



Better Places, Better Lives

HOUSING AUTHORITY ACCESS TO PUBLIC RECORDS POLICY

Section 1. Purpose.

This policy shall implement and govern the release of public records by personnel of the Housing Authority of the County of Cumberland. It is intended to comply with the Right to Know Law of Pennsylvania, 65 P.S. § 67.101 *et seq.*, as amended, and where the provisions of this policy conflict with any provision of the Act, the latter shall control.

Section 2. Definitions.

- (a) ACT – The Act commonly known as the Right to Know Law of Pennsylvania or the Pennsylvania Right to Know Law, 65 P.S. § 67.101 *et seq.*, as amended.
- (b) AUTHORITY – The Housing Authority of the County of Cumberland, and all of its respective appointed officials and employees.
- (c) PUBLIC RECORD – An Authority record, including a financial record, that:
 - (1) is not exempt under Section 708 of the Act;
 - (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or
 - (3) is not protected by privilege.
- (d) RECORD – Information, regardless of physical form or characteristics, that documents an Authority transaction or activity and that is created, received or retained pursuant to law or in connection with an Authority transaction, business or activity. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.
- (e) REQUESTER – A person that is a legal resident of the United States and requests a record pursuant to this Act. The term includes an agency.

- (f) RESPONSE – Access to a record or the Authority’s written notice granting, delaying, denying or partially granting and partially denying access to a record.

Section 3. Denial of access to persons who are not requesters.

The Authority shall deny access to public records to any person who is not a requester.

Section 4. Record not accessible as public record.

No record, other than a public record, shall be made available to a requester. The Authority shall not be required to create a public record which does not currently exist or to compile, maintain format or organize a public record in a manner in which the Authority does not currently compile, maintain, format or organize the public record.

Section 5. Procedure for requesting a public record.

- (a) Method of Request. A request for access to a public record may be submitted in person, by mail, or e-mail, by facsimile or, to the extent provided by Authority rules, any other electronic means, and shall be addressed to the Open Records Officer, 114 North Hanover Street, Carlisle, PA 17013 (Telephone: 717-249-0789; Facsimile: 717-249-4071).
- (b) A request must be written in order for the Requester to avail himself of the rights and remedies under the Act. An e-mail request shall be considered a written request.
- (c) Form of Request. The request shall be addressed to the person designated above and shall:
 - (1) Describe the public records sought as detailed as possible.
 - (2) Include the name and address of the requester.
 - (3) The requester shall use the “Standard Right-to-Know Law Request Form,” a copy of which is attached hereto as Appendix 1. The Authority shall make this form available to requesters on its website.

Section 6. Prohibitions.

- (a) The Authority shall not require the requester to disclose the purpose or motive of requesting access to public records.
- (b) The Authority shall not limit the number of public records that may be requested or made available for inspection or duplication.

Section 7. Time when public record is made available.

- (a) Public records shall be available for access during the regular business hours of the Authority as established from time to time.
- (b) Public records will not be available for access when the Authority offices are closed during non-business hours, weekends, holidays, or for other reasons of exigency or emergency.

Section 8. Form and release of public record.

- (a) A public record shall be provided to a requester in the medium requested if the public record exists in that medium; otherwise, it shall be provided in the medium in which it exists.
- (b) The Authority may make its public records available through any publicly accessible electronic means.
- (c) Conversion of an electronic public record to paper. If a public record is only maintained electronically or in other non-paper media, the Authority shall, upon request, duplicate the public record on paper when responding to a request for access.
- (d) Release by mail.
 - (1) If not otherwise requested by the requester, the Authority shall send the requested public records by regular mail, or at the option of the Authority, may send the public records by electronic mail to those requesters capable of receiving electronic mail.
 - (2) The requester may request delivery of the public records by mail, facsimile, express mail, e-mail or other customarily available methods. The Authority shall make a good faith effort to send the public records by the method requested.
 - (3) The postage or other actual fees for delivery shall be charged to the requester.
- (e) In person.
 - (1) If a requester desires to receive the public records in person, he may communicate his request verbally or in writing by mail, facsimile or e-mail to the Authority to retain the records for pick up at the Authority Office.
 - (2) Upon receiving the request, the Authority shall make a good faith effort to hold the requested public records at the Authority Office for a reasonable period of time, which shall not exceed sixty (60) days.

Section 9. The Authority's response to requests.

- (a) Notice of the Authority's decision.
 - (1) The Authority shall respond within five (5) business days by providing the requested public records, extending the time for response, denying the request or partially granting and partially denying the request.
 - (2) The Authority shall respond in writing unless the request was made in another medium, in which event its response may be in both writing and the medium in which the request was made.
- (b) Extensions. If the Authority determines that one of the following applies, it shall send written notice to the requester within five (5) business days of the request that it is being reviewed, and reason for the review and a reasonable date that a response is expected to be provided:
 - (1) The request for access requires redaction of a public record in accordance with Section 11 of this policy.
 - (2) The request for access requires the retrieval of a record stored in a remote location.
 - (3) A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations.
 - (4) A legal review is necessary to determine whether the record is a public record.
 - (5) The requester has not complied with the Act or this policy regarding access to public records.
 - (6) The requester refuses to pay applicable fees authorized by Section 12 of this policy.
 - (7) The extent or nature of the request precludes a response within the required time period.
- (c) Deemed Denial.

The Authority's failure to comply with the time limitations set forth in Paragraph (a) shall be deemed to be a denial of the request. If the Authority's response under Paragraph (b) is expected to be provided in excess of thirty (30) days, following the five (5) business days allowed in Paragraph (a), the request shall be deemed denied.

(d) Denial.

If the Authority's response is a denial of the request, whether in whole or in part, a written response shall be issued and include:

- (1) A description of the record requested.
- (2) The specific reason for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the Authority's determination that the record is not a public record shall be included.
- (3) The typed or printed name, title, business address, business telephone number and signature of the public official or public employee on whose authority the denial is issued.
- (4) The date of the response.
- (5) The procedure to appeal the denial of access.

Section 10. Exceptions and final Authority determination.

- (a) If a written request for access is denied or deemed denied, the requester may file an appeal to the Pennsylvania Office of Open Records within fifteen (15) business days of the mailing date of the Authority's denial or written fifteen (15) days of a deemed denial.
- (b) The exceptions shall state the grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the Authority for delaying or denying the request.

Section 11. Redaction.

- (a) If the requested public records include information that is not subject to public access, the Authority may redact that information.
- (b) The information which the Authority redacts shall be deemed a denial under Section 9 of this policy and the Authority shall give a written response to the requester in accordance with that Section.

Section 12. Disruptive requests.

The Authority may deny a requester access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the Authority. A denial under this subsection shall not restrict the ability to request a difference record.

Section 13. Fees.

- (a) The Authority shall charge the requester for actual fees for postage for mailing the public records. When another means of delivery is requested, such as express mail or facsimile, the Authority shall charge the requester the actual delivery fees incurred by the Authority.
- (b) Duplication. Fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication shall be determined by the Authority from time to time, but shall be in conformity with those established by the PA Office of Open Records and be otherwise reasonable and based on prevailing fees for comparable duplication services provided by local business entities. The current list of fees is attached to this Policy as Appendix 2.
- (c) Certification. The Authority will impose reasonable fees, as determined by it from time to time, for official certification of copies when the certification is at the behest of the requester and is for the purpose of legally verifying the public record. The current certification fee is listed on Appendix 2.
- (d) Conversion to paper. If a public record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the native media as provided by subsection (b) unless the requester specifically requests for the public record to be duplicated in the more expensive medium.
- (e) Enhanced electronic access. If the Authority offers enhanced electronic access to public records in addition to making the public records accessible for inspection and duplication by a requester, the Authority will, from time to time, establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the public record accessible for inspection and duplication by a requester as required by law. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. The user fees for enhanced electronic access shall be reasonable and may not be established with the intent or effect of excluding persons from access to public records or duplicates thereof or of creating profit for the Authority. If offered, the fees for this service are listed on Appendix 2.
- (f) Waiver of fees. The Authority may waive the fees for duplication of a public record including, but not limited to, when:
 - (1) The requester duplicates the public record; or
 - (2) The Authority deems it is in the public interest to do so.

In either event, the determination as to waiver of fees, in whole or in part, shall be made by the Authority's Opens Records Officer or his/her designee.

- (g) If the expected fees to fulfill the request exceed \$100, the Authority may request the requester to prepay the estimate of the fees.

Section 14. Posting of policy.

This policy shall be conspicuously posted at the Authority office and may be made available by electronic means.