

Right-to-Know Training

County Open Records Liaisons

19 December 2008

PA Right-to-Know Law

- Act 3 of 2008, enacted February 2008
- Effective 1 January 2009
- Changes burden – all records now considered public; county must prove why a record is not
- Any legal U.S. resident may request information
- Cannot require people to answer why they want the information
- Does not overrule other existing federal and state statutes or regulations

What's an Open Record?

- Presume everything related to county business is open to the public
 - Financial Documents
 - Contracts
 - Grant applications
 - Correspondence
 - Names, titles, salaries of county employees
 - Phone calls, e-mails, etc.
- PA Supreme Court case pending
 - Balancing public interest vs. personal privacy

What's Not an Open Record

There are 30 statutory exceptions, including:

- Not required to create a record
 - Records, not questions. Not research.
- Personal ID information
 - Social security numbers, home addresses, etc.
- Confidential materials
 - Employee discipline files, beneficiary information, health records, etc.
- Security Information

Role of Department Open Records Liaison

- Important resource for County ORO
- Intimate knowledge of office-specific information and governing statutes
- Help explain county procedures to public
- Gather information for ORO by deadline
- Redact privileged information from response
- Need team effort to ensure county meeting obligation
- Liaisons *do not* respond directly – ORO signs off on final response

Important Deadlines

- County has five days business to respond
 - Not necessarily fulfill request, but must at least acknowledge request (grant or deny)
 - Can ask for more information, more detail
- Requests can be extended up to 30 days, or agree to longer extension
- Any open records request that comes to offices must get to ORO immediately
- *Note:* normal direct office inquiries may simply be filled independent of this process

County Process for Responding

- All public requests come to County Open Records Officer Lucy Yakulis (not official request until received by her office)
 - Requests can be by mail, e-mail, fax or in-person – but must be in writing
 - Standardized request form on-line
- County has 3 options:
 - Grant (yes, request is legitimate)
 - Deny (no, request is not legitimate)
 - Partial (grant in part/deny in part.

**** May also ask for more information or extension*

Process for Fulfilling Request

- Open Records Officer receives request; makes determination of its legitimacy
- ORO may grant or deny request, or ask for more detail
- ORO will coordinate with Liaisons to assemble information
- ORO will have final “sign-off” on all requests

Legal Requirements for County

- Must stamp receipt date on the written request
- Compute the day on which the five-day period will expire and make a notation of that date on the written request
- Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled

Legal Requirements for County

- If the request is denied, the written request shall be maintained for 30 days
- If an appeal is filed, county must keep the records until a final determination is issued or the appeal is deemed denied.
- Create a file and keep all of the following:
 - The original request
 - A copy of the response
 - A record of written communications with the requester

Fee Schedule

- County is permitted to charge for records
- State published fee schedule is guide:
 - Photocopies – up to .25 per page
 - Certification – max. of \$1 per record
 - Specialized document – actual cost
 - Fax/Microfiche, etc – actual cost
 - Postage – actual cost
 - Redaction fee – none
- County's existing fee schedule must be approved by state
- Certain exceptions – ex. Deeds, Prothonotary

E-Mail

- Electronic correspondence is treated the same way as paper under the law
- Official business done via e-mail *may* be part of a request
- Similar process for determination of whether it is a public record
- CIS installing server to store employee e-mails
- Per county policy, personal e-mails should be minimal, if any

Other Important Information

- No limit to number of requests someone can make
- County can deny repeated requests from the same requestor for the same record
- Requestors who are denied can appeal to the state
- Requests can be made in person, but any request that would be appealed must be in writing
- New law covers records in existence prior to January 2009

Projects Underway

- County finalizing web page with open records information, including official request form
- County developing electronic database to track requests and ensure they are filled by deadline
- Draft county policy to be finalized 23 Dec 2008
- Standardized “grant”, “deny”, “partial” form letters
- Ongoing guidance will be available as more questions are answered

Resources

- Lucy Yakulis – Open Records Officer
 - Lyakulis@co.westmoreland.pa.us
 - 724.830.3467
- Solicitors Office/row office solicitors
 - familiar with office-specific statutes
- State Open Records Website
 - <http://openrecords.state.pa.us>
- County Open Records web page