denied or deemed
28 denied, the requester may file an appeal with the

29 ~~clearinghouse or other appropriate appeals officer within 15~~ <—

30 RECORDS OFFICE WITHIN 15 business days of the mailing date of <—

1 the agency's response or within 15 business days of a deemed
2 denial. The appeal shall state the grounds upon which the
3 requester asserts that the record is a public record,
4 legislative record or financial record and shall address any
5 grounds stated by the agency for delaying or denying the
6 request.

7 (2) In the case of an appeal of a decision by a <—
8 ~~Commonwealth agency or local agency, the clearinghouse shall~~
9 ~~assign an appeals officer to~~ AN AGENCY, THE RECORDS OFFICE <—
10 SHALL review the denial.

11 (b) Determination.--

12 (1) Unless the requester agrees otherwise, the ~~appeals~~ <—
13 ~~officer~~ RECORDS OFFICE shall make a final determination which <—
14 shall be mailed to the requester and the agency within 30
15 days of receipt of the appeal filed under subsection (a).

16 (2) If the ~~appeals officer~~ RECORDS OFFICE fails to issue <—
17 a final determination within 30 days, the appeal is deemed
18 denied.

19 (3) Prior to issuing a final determination, a hearing
20 may be conducted. The determination by the ~~appeals officer~~ <—
21 RECORDS OFFICE shall be a final order. The ~~appeals officer~~ <—
22 RECORDS OFFICE shall provide a written explanation of the <—
23 reason for the decision to the requester and the agency.

24 (c) Direct interest.--

25 (1) A person other than the agency or requester with a
26 direct interest in the record subject to an appeal under this
27 section may, within 15 calendar days following receipt of
28 actual knowledge of the appeal but no later than the date the
29 ~~appeals officer~~ RECORDS OFFICE issues an order, file a <—
30 written request to provide information or appear before the

~~appeals officer~~ RECORDS OFFICE or to file information in support of the requester's or agency's position.

(2) The ~~appeals officer~~ RECORDS OFFICE may grant the request if:

(i) no hearing has been held;

(ii) the office has not yet issued its order; and

(iii) the ~~appeals officer~~ RECORDS OFFICE believes the information will be probative.

(3) Copies of the written request shall be sent to the agency and the requester.

~~Section 1102. Appeals officers.~~

~~(a) Scope. This section applies to all agencies.~~

~~(b) Duties. The appeals officer shall do all of the following:~~

~~(1) Set a schedule for the requester and the open-records officer to submit documents in support of their positions.~~

~~(2) Review all information filed relating to the request. The appeals officer may hold a hearing. A decision to hold or not to hold a hearing is not appealable. The appeals officer may admit into evidence testimony, evidence and documents that the appeals officer believes to be reasonably probative and relevant to an issue in dispute. The appeals officer may limit the nature and extent of evidence found to be cumulative.~~

~~(3) Consult with agency counsel as appropriate.~~

~~(4) Issue a final determination on behalf of the agency.~~

~~(c) Procedures. The clearinghouse, a judicial agency or a legislative agency may adopt procedures relating to appeals under this chapter.~~

~~(1) If an appeal is resolved without a hearing, 1 Pa. Code Pt. II (relating to general rules of administrative practice and procedure) does not apply except to the extent that the clearinghouse, legislative agency or judicial agency has adopted these chapters in its regulations or rules.~~

~~(2) If a hearing is held, 1 Pa. Code Pt. II shall apply unless the clearinghouse, the judicial agency or the legislative agency has adopted regulations or rules to the contrary.~~

~~(3) In the absence of a regulation or rule governing appeals under this chapter, the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute.~~

CHAPTER 13

JUDICIAL REVIEW

Section 1301. Commonwealth agencies, legislative agencies and
judicial agencies.

(a) General rule.--Within 30 days of the mailing date of the final determination of the ~~appeals officer~~ RECORDS OFFICE relating to a decision of a Commonwealth agency, a legislative agency or a judicial agency issued under section 1101(b) or the date a request for access is deemed denied, a requester or the agency may file a petition for review or other document as might be required by rule of court with the Commonwealth Court. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision.

(b) Stay.--An appeal under this section shall stay the release of documents until a decision under subsection (a) is

1 issued.

2 Section 1302. Local agencies.

3 (a) General rule.--Within 30 days of the mailing date of the
4 final determination of the ~~appeals officer~~ RECORDS OFFICE <—
5 relating to a decision of a local agency issued under section
6 1101(b) or of the date a request for access is deemed denied, a
7 requester or local agency may file a petition for review or
8 other document as required by rule of court with the court of
9 common pleas for the county where the local agency is located.
10 The decision of the court shall contain findings of fact and
11 conclusions of law based upon the evidence as a whole. The
12 decision shall clearly and concisely explain the rationale for
13 the decision.

14 (b) Stay.--An appeal under this section shall stay the
15 release of documents until a decision under subsection (a) is
16 issued.

17 Section 1303. Notice and records.

18 (a) Notice.--An agency, the requester and the appeals
19 officer shall be served notice of actions commenced in
20 accordance with section 1301 or 1302 and shall have an
21 opportunity to respond in accordance with applicable court
22 rules.

23 (b) Record on appeal.--The record before a court shall
24 consist of the request, the agency's response, the appeal filed
25 under section 1101, the hearing transcript, if any, and the
26 final written determination of the ~~appeals officer~~ RECORDS <—
27 OFFICE.

28 Section 1304. Court costs and attorney fees.

29 (a) Reversal of agency determination.--If a court reverses
30 the final determination of the ~~appeals officer~~ RECORDS OFFICE or <—

1 grants access after a request for access was deemed denied, the
2 court may award reasonable attorney fees and costs of litigation
3 or an appropriate portion thereof to a requester if the court
4 finds either of the following:

5 (1) the agency receiving the original request willfully
6 or with wanton disregard deprived the requester of access to
7 a public record subject to access or otherwise acted in bad
8 faith under the provisions of this act; or

9 (2) the exemptions, exclusions or defenses asserted by
10 the agency in its final determination were not based on a
11 reasonable interpretation of law.

12 (b) Sanctions for frivolous requests or appeals.--The court
13 may award reasonable attorney fees and costs of litigation or an
14 appropriate portion thereof to an agency or the requester if the
15 court finds that the legal challenge under this chapter was
16 frivolous.

17 (c) Other sanctions.--Nothing in this act shall prohibit a
18 court from imposing penalties and costs in accordance with
19 applicable rules of court.

20 Section 1305. Civil penalty.

21 (a) Denial of access.--A court may impose a civil penalty of
22 not more than \$1,000 if an agency denied access to a public
23 record in bad faith.

24 (b) Failure to comply with court order.--An agency or public
25 official who does not promptly comply with a court order under
26 this act is subject to a civil penalty of not more than \$500 per
27 day until the public records are provided.

28 Section 1306. Immunity.

29 (a) General rule.--Except as provided in sections 1304 and
30 1305 and other statutes governing the release of records, no

1 agency, public official or public employee shall be liable for
2 civil penalties resulting from compliance or failure to comply
3 with this act.

4 (b) Schedules.--No agency, public official or public
5 employee shall be liable for civil or criminal damages or
6 penalties under this act for complying with any written public
7 record retention and disposition schedule.

8 Section 1307. Fee limitations.

9 (a) Postage.--Fees for postage may not exceed the actual
10 cost of mailing.

11 (b) Duplication.--

12 (1) Fees for duplication by photocopying, printing from
13 electronic media or microfilm, copying onto electronic media,
14 transmission by facsimile or other electronic means and other
15 means of duplication shall be established÷ <—

16 ~~(i) by the clearinghouse, for Commonwealth agencies~~
17 ~~and local agencies;~~

18 ~~(ii) by each judicial agency; and~~

19 ~~(iii) by each legislative agency.~~

20 ~~(2) The fees must be reasonable and based on prevailing~~
21 BY THE RECORDS OFFICE. <—

22 (2) (I) THE FEES MUST BE REASONABLE AND BASED ON
23 PREVAILING fees for comparable duplication services
24 provided by local business entities.

25 (II) FEES FOR COPYING DATA, COLLECTIONS OF DATA AND <—
26 COMPILED DATA, INCLUDING, BUT NOT LIMITED TO, GEOGRAPHIC
27 INFORMATION SYSTEMS AND PROPERTY LISTS, MAY BE BASED ON
28 CONSIDERATION OF THE REASONABLE MARKET VALUE OF SAME OR
29 CLOSELY COMPARABLE DATA, COLLECTIONS OF DATA OR COMPILED
30 DATA.

1 (3) Fees for local agencies may reflect regional price
2 differences AND SHALL BE SUBJECT TO REVIEW BY THE <—
3 CLEARINGHOUSE AS PROVIDED IN SECTION 1310(A)(8).

4 ~~(4) Fees for copying complex and extensive data sets of <—~~
5 ~~geographic information systems or integrated property~~
6 ~~assessment lists may be based on consideration of the~~
7 ~~reasonable market value of the same or closely related data~~
8 ~~sets.~~

9 (c) Certification.--An agency may impose reasonable fees for
10 official certification of copies if the certification is at the
11 behest of the requester and for the purpose of legally verifying
12 the public record.

13 (d) Conversion to paper.--If a record is only maintained
14 electronically or in other nonpaper media, duplication fees
15 shall be limited to the lesser of the fee for duplication on
16 paper or the fee for duplication in the original media as
17 provided by subsection (b) unless the requester specifically
18 requests for the record to be duplicated in the more expensive
19 medium.

20 (e) Enhanced electronic access.--If an agency offers
21 enhanced electronic access to records in addition to making the
22 records accessible for inspection and duplication by a requester
23 as required by this act, the agency may establish user fees
24 specifically for the provision of the enhanced electronic
25 access, but only to the extent that the enhanced electronic
26 access is in addition to making the records accessible for
27 inspection and duplication by a requester as required by this
28 act. The user fees for enhanced electronic access may be a flat
29 rate, a subscription fee for a period of time, a per-transaction
30 fee, a fee based on the cumulative time of system access or any

1 other reasonable method and any combination thereof. The user
2 fees for enhanced electronic access must be reasonable, must be
3 approved by the clearinghouse and may not be established with
4 the intent or effect of excluding persons from access to records
5 or duplicates thereof or of creating profit for the agency.

6 (f) Waiver of fees.--An agency may waive the fees for
7 duplication of a record, including, but not limited to, when:

8 (1) the requester duplicates the record; or

9 (2) the agency deems it is in the public interest to do
10 so.

11 (g) Limitations.--Except as otherwise provided by statute,
12 no other fees may be imposed unless the agency necessarily
13 incurs costs for complying with the request, ~~and such~~ INCLUDING <—
14 COSTS ASSOCIATED WITH LEGAL REVIEWS OF RECORDS OR RECORD
15 REQUESTS REQUIRING THE CONTRACTING OR PROCURING OF LEGAL COUNSEL
16 OUTSIDE THE AGENCY. SUCH fees must be reasonable. ~~No fee may be~~ <—
17 ~~imposed for an agency's review of a record to determine whether~~
18 ~~the record is a public record, legislative record or financial~~
19 ~~record subject to access in accordance with this act.~~ AN AGENCY <—
20 SHALL NOT CHARGE A REQUESTER ANY FEE FOR ANY OF THE FOLLOWING
21 COSTS:

22 (1) COSTS RELATED TO REVIEWING A RECORD TO DETERMINE IF
23 IT IS A PUBLIC RECORD.

24 (2) COSTS RELATED TO REDACTING EXEMPT INFORMATION FROM A
25 RECORD.

26 (3) PERSONNEL COSTS FOR COPYING A RECORD.

27 (4) PERSONNEL COSTS FOR PREPARING A RECORD FOR DELIVERY.

28 (5) PERSONNEL COSTS FOR OBSERVING A REQUESTER WHO IS
29 REVIEWING OR COPYING A RECORD.

30 (6) FOR USE OF AGENCY COMPUTERS, VIEWERS OR OTHER

EQUIPMENT NECESSARY FOR GAINING ACCESS TO EXAMINING A RECORD.

(7) COSTS FOR AGENCY PERSONNEL TO INSTRUCT A REQUESTER ON THE USE OF AGENCY EQUIPMENT USED TO VIEW A RECORD.

(8) ANY OTHER PROCESSING COSTS NOT SPECIFICALLY PERMITTED UNDER THIS SECTION.

(h) Prepayment.--Prior to granting a request for access in accordance with this act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100. THE AGENCY MAY REQUIRE A CERTIFIED CHECK, MONEY ORDER OR OTHER FORM OF VERIFIED PAYMENT OF FUNDS WHEN REQUIRING OPEN RECORDS REQUEST FEES TO BE PREPAID.

Section 1308. Prohibition.

A policy, rule or regulation adopted under this act may not include any of the following:

(1) A limitation on the number of records which may be requested or made available for inspection or duplication.

(2) A requirement to disclose the purpose or motive in requesting access to records.

Section 1309. Practice and procedure.

The provisions of 2 Pa.C.S. (relating to administrative law and procedure) shall not apply to this act unless specifically adopted by rule or regulation.

~~Section 1310. Clearinghouse.~~

~~(a) Establishment.--There is hereby established in the Department of Community and Economic Development an Open Records Clearinghouse. The clearinghouse shall do all of the following:~~

~~(1) Provide information relating to the implementation and enforcement of this act.~~

~~(2) Issue advisory opinions to agencies and requesters.~~

1 ~~(3) Provide annual training courses to agencies on this~~
2 ~~act and 65 Pa.C.S. Ch. 7 (relating to open meetings).~~

3 ~~(4) Provide annual, regional training courses to local~~
4 ~~agencies.~~

5 ~~(5) Review appeals of decisions by Commonwealth agencies~~
6 ~~or local agencies except as provided in section 503(d) filed~~
7 ~~under section 1101 and issue orders and opinions. The~~
8 ~~clearinghouse shall employ or contract with attorneys to~~
9 ~~serve as appeals officers to review appeals and, if~~
10 ~~necessary, to hold hearings on a regional basis under this~~
11 ~~act. Each appeals officer must comply with all of the~~
12 ~~following:~~

13 ~~(i) Complete a training course provided by the~~
14 ~~clearinghouse prior to acting as an appeals officer.~~

15 ~~(ii) If a hearing is necessary, hold hearings~~
16 ~~regionally as necessary to ensure access to the remedies~~
17 ~~provided by this act.~~

18 ~~(iii) Comply with the procedures under section~~
19 ~~1102(b).~~

20 ~~(6) Establish an informal mediation program to resolve~~
21 ~~disputes under this act.~~

22 ~~(7) Establish an Internet website with information~~
23 ~~relating to this act, including advisory opinions and~~
24 ~~decisions and the name and address of all open records~~
25 ~~officers in this Commonwealth.~~

26 ~~(8) Conduct a biannual review of fees charged under this~~
27 ~~act.~~

28 ~~(9) Annually report on its activities and findings to~~
29 ~~the Governor and the General Assembly. The report shall be~~
30 ~~posted and maintained on the Internet website established~~

1 ~~under paragraph (7).~~

2 ~~(b) Executive director. The Governor shall appoint an~~
3 ~~executive director of the clearinghouse who shall serve for a~~
4 ~~term of six years. Compensation shall be set by the Executive~~
5 ~~Board established under section 204 of the act of April 9, 1929~~
6 ~~(P.L.177, No.175), known as The Administrative Code of 1929. The~~
7 ~~executive director may serve no more than two terms.~~

8 ~~(c) Limitation. The executive director shall not seek~~
9 ~~election nor accept appointment to any political office during~~
10 ~~his tenure as executive director and for one year thereafter.~~

11 ~~(d) Staffing. The executive director shall appoint~~
12 ~~attorneys to act as appeals officers and additional clerical,~~
13 ~~technical and professional staff as may be appropriate and may~~
14 ~~contract for additional services as necessary for the~~
15 ~~performance of the executive director's function. The~~
16 ~~compensation of attorneys and other staff shall be set by the~~
17 ~~Executive Board.~~

18 ~~(e) Duties. The executive director shall ensure that the~~
19 ~~duties of the clearinghouse are carried out and shall monitor~~
20 ~~cases appealed to the clearinghouse.~~

21 ~~(f) Appropriation. The appropriation for the clearinghouse~~
22 ~~shall be in a separate line item and shall be under the~~
23 ~~jurisdiction of the executive director.~~

24 SECTION 1310. PENNSYLVANIA PUBLIC RECORDS OFFICE.

<—

25 (A) ESTABLISHMENT.--THE PENNSYLVANIA PUBLIC RECORDS OFFICE
26 IS ESTABLISHED WITHIN THE STATE ETHICS COMMISSION, WHICH SHALL
27 APPOINT AN EXECUTIVE DIRECTOR OF THE PUBLIC RECORDS OFFICE WHO
28 SHALL HIRE OTHER STAFF AS NECESSARY TO OPERATE THE OFFICE.

29 (B) POWERS AND DUTIES.--THE DIRECTOR OF THE PUBLIC RECORDS
30 OFFICE HAS THE FOLLOWING POWERS AND DUTIES:

1 (1) TO RECEIVE AND RESPOND TO REQUESTS FOR INFORMATION
2 FROM PERSONS WHO HAVE BEEN DENIED ACCESS TO PUBLIC RECORDS BY
3 A COMMONWEALTH AGENCY, A LOCAL AGENCY, THE GENERAL ASSEMBLY
4 OR A LEGISLATIVE AGENCY UNDER THIS ACT.

5 (2) TO RECEIVE AND RESPOND TO REQUESTS FOR INFORMATION
6 FROM A COMMONWEALTH AGENCY, A LOCAL AGENCY, THE GENERAL
7 ASSEMBLY OR A LEGISLATIVE AGENCY REGARDING COMPLIANCE WITH
8 THIS ACT.

9 (3) TO ORDER A COMMONWEALTH AGENCY, A LOCAL AGENCY, THE
10 GENERAL ASSEMBLY OR A LEGISLATIVE AGENCY TO COMPLY WITH
11 PROVISIONS OF THIS ACT UPON FINDING THAT A REQUEST FOR ACCESS
12 TO A PUBLIC RECORD WAS PROPERLY MADE.

13 (4) TO ISSUE ADVISORY OPINIONS ON COMPLIANCE WITH THIS
14 ACT.

15 (5) TO REQUEST INFORMATION FROM COMMONWEALTH AGENCIES,
16 LOCAL AGENCIES, THE GENERAL ASSEMBLY AND LEGISLATIVE AGENCIES
17 IN ORDER TO MAKE COMPLIANCE DETERMINATIONS UNDER THIS ACT.
18 ALL INFORMATION SUPPLIED BY A COMMONWEALTH AGENCY, A LOCAL
19 AGENCY, THE GENERAL ASSEMBLY OR A LEGISLATIVE AGENCY WHICH IS
20 RELEVANT TO A REQUEST SHALL BE SUBJECT TO CONFIDENTIALITY
21 UNDER SUBSECTION (C).

22 (6) TO GUIDE AND OVERSEE THE COMPLIANCE WITH THIS ACT BY
23 ALL COMMONWEALTH AGENCIES, LOCAL AGENCIES, THE GENERAL
24 ASSEMBLY AND LEGISLATIVE AGENCIES.

25 (7) TO PROVIDE A LIST TO ANY REQUESTING AGENCY OR
26 INDIVIDUAL OF FEDERAL AND STATE LAWS THAT EXEMPT CERTAIN
27 TYPES OF RECORDS FROM DISCLOSURE.

28 (8) TO MAKE ITS ADVISORY OPINIONS AND WRITTEN DECISIONS
29 AVAILABLE FOR REVIEW.

30 (9) TO CONDUCT TRAINING FOR PUBLIC OFFICIALS, PUBLIC

1 EMPLOYEES AND THIRD PARTIES RELATING TO THE COMMONWEALTH'S
2 ACCESS LAWS WITH ASSISTANCE FROM THE DEPARTMENT OF COMMUNITY
3 AND ECONOMIC DEVELOPMENT'S CENTER FOR LOCAL GOVERNMENT.

4 (10) TO ISSUE A REPORT SEMI-ANNUALLY TO THE GENERAL
5 ASSEMBLY AND TO THE GOVERNOR, WHICH REPORT SHALL INCLUDE, BUT
6 NOT BE LIMITED TO:

7 (I) THE NUMBER OF REQUESTS TO REVIEW DENIALS FROM
8 PERSONS MAKING PUBLIC RECORD REQUESTS.

9 (II) THE NUMBER OF PUBLIC RECORD REQUESTS WHICH WERE
10 DETERMINED, UPON REVIEW OF THE ACCESS OFFICE, TO HAVE
11 BEEN IMPROPERLY DENIED.

12 (III) THE NUMBER OF REQUESTS MADE BY AGENCIES
13 SEEKING CLARIFICATION ON COMPLIANCE WITH THIS ACT.

14 (IV) THE NUMBER OF ORDERS ISSUED BY THE PUBLIC
15 RECORDS OFFICE DIRECTING AN AGENCY TO COMPLY WITH THIS
16 ACT.

17 (V) THE NUMBER OF ADVISORY OPINIONS ISSUED BY THE
18 PUBLIC RECORDS OFFICE.

19 (VI) THE NUMBER OF REQUESTS FOR THE LIST OF FEDERAL
20 AND STATE EXEMPTIONS TO PUBLIC ACCESS OF RECORDS.

21 (VII) THE NUMBER OF TRAINING SESSIONS CONDUCTED FOR
22 PUBLIC OFFICIALS, PUBLIC EMPLOYEES AND THIRD PARTIES
23 RELATING TO PUBLIC ACCESS OF RECORDS, INCLUDING THE
24 NUMBER OF PERSONS ATTENDING SUCH TRAINING SESSIONS.

25 (11) TO MAKE AVAILABLE IN ELECTRONIC FORM TO PERSONS
26 MAKING REQUESTS FOR PUBLIC RECORDS, EXAMPLES OF PREVIOUS
27 REQUESTS FOR PUBLIC RECORDS BY OTHER PERSONS AND THE
28 DOCUMENTS TO WHICH THE OTHER PERSONS WERE GIVEN ACCESS. IN
29 PERFORMING THIS DUTY, THE OFFICE MAY NOT REVEAL ANY
30 INFORMATION RELATING TO THE IDENTITY OF THE PERSONS WHO MADE

1 THE PREVIOUS REQUESTS.

2 (12) TO PROMULGATE ANY REGULATIONS NECESSARY TO
3 ADMINISTER THIS ACT.

4 (13) SET A SCHEDULE FOR THE REQUESTER AND AGENCY TO
5 SUBMIT DOCUMENTS IN SUPPORT OF THEIR POSITIONS.

6 (14) TO REVIEW ALL INFORMATION FILED RELATING TO A
7 REQUEST. THE PUBLIC RECORDS OFFICE MAY HOLD A HEARING, BUT
8 THE DECISION TO HOLD OR NOT TO HOLD A HEARING IS NOT
9 APPEALABLE. THE PUBLIC RECORDS OFFICE MAY ADMIT INTO EVIDENCE
10 TESTIMONY, EVIDENCE AND DOCUMENTS IT BELIEVES TO BE
11 REASONABLY PROBATIVE AND RELEVANT TO AN ISSUE IN DISPUTE. THE
12 PUBLIC RECORDS OFFICE MAY LIMIT THE NATURE AND EXTENT OF
13 EVIDENCE TO BE CUMULATIVE.

14 (C) CONFIDENTIALITY.--ALL INFORMATION REQUESTED BY THE
15 PUBLIC RECORDS OFFICE FROM AN AGENCY IN ORDER TO MAKE A
16 DETERMINATION OF WHETHER AN AGENCY IS COMPLYING WITH THIS ACT
17 SHALL REMAIN CONFIDENTIAL AND SHALL NOT BE SUBJECT TO PUBLIC
18 ACCESS.

19 (D) FEES.--THE FOLLOWING SHALL APPLY:

20 (1) THE PUBLIC RECORDS OFFICE MAY IMPOSE A REASONABLE
21 FILING FEE FOR AN APPEAL MADE UNDER SECTION 1101, AND ANY
22 FEES COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN A
23 RESTRICTED ACCOUNT IN THE GENERAL FUND WHICH IS ESTABLISHED
24 FOR THE PUBLIC RECORDS OFFICE. THE MONEY FROM THIS ACCOUNT
25 SHALL BE APPROPRIATED AS NECESSARY FOR THE OPERATION OF THE
26 PUBLIC RECORDS OFFICE.

27 (2) THE PUBLIC RECORDS OFFICE MAY WAIVE THE FILING FEE
28 IF THE PERSON REQUESTING ACCESS TO THE PUBLIC RECORD IS
29 UNABLE TO AFFORD THE FEE BASED ON GUIDELINES ESTABLISHED BY
30 THE PUBLIC RECORDS OFFICE.

1 SECTION 1311. ADMINISTRATIVE APPEALS.

2 (A) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISION OF
3 LAW, A PARTY AGGRIEVED BY A DENIAL OR DEEMED DENIAL OF ACCESS TO
4 A PUBLIC RECORD BY A COMMONWEALTH AGENCY, LOCAL AGENCY, THE
5 GENERAL ASSEMBLY OR A LEGISLATIVE AGENCY MAY, WITHIN 30 DAYS
6 AFTER A REQUEST IS DENIED OR DEEMED DENIED, APPEAL TO THE PUBLIC
7 RECORDS OFFICE BY FORWARDING TO THE OFFICE A COPY OF THE REQUEST
8 AND THE WRITTEN EXPLANATION FOR THE DENIAL, IF ANY, PROVIDED BY
9 THE COMMONWEALTH AGENCY, LOCAL AGENCY, THE GENERAL ASSEMBLY OR
10 LEGISLATIVE AGENCY, AND REQUESTING A REVIEW OF THE MATTER.

11 (B) RULING.--

12 (1) WITHIN 30 BUSINESS DAYS AFTER RECEIPT OF THE APPEAL,
13 THE PUBLIC RECORDS OFFICE SHALL RULE EITHER THAT THE DENIAL
14 OR DEEMED DENIAL OF ACCESS TO THE RECORD BY THE COMMONWEALTH
15 AGENCY, LOCAL AGENCY, THE GENERAL ASSEMBLY OR LEGISLATIVE
16 AGENCY IS UPHOLD OR THAT THE DECISION TO DENY ACCESS TO THE
17 RECORD WAS IMPROPER, AND A COMMONWEALTH AGENCY, THE LOCAL
18 AGENCY, THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY MUST
19 PROVIDE ACCESS TO THE RECORD. THE PUBLIC RECORDS OFFICE MAY
20 HOLD A PRIVATE HEARING ON THE MATTER AND MAY REVIEW THE
21 RECORD.

22 (2) THE 30-BUSINESS-DAY PERIOD MAY BE EXTENDED BY
23 AGREEMENT OF THE PARTIES. IF THE PARTIES DO NOT AGREE TO AN
24 EXTENSION OR THE PUBLIC RECORDS OFFICE DOES NOT ISSUE A
25 RULING WITHIN 30 BUSINESS DAYS AFTER THE DATE OF THE APPEAL,
26 THE DENIAL FROM THE COMMONWEALTH AGENCY, LOCAL AGENCY, THE
27 GENERAL ASSEMBLY OR LEGISLATIVE AGENCY SHALL BE DEEMED
28 AFFIRMED.

29 (C) EXPLANATION.--IF THE PUBLIC RECORDS OFFICE UPHOLDS THE
30 DECISION OF THE COMMONWEALTH AGENCY, LOCAL AGENCY, THE GENERAL

1 ASSEMBLY OR LEGISLATIVE AGENCY TO DENY ACCESS TO THE PUBLIC
2 RECORD, THE OFFICE SHALL FULLY EXPLAIN IN WRITING TO THE PERSON
3 REQUESTING THE PUBLIC RECORD THE REASON FOR THE DENIAL. IF THE
4 PUBLIC RECORDS OFFICE RULES THAT THE COMMONWEALTH AGENCY, LOCAL
5 AGENCY, THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY SHALL PROVIDE
6 ACCESS TO THE PUBLIC RECORD, IT SHALL ORDER THE COMMONWEALTH
7 AGENCY, LOCAL AGENCY, THE GENERAL ASSEMBLY OR LEGISLATIVE AGENCY
8 TO PROVIDE THE INDIVIDUAL WITH ACCESS TO THE RECORD AND SHALL
9 FULLY EXPLAIN IN WRITING THE REASON ACCESS MUST BE PROVIDED.

10 (D) OTHER APPEALS.--COSTS OR ATTORNEY FEES SHALL NOT BE
11 AWARDED UNDER THIS SECTION FOR ADMINISTRATIVE APPEAL TO THE
12 PUBLIC RECORDS OFFICE UNDER THIS SECTION.

13 CHAPTER 15

14 STATE-RELATED INSTITUTIONS

15 Section 1501. Definition.

16 As used in this chapter, "State-related institution" means
17 any of the following:

- 18 (1) Temple University.
- 19 (2) The University of Pittsburgh.
- 20 (3) The Pennsylvania State University.
- 21 (4) Lincoln University.

22 Section 1502. Reporting.

23 No later than May 30 of each year, a State-related
24 institution shall file with the Governor's Office, the General
25 Assembly, the Auditor General and the State Library the
26 information set forth in section 1503.

27 Section 1503. Contents of report.

28 The report required under section 1502 shall include the
29 following:

- 30 (1) Except as provided in paragraph (4), all information

1 required by Form 990 or an equivalent form, of the United
2 States Department of the Treasury, Internal Revenue Service,
3 entitled the Return of Organization Exempt From Income Tax,
4 regardless of whether the State-related institution is
5 required to file the form by the Federal Government.

6 (2) The salaries of all officers and directors of the
7 State-related institution.

8 (3) The highest 25 salaries paid to employees of the
9 institution that are not included under paragraph (2).

10 (4) The report shall not include information relating to
11 individual donors.

12 Section 1504. Copies and posting.

13 A State-related institution shall maintain, for at least
14 seven years, a copy of the report in the institution's library
15 and shall provide free access to the report on the institution's
16 Internet website.

17 CHAPTER 17

18 STATE CONTRACT INFORMATION

19 Section 1701. Submission and retention of contracts.

20 (a) General rule.--Whenever any Commonwealth agency,
21 legislative agency or judicial agency shall enter into any
22 contract involving any property, real, personal or mixed of any
23 kind or description or any contract for personal services where
24 the consideration involved in the contract is \$5,000 or more, a
25 copy of the contract shall be furnished to the Treasury
26 Department within ten days after the contract is executed on
27 behalf of the Commonwealth agency, legislative agency or
28 judicial agency or otherwise becomes an obligation of the
29 Commonwealth agency, legislative agency or judicial agency. The
30 provisions of this subsection shall not apply to contracts for

1 services protected by a privilege. The following shall apply:

2 (1) Each Commonwealth agency, legislative agency and
3 judicial agency shall submit contracts in a form and
4 structure mutually agreed upon by the Commonwealth agency,
5 legislative agency or judicial agency and the State
6 Treasurer.

7 (2) The Treasury Department may require each
8 Commonwealth agency, legislative agency or judicial agency to
9 provide a summary with each contract, which shall include the
10 following:

11 (i) Date of execution.

12 (ii) Amount of the contract.

13 (iii) Beginning date of the contract.

14 (iv) End date of the contract, if applicable.

15 (v) Name of the agency entering into the contract.

16 (vi) ~~All parties to the contract~~ THE NAME AND <—
17 BUSINESS ADDRESS OF ALL PARTIES EXECUTING THE CONTRACT.

18 (vii) Subject matter of the contract.

19 Each agency shall create and maintain the data under this
20 paragraph in an ASCII-delimited text ~~format~~ FILE, spreadsheet <—
21 ~~format~~ FILE or other ~~format provided by~~ FILE PROVIDED BY <—
22 TREASURY DEPARTMENT regulation.

23 (b) Retention.--Every contract filed pursuant to subsection
24 (a) shall remain on file with the Treasury Department for a
25 period of not less than four years after the end date of the
26 contract.

27 (c) Accuracy.--Each Commonwealth agency, legislative agency
28 and judicial agency is responsible for verifying the accuracy
29 and completeness of the information that it submits to the State
30 Treasurer. THE CONTRACT PROVIDED TO THE TREASURY DEPARTMENT <—

1 PURSUANT TO THIS CHAPTER SHALL BE REDACTED IN ACCORDANCE WITH
2 APPLICABLE PROVISIONS OF THIS ACT BY THE AGENCY PROVIDING THE
3 CONTRACT TO THE TREASURY DEPARTMENT.

4 (D) CONTRACTS PROVIDED PURSUANT TO THE FISCAL CODE.--THE
5 COPY OF A CONTRACT PROVIDED TO THE TREASURY DEPARTMENT PURSUANT
6 TO SECTION 1701 SHALL BE IN ADDITION TO ANY COPY OF THE CONTRACT
7 PROVIDED TO THE TREASURY DEPARTMENT UNDER THE ACT OF APRIL 9,
8 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE. COPIES OF
9 CONTRACTS RECEIVED BY THE TREASURY DEPARTMENT, OFFICE OF AUDITOR
10 GENERAL, OR DEPARTMENT OF REVENUE FROM AN AGENCY PURSUANT TO THE
11 FISCAL CODE SHALL NOT BE MADE AVAILABLE TO A REQUESTER BY THE
12 STATE TREASURER, AUDITOR GENERAL OR THE DEPARTMENT OF REVENUE.
13 Section 1702. Public availability of contracts.

14 (a) General rule.--~~The Treasury Department shall make each~~ <—
15 ~~contract filed pursuant to section 1701 available for public~~
16 ~~inspection either by posting a copy of the contract on the~~
17 ~~Treasury Department's publicly accessible Internet website or by~~
18 ~~posting a contract summary on the department's publicly~~
19 ~~accessible Internet website.~~ EXCEPT AS OTHERWISE PROVIDED IN <—
20 THIS CHAPTER, A REQUEST FOR A COPY OF A CONTRACT SHALL ONLY BE
21 MADE TO AN AGENCY WHO IS A PARTY TO THE CONTRACT.

22 (b) Posting.--THE TREASURY DEPARTMENT SHALL MAKE EACH <—
23 CONTRACT FILED PURSUANT TO SECTION 1701 AVAILABLE FOR PUBLIC
24 INSPECTION EITHER BY POSTING A COPY OF THE CONTRACT ON THE
25 TREASURY DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE OR BY
26 POSTING A CONTRACT SUMMARY ON THE DEPARTMENT'S PUBLICLY
27 ACCESSIBLE INTERNET WEBSITE. The Treasury Department shall post
28 the information received pursuant to this chapter in a way that
29 allows the public to search contracts or contract summaries by
30 the categories enumerated in section 1701(a)(2).

1 (c) Request to review or receive copy of contract.--The
2 Treasury Department shall maintain a page on its publicly
3 accessible Internet website with instructions on how to request
4 to review a contract and how to request a copy of a contract.
5 Requests to review or receive a copy of a contract shall be
6 allowed by letter, facsimile or e-mail. Additionally, both
7 requests shall be honored within five days of the submission of
8 the request and in the case of a request for a copy of a
9 contract it shall be provided to the individual at cost. The
10 Treasury Department may offer to provide a copy of the requested
11 contract electronically to the requester at no cost.

12 CHAPTER 19

←

13 PUBLIC OFFICIALS

14 SECTION 1901. DISCLOSURE OF AFFILIATION.

15 (A) SCOPE.--THIS SECTION APPLIES TO:

16 (1) AN INDIVIDUAL WHO IS ELECTED OR APPOINTED TO AN
17 OFFICE OF THE COMMONWEALTH; AND

18 (2) THE SPOUSE OF AN INDIVIDUAL UNDER PARAGRAPH (1).

19 (B) REQUIREMENT.--ANNUALLY, EACH INDIVIDUAL SUBJECT TO
20 SUBSECTION (A) SHALL SUBMIT TO THE CLEARINGHOUSE FOR INTERNET
21 WEBSITE PUBLICATION UNDER SECTION 1310(A)(7) DISCLOSURE AS TO A
22 BUSINESS RELATIONSHIP BETWEEN A COMMONWEALTH AGENCY AND:

23 (1) THE INDIVIDUAL;

24 (2) A PARTNERSHIP IN WHICH THE INDIVIDUAL IS A PARTNER;

25 (3) AN ASSOCIATION IN WHICH THE INDIVIDUAL IS AN OFFICER
26 OR A DIRECTOR;

27 (4) A CORPORATION IN WHICH THE INDIVIDUAL IS AN OFFICER
28 OR A DIRECTOR; OR

29 (5) A CORPORATION IN WHICH THE INDIVIDUAL HAS AN EQUITY
30 INTEREST OF AT LEAST 5%.

CHAPTER 31

MISCELLANEOUS PROVISIONS

Section 3101. Applicability.

This act applies as follows:

~~(1) This act shall apply to requests filed after the effective date of this section.~~

(1) THIS ACT SHALL APPLY TO REQUESTS FOR INFORMATION MADE ON OR AFTER DECEMBER 31, 2008.

(2) WITH RESPECT TO AN AGENCY AS DEFINED UNDER SECTION 102, THIS ACT SHALL APPLY PROSPECTIVELY.

(3) IN ADDITION TO PARAGRAPH (2), WITH RESPECT ONLY TO AN AGENCY WHICH WAS AN AGENCY AS DEFINED UNDER THE FORMER ACT OF JUNE 21, 1957 (P.L.390, NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW, THIS ACT SHALL APPLY RETROACTIVELY.

~~(2)~~ (4) Chapter 15 shall apply to fiscal years beginning after June 30, 2008.

~~(3)~~ (5) Chapter 17 shall apply to contracts entered into or renewed after ~~the effective date of this section~~ JUNE 30, 2008.

~~(4)~~ (6) Section 3102(1)(ii)(B) shall apply to bids submitted on or after ~~the effective date of this section~~ JUNE 30, 2008.

(7) IF A PROVISION OF THIS ACT REGARDING ACCESS TO A RECORD CONFLICTS WITH ANY OTHER FEDERAL OR STATE STATUTE, REGULATION OR JUDICIAL ORDER OR DECREE, THE PROVISION OF THIS ACT SHALL NOT CONTROL.

SECTION 3101.1. RELATION TO OTHER LAW OR JUDICIAL ACTIONS.

IF THE PROVISIONS OF THIS ACT REGARDING ACCESS TO PUBLIC RECORDS CONFLICT WITH ANY FEDERAL OR STATE STATUTE, THE PROVISIONS OF THIS ACT SHALL NOT APPLY.

1 SECTION 3101.2. SEVERABILITY.

2 ALL PROVISIONS OF THIS ACT ARE SEVERABLE.

3 Section 3102. Repeals.

4 Repeals are as follows:

5 (1) (i) General Assembly declares that the repeals
6 under subparagraph (ii) are necessary to effectuate this
7 act.

8 (ii) The following acts and parts of acts are
9 repealed:

10 (A) The act of June 21, 1957 (P.L.390, No.212),
11 referred to as the Right-to-Know Law.

12 (B) 62 Pa.C.S. § 106.

13 (2) (i) The General Assembly declares that the repeal
14 under subparagraph (ii) is necessary to effectuate
15 Chapter 17.

16 (ii) Section 1104 of the act of April 9, 1929
17 (P.L.177, No.175), known as The Administrative Code of
18 1929, is repealed.

19 SECTION 3103. REFERENCES. <—

20 A REFERENCE IN A STATUTE, REGULATION OR JUDICIAL ORDER OR
21 DECREE TO THE ACT OF JUNE 21, 1957 (P.L.390, NO.212), REFERRED
22 TO AS THE RIGHT-TO-KNOW LAW, SHALL BE DEEMED A REFERENCE TO THIS
23 ACT.

24 Section ~~3103~~ 3104. Effective date. <—

25 This act shall take effect ~~in 180 days~~. AS FOLLOWS: <—

26 (1) SECTIONS 101, 102, 1310, 3101 AND 3102(1)(I) AND
27 (II)(B) AND (2) SHALL TAKE EFFECT JULY 1, 2008.

28 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

29 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JANUARY
30 1, 2009.