

Pennsylvania Department of Aging
RIGHT TO KNOW LAW POLICY, effective January 1, 2009
Revised September 2009

Pursuant to Section 504 of the Right-to-Know Law, 65 P.S. §§ 67.101- 67.3104 (RTKL), the Pennsylvania Department of Aging (“department”) sets forth the following policies and procedures regarding RTKL requests made to the department. These policies and procedures supplement the statewide policies set forth in [Management Directive 205.36](#).

Before making a request, please note that many records are available on the [Department of Aging’s Web site](#). The Pennsylvania Department of General Services also publishes many solicitations, awards and state contracts on its [Web site](#) and uploads contracts to the Department of Treasury’s [Web site](#).

I. REQUESTS

All RTKL requests must be in writing to be accepted by the Department of Aging.

A request to the Department of Aging under the RTKL must:

1. Be addressed to the Department of Aging’s Agency Open Records Officer:

Lou Sprague
Agency Open Records Officer
Pennsylvania Department of Aging
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1919

Fax: (717) 783-6842

Email: RTK-Aging@state.pa.us

2. Identify a name and address to which the Department of Aging should address its response;
3. State that the request is being made pursuant to the RTKL;
4. Be submitted **by mail, in person, by e-mail or by facsimile** to the address, e-mail address or fax number provided above;
5. Be sufficiently specific to enable the Department of Aging to ascertain which records are being requested; and
6. Be from a person that is a legal resident of the United States.

RTKL requests may be on the [form](#) designated by the Department of Aging. RTKL requests may also be on the standard [form](#) available on the Web site of the Office of Open Records.

The regular business hours of the Department of Aging's RTKL Office are 8:30 a.m. to 5:00 p.m., Monday through Friday. RTKL requests delivered in person can only be received during those hours (all deliveries should be made to the Department of Aging's reception desk at the address provided above). Any RTKL request received by the Department of Aging's Agency Open Records Officer ("AORO") after the close of regular business hours shall be deemed to have been received on the following business day.

RTKL requests received by the Department of Aging will be considered "public record" information and such requests may be made available for public access.

Although the Department of Aging does not accept RTKL requests by telephone, individuals may contact the department by telephone at (717) 265-7888 during its regular business hours.

II. RESPONSES

The Department of Aging's AORO may respond to a RTKL request by 1) providing access to inspect a record in the department's offices, if agreed to by the requester; 2) sending a copy of the record to the requester; or 3) notifying the requester that the record is available through publicly accessible electronic means and, if the requester writes to the agency within 30 days that the requester is unable or unwilling to access the information electronically, by then providing the records in paper format, upon payment for the same. Each of these options is a "response" for purposes of the RTKL, as is the department's written notice to the requester granting, denying or partially granting and partially denying access to a record. The department may send written responses to requesters by United States mail, by hand (in person or by delivery service), by facsimile or by e-mail.

Unless a longer period of time is needed and communicated to the requester by an "interim response" (as discussed in paragraph A below), the RTKL requires that the Department of Aging respond to an RTKL request within five business days. For purposes of determining the end of the five business day period, the day that a RTKL request is received is not counted and the first day of the five business day period is the department's next business day.

A. Interim Responses.

The Department of Aging must provide a final response to a RTKL request within 5 business days unless one or more conditions are satisfied and the AORO gives the

requester written notice that additional time will be required. That notice is referred to as an “interim response.”

The AORO may send an interim response if any of the following apply:

1. The RTKL request requires redaction of a public record;
2. The RTKL request requires retrieval of a record from a remote location;
3. A response within the 5 business day period cannot be accomplished due to bona fide staffing limitations (which must be specified in the interim response);
4. Legal review is necessary to determine whether the record requested is subject to access under the RTKL;
5. The requester has not complied with the department’s policies regarding access to public records;
6. The requester has not complied with a demand for prepayment of fees, which are required to fulfill the RTKL request and are estimated to exceed \$100 (if prepayment of fees is required, the time period for response shall be tolled from the time the demand for payment is made until such time as payment is actually received); or
7. The extent or nature of the request precludes a response within the required time period.

An interim response must: 1) be sent to the requester on or before the last day of the 5 business day period; 2) state that the request is being reviewed and the reason for the review; 3) provide an estimate of applicable fees owed when the record becomes available; and 4) state a reasonable date that a response is expected to be provided. This date must not be more than 30 calendar days from the end of the 5 business day period.

If the date of an expected response is in excess of 30 days following the five days allowed for in Section 901 of the RTKL, the request will be deemed denied unless the requester has agreed in writing to the date specified in the notice.

The department will send an interim response when the estimated fee for responding to the request is in excess of \$100. Once the estimated payment is received, the department will proceed to: 1) make a final determination as to what records, if any, are public records under the RTKL, 2) begin search and retrieval of those records, 3) perform any required redaction and 4) advise the requester, within 30 days, as to a date by when any responsive public records will be produced. Failure to make an estimated payment by the date required by the agency in its interim response will result in the request being deemed withdrawn.

B. Final Responses

There are three possible final responses: 1) the request is granted; 2) the request is denied; or 3) the request is granted in part and denied in part. The failure to make a timely response is deemed to be a denial.

If a written request is denied in whole or in part, the Department of Aging will issue a final written response that will include an explanation of the procedure for the requester to appeal, if the requester chooses to do so. The written denial will also set forth the specific reasons for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that that the record requested is exempt from disclosure, the specific reasons for the department's determination shall be included.

Non-production of records due to the fact that a good faith search by the department does not produce any responsive records is not a denial of access.

C. Redaction

The Department of Aging will not deny access to a record based upon the fact that portions of the record are not public records and, as a result, not subject to disclosure. The department will redact the portions that are not public records and produce the portions that are public records.

D. Access

The Department of Aging may provide a requester with access to inspect a record by 1) providing access in the department's offices, if agreed to by the requester; 2) sending a copy to the requester; or 3) notifying the requester that the record is available through publicly accessible electronic means and, if the requester writes to the department within 30 days that the requester is unable or unwilling to access the information electronically, by then providing the records in paper format, upon payment for the same.

The selection of buildings and rooms that may be used to provide a requester access to public records is a matter within the discretion of the AORO.

The Department of Aging will provide a public record to a requester in the medium requested if the record exists in that medium and any necessary redactions can be accomplished in that medium. If a public record only exists in one medium, the department is not required to convert that public record to another medium, except that if the public record is only available in an electronic form the department must print it out on paper if the requester so requests.

The Department of Aging is not required to create a public record that does not already exist. The department is not required to compile, maintain, format, or organize a public record in a manner in which the department does not currently do so.

E. Duplication of Public Records.

If the Department of Aging grants a RTKL request in whole or in part, it will generally make any required copies of the public records. The department has the discretion to allow the requester to bring the necessary equipment to make copies or make its duplication equipment available to a requester. The department may also contract for duplication services and require the requester to pay the applicable rate.

III. APPEALS

When a request is denied or deemed denied, whether in whole or in part, by the Department of Aging, the requester may file an appeal with the Office of Open Records, where it will be assigned to an Appeals Officer. This appeal must be filed within 15 business days of the denial or deemed denial. The appeal must state the grounds upon which the requester asserts that the record is public and should address any grounds stated by the Department of Aging for delaying or denying the request. The appeal shall be sent to the OOR at the address set forth below and simultaneously to the agency AORO, in the same manner as the appeal is sent to the OOR (e-mail, fax, mail or hand delivery) with: 1) the agency response, 2) the RTKL request and 3) the appeal form that is available on the OOR website at

<https://www.dced.state.pa.us/public/oor/appealformgeneral.pdf>:

The Commonwealth Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
Phone: 717-346-9903
Email: openrecords@state.pa.us

A person other than the Department of Aging or the requester, with a direct interest in the record that is subject to an appeal, has 15 days following actual knowledge of the appeal, but no later than the date the Appeals Officer issues an order, to file a written request to provide information or to appear before the Appeals Officer in support of the requester's or the department's position in the appeal. The Appeals Officer may, but needs not, grant that request.

For further information on appeals, it is suggested that requesters consult the Web site of the [Office of Open Records](#).

IV. FEES

Applicable RTKL fees to be charged by the Department of Aging are as follows:

A. Fees Determined by the Office of Open Records

Under the RTKL, the Office of Open Records has the authority to establish two fees for Commonwealth agencies: fees for duplication and “Enhanced Electronic Access.” 65 P.S. §§ 67.1307(b), (e). The fee schedule for duplication established by the Office of Open Records are posted on its Web site at <http://openrecords.state.pa.us>.

Unless otherwise directed by statute, the Department of Aging will charge \$.25 per page (a single-sided or one side of a double-sided, black-and-white 8.5” x 11” page) for duplication. On-site publication may be at a reduced rate of \$.15, at the discretion of the Agency

Pursuant to this policy, the department may waive duplication fees for 20 pages or less. Duplication charges are to be paid for any duplication in excess of 20 pages.

B. Specialized Fees

1. The Department of Aging will charge \$5.00 per copy for certified copies, when requested by the requester.
2. The Department of Aging will charge the actual cost for postage, the cost of other media and handling specialized documents, except that postage fees will be waived for postage that costs under \$1.00.
3. Special rules apply to fees for transcripts of administrative proceedings. Prior to an adjudication becoming “final, binding and non-appealable,” transcripts may be requested through an agency, however the stenographer or court reporter is permitted to charge the regular fee for this service. Following an adjudication becoming “final, binding and non-appealable,” a request for the transcript shall be treated like any other request for a record and the usual duplication fee of \$.25 per page will be charged.

C. Reasonable and Necessarily Incurred Costs

As expressly provided by 65 P.S. § 67.1307(g), the Department of Aging has the authority to charge requesters reasonable fees for necessarily incurred costs. The department will determine and charge such fees on a case-by-case basis.

D. General Fee Information

No charge shall be made for agency or legal review of the record to see whether the requested records are public records that are subject to production.

If the estimated fees that are required to fulfill the RTKL request exceed \$100, the requester must pay the estimated amount in advance, either by certified check or by ordinary check, which must first have cleared to be considered received by the department. The demand for prepayment will specify a reasonable period of time in

which the requester must make such prepayment. Failure to make an estimated payment by the date required by the department in its interim response will result in the request being deemed withdrawn.

All applicable fees must be paid in order to receive access to the record requested. 65 P.S. §67.901. Any requester who has unpaid amounts outstanding to the department or to any agency under the Governor's jurisdiction, in relation to RTKL requests where production was made by any such agency, will not be granted access to records under other RTKL requests until such prior amounts due have been paid in full.

When an estimated fee was not required to be paid because the estimate was \$100 or less, but actual fees are over \$100 or where the fee was under \$100, an agency has the discretion to produce the records and invoice for the amount due or to require payment prior to production.