



**pennsylvania**  
OFFICE OF OPEN RECORDS

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<http://openrecords.pa.gov>

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# Right-to-Know Law

65 P.S. § §67.101, *et. seq.*

- Effective January 1, 2009
- **Key Changes**
  - **Presumption of Openness:**
    - ***Every*** record of an Agency is ***presumed*** to be Public.
    - Agency bears burden to prove record is not public.
  - **Creation of the Office of Open Records (OOR)**

# Office of Open Records

- Independent Quasi-Judicial Tribunal
- 20 Staff, Legal and Administrative
- 2018 = 2228 Appeals Reviewed
- Final Determinations carry the weight of law
- 2018 = 979 Right to Know Requests answered

- Definition of a Record:

“Any information **regardless of its physical form or character** that documents a transaction or activity of an agency **AND** is created, received, or retained pursuant to law **OR** in connection with a transaction, business or activity of an agency.”

# What are Records?

Any information, regardless of its physical form.

- Paper
- Emails
- Phone records
- Text messages
- Blueprints
- Audio recordings
- Security camera footage
- Social Media

# Possession of a Record

- You do not have to create a record
- You do not have to conduct research
- You cannot use personal devices and accounts to hide the public's business
- Third Party (Contractor) Records
- Copyrighted Records
- Tax Collector Records v. Agency Reports
- RTKL does not address records retention

# Payment Issues

- Agency is only required to provide the record in the current medium
- Cannot charge for electronic records
- **Must allow Requester to use their own equipment to make copies**
- Cannot charge for labor/redaction/legal review
- Can only charge the actual cost/pass-through costs

# The RTKL is not a confidentiality law

- Records can be released outside of the RTKL.
- An agency may exercise its discretion to make any otherwise exempt record accessible if:
  1. Disclosure is not prohibited by Federal or State law or regulation; and
  2. The record is not protected by privilege; and
  3. The agency head determines that public interest favoring access outweighs any interest favoring withholding.
- 4. Is it a **Public Record**? (Exemptions)



# Best Practices

- Adopt an Open Records Policy
- Send staff to training
- Appoint an alternate AORO
- Issue agency e-mail accounts and phones
- Use your web sites as business platforms
- Post RTKL requests with responses
- Develop a Records Retention Policy

# Additional Resources

- [www.OpenRecords.pa.gov](http://www.OpenRecords.pa.gov)
  - Citizens Guide
  - Agency Guides
  - Final Determinations and Key Court Decisions
- Open Records Officer Guidebook
- On Site Training = [RA-DCOORTRAINING@pa.gov](mailto:RA-DCOORTRAINING@pa.gov)
- Twitter Feed = @OpenRecordsPa
- OOR Phone = 717.346.9903