

Township of Wilkins

Right to Know Policy

Adopted by Wilkins Township Commissioners January 12, 2009

THE RIGHT TO KNOW POLICY:

In February of 2008, a new Right to Know Law for the Commonwealth of Pennsylvania was signed into effect by Governor Ed Rendell. The new law became effective on January 1, 2009, and changes how government entities must respond to requests for information. The law also requires the Township of Wilkins to publish a policy which explains how members of the public can gain access to public information under the Right to Know Act.

These questions and answers explain who can obtain information, how the request may be made, how the Township must respond and when and how much the Township can charge for documents it provides.

MAKING YOUR REQUEST:

Who can request information?

Any legal resident of the United States may make a right to know request. This includes media outlets. The requestor need not be a Pennsylvania resident.

Where should I direct my request?

The request should be made to the Township's Open Records Officer. As required by the new Right to Know statute, the Township has designated an Open Records Officer to act as a single point of contact for all Township requests. All Township employees are directed to immediately forward any requests that they receive to the Open Records Officer. However, if you submit a Right to Know Request to anyone other than the Open Records Officer, it may delay the fulfillment of your request.

Contact information for the Open Records Officer:

Rebecca Bradley, Township Manager
Irene J. Pohl Municipal Building
110 Peffer Road
Turtle Creek, PA 15145
Fax: 412-824-3808
Email: rbradley@wilkinstownship.com

What form can a request take?

Requests may be made in four ways: In person, by mail, by e-mail, or by fax. In-person requests must be made to the Open Records Officer, at the Irene J. Pohl Municipal Building, during normal business hours of 8:30 a.m. to 4:30 p.m., Monday through Friday. If the Open Records Officer is not available during that time, he/she will designate an alternate who can accept your request. Verbal requests are permitted under the Right to Know Law. However, if your request is denied by the Township, you will have no right of appeal unless the request was made in writing.

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What information must I include in my request?

Your request must be addressed to the Open Records Officer, and must identify the records you are requesting with sufficient specificity that the Township can identify them. Your request must include a name and address to which the Township can make a response.

Is there a form for filing request?

Yes. The form is on page 8 of this Policy. Please note that this is a similar form as that used by the State Open Records Office, and it is also available on their website.

Can I make a verbal request?

You can make a verbal request. However, as mentioned above, if you wish to appeal the denial of a request, you must document your initial request in writing to the Township.

PROCEDURE AFTER A REQUEST IS MADE:

Can the township ask WHY you want or need the information?

No. The Township is prohibited from asking you why you are requesting a record.

Can the Township ask questions about the TYPE of information you want?

Yes. The Right to Know Act requires the requestor to identify the records he/she is requesting with sufficient specificity that the Township can identify them. If the request is extremely vague, it can be denied on that basis. However, the Open Records Officer may need to obtain more information about what you want in order to identify the appropriate records. The Township will never ask you why you are requesting a particular record.

I submitted a request to the Open Records Officer, when will the Township respond?

The Township must respond to your request within five business days of the receipt by the Open Records Officer. Within five business days, the Open Records Officer will issue a letter which does one (or a combination) of the following:

- Denies the request, citing the specific reasons for denial
- Grants the request, and provides the records
- States the reasons why the request cannot be fulfilled within the five business day period, and provides a target date for a final response.

Under what circumstances can the Township take additional time to consider a right to know request?

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There are specific circumstances under which the Township can take extra time on a Right to Know request. They are:

- The record in question is in storage and must be retrieved;
- The record requested needs to be redacted prior to its release;
- The Open Records Officer has requested that the Solicitor's Office review the request to determine if the requested record is in fact a public record.
- The requestor has refused to pay the applicable fees;
- The size of the request and the Township's staffing limitations make meeting the five business day deadline impossible;
- The requestor has failed to comply with the Township's policies regarding access to public records;
- The extent or nature of the request precludes a response within the required time period.

The Township has requested extra time to consider my request. How long can they take?

If the public records you have requested cannot be produced within five business days of your request, the Open Records Officer will send you a "five day" letter which will specify a reason for the delay, and include a target date for the release of the records. If the target date is more than thirty days from the initial five business day period, then the Township will need your written consent to the extension in order to take more than thirty extra days. If you do not so consent, and the Township fails to provide the records within the thirty additional days, then your request will be deemed denied on the thirty-first day.

What kinds of records must be provided?

The new Right to Know Law expands the types of information that the Township is required to provide. Generally, documents which are related to Township business, and which are not subject to a privilege or to one of the exceptions enumerated in the Right to Know Act are subject to disclosure.

Examples of Public Records:

- Grant applications
- Contracts
- Name, title, salary of public employees or officials.

Examples of Non-Public Records:

(See Page 5-6 for a complete listing of exempt records.)

- Records which would compromise the security of a building.
- Records which would compromise the security of a computer network.
- Personal information such as social security number, drivers' license number, cellular or personal phone numbers, and personal financial information.
- Drafts of documents

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- Records of internal, pre-decisional deliberations
- Records of law enforcement investigations.

What if the record I am requesting contains both public and non-public information?

The Township may not deny a request based on the presence of a limited amount of non-public information in the record. Instead, the Township will redact the non-public portion before supplying the record.

What if the records requested are not Township records?

If the Open Records Officer receives a request for records that are not Township records, the Open Records Officer will attempt to forward the request to the appropriate person at the appropriate entity, and will so notify you. To insure that your request is timely received and documented, we do suggest that you make an independent request at that entity as well.

Will the Township make copies?

The township does not have to make copies unless the requestor asks for copies and has agreed to pay for these copies. The Township is not obligated to release the documents until the copying charges have been paid in full.

Can the Township charge for making copies?

Yes. The Township can charge for making copies, and for postage. A uniform fee schedule for local agencies has been promulgated by the Commonwealth of Pennsylvania, Office of Open Records. A copy of the current schedule is attached to this policy on page 9. If the rates established by the Open Records Office should ever change, the new State rates will prevail over those set forth in the Township's policy.

If the copying fees are estimated to be over \$100.00, then the Township may require the prepayment of copying charges before undertaking a copy of the records.

APPEALING FROM THE DENIAL OF A REQUEST:

The Township has denied my request. Can I appeal?

Yes. In cases where a written request to access records has been denied, the requestor may appeal the denial to the Pennsylvania Office of Open Records.

More than five business days have passed since I made my request, and the Township has failed to respond. Can I appeal?

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Yes. In cases where a written request to access records has been denied the requestor may appeal the denial to the Pennsylvania Office of Open Records. For an individual to seek redress to a deemed denial of a Right to Know request, the original request must have been made in writing.

How do I appeal a deemed denial?

If you wish to appeal from a denial by the Township of Wilkins, you must lodge an appeal with the Pennsylvania Office of Open Records.

Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
openrecords@state.pa.us
Executive Director: Terry Mutchler

The appeal must be made within fifteen days of the denial or deemed denial, and must state the grounds on which the requestor asserts that the requested record is a public record subject to release under the Right to Know Law and shall specifically address the grounds given by the Township of Wilkins for delaying or denying the request.

What will happen after I lodge an appeal?

The Office of Open Records will assign an appeals officer who will be responsible for your appeal. The appeals officer will make a final determination which will be mailed to you and to the Township within thirty days of your appeal.

If the Office of Open Records appeals officer denies your appeal, you may appeal that determination to the Allegheny County Court of Common Pleas.

What records are specifically exempted by the Law?

The following records are exempt from disclosure.

1. Classified information and law enforcement records that if disclosed would threaten public safety.
2. Records the disclosure of which is reasonably likely to result in substantial risk of physical harm or risk to the personal security of an individual.
3. Certain infrastructure, resource, building, utility and computer system information that would jeopardize public safety or computer security.
4. Individual medical, psychiatric, psychological and disability records, including Workers' Compensation, Unemployment Compensation, Rehabilitation and other records containing individually identifiable health information.

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5. Personal identification information to include (a) all or part of social security numbers, driver's license numbers, personal financial information, personal telephone numbers, personal e-mail addresses and other confidential personal identification numbers; (b) names of spouse, beneficiaries, dependents and marital status; (c) home address of law enforcement officers; (d) the redaction of the identity of undercover officers or covert operatives is permitted.
6. The following information regarding employees: (a) letters of reference unless related to appointment to a vacancy in an elective office; (b) performance ratings and reviews; (c) results of Civil Service tests if restricted by Collective Bargaining Agreement and results of those who did not pass the examination; (d) employment applications for those not hired; (e) written criticisms of employees; (f) grievance materials, including those relating to discrimination or sexual harassment; (g) discipline, demotion, or discharge information contained in a personnel file other than a final action resulting in discharge.
7. Certain labor relations records: (a) records pertaining to negotiation strategy for labor relations or collective bargaining, other than a final contract between the parties to a Collective Bargaining Agreement; (b) exhibits, transcripts and opinions other than the final award in the arbitration of a grievance or contractual dispute.
8. Drafts of Ordinances, Regulations, Resolutions, Policies, Directives and Amendments thereto: (a) records reflecting internal, predecisional deliberations except to the extent such records are otherwise exempt and are presented to a forum at a public meeting; (b) records reflecting strategies used to develop and implement the adoption of budgets, legislative proposals or regulations.
9. Records containing trade secrets, confidential or proprietary information.
10. Notes and working papers prepared by or for public officials or agency employees for their personal use.
11. Records disclosing the identity of donors and potential donors to an agency unless the donation is restricted to providing personal and tangible benefit to a named official or employee of the agency.
12. Records relating to or resulting in criminal investigations.
13. Records relating to non-criminal investigations including: (a) complaints; (b) investigative materials, notes, correspondence and reports; (c) the identity of confidential sources, including those subject to the Whistle Blower Law; (d) information made confidential by law; (e) audit work papers; (f) records that would reveal the institution, progress or result of an investigation other than a fine, penalty, suspension of license or authorization or executed settlement agreement (absent a confidentiality clause); (g) records that disclosure of which would deprive a person of an impartial adjudication, constitute an unwarranted invasion of personal privacy, or hinder the agencies' ability to secure sanctions or endanger the life or physical safety of an individual.
14. Dispatch and radio records other than time response logs, except that the agency may release 911 recordings or transcripts if the public interest in disclosure outweighs the interest in non-disclosure.
15. Genetic records.
16. Draft minutes of meeting until the next regularly scheduled meeting and minutes and other records of executive session.

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17. Certain real estate records related to the agency's interest in property, including appraisals, audit and evaluations that are related to the leasing, acquiring or disposing of real property or an interest therein; the purchase of public supplies or equipment as part of the real estate transaction; or construction projects. This restriction applies only until a decision is made to proceed with the transaction.
18. Certain contract proposal information to include (a) bids or proposals for agency's supplies, services or construction prior to the opening and rejection of all bids; (b) financial information on the bidder or offerer provided to demonstrate economic capability; and (c) the identity of members and the records of agency proposal evaluation committees.
19. Records related to communications between an agency and its insurance carrier other than insurance contracts and financial records relating to provision of insurance.
20. Any record identifying the name, home address or date of birth of a child seventeen (17) years of age or under.

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Right-to-Know Law Request Fee Schedule:

If a written request for records is granted, the following fees shall be charged to the requester:

Copies:	\$0.25 per copy
Certified Copies:	\$1.00 per copy
Computer Diskettes:	\$1.00 per diskette
Postage:	Actual Cost

A “photocopy” is either a single-sided copy or one side of a double-sided copy of a standard 8 ½ X 11- inch page. If the cost of complying with the request is estimated to exceed \$100.00, or if the requestor previously has not submitted payment for prior requests, the requestor may be required to submit the costs in advance. All costs shall be paid to the Township of Wilkins.