



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Director Training

Other Laws Applicable to Conservation Districts

Bureau of Watershed Restoration and Nonpoint Source Management

Conservation District Support Section

June 28, 2023

Josh Shapiro, Governor

Rich Negrin, Secretary

Other Applicable Laws

- Pennsylvania Public Official and Employee Ethics Act
- Right to Know
- Sunshine Act



Ethics Act

- Who does the Ethics Act apply to?
 - Public Employee
 - Public Official
- How does this apply to Conservation Districts?

Ethics Act Requirements

- Complete “Statement of Financial Interests”
 - Online or hard copy
 - File no later than **May 1st** of each year
- Ensure your Board Members and Staff Complete the form
- Employers, boards, offices held, income, creditors, real estate interests, gifts and financial interests must be listed
- **Retain** at the Conservation District Office for **5 years**
- The “Statement of Financial Interest” is a **public record** and open to RTK

Restricted Activities

- Conflict of Interest
 - Use of the authority of one's office, employment, or confidential information received through official duties for the substantial private pecuniary benefit of himself , a member of his immediate family, spouse or a business of which he, a member of his immediate family or his spouse is associated.

Restricted Activities

- Seeking Improper Influence
 - You cannot accept anything of monetary value with the understanding that any official action or judgement you make would be influenced.

- Accepting Improper Influence
 - You may not solicit or accept anything of monetary value based on an understanding that they would be influenced in the discharge of their public duties.

Restricted Activities

- **Contracts**
 - You shall not enter into any contract valued at \$500 or more with the governmental body which you are associated, or any subcontract valued at \$500 or more with a party that has contracted with the official or employee's governmental body unless the contract was awarded publicly with full public notice and disclosure.

Restricted Activities

- Voting Conflicts
 - Any Public Official who is in the discharge of his duties would be required to vote on a matter that would result in a conflict of interest, shall abstain from voting and publicly disclose in writing to the person responsible for preparing the minutes, the nature of the conflict.



Questions
on the
Pennsylvania Ethics Act

Right to Know Act

The Commonwealth of Pennsylvania's Right to Know Law (Act 3 of 2008) provides citizens the right of access to public records, and sets forth the conditions under which a document maintained by a Commonwealth agency is deemed a public record.

What is a Record?

- Information regardless of physical form that documents a transaction or activity of an agency that is created, received or retained pursuant to law or in connection with a transaction, business, or activity of the agency.
- This includes documents, paper, letter, map, book, tape, photograph, film, or sound recording, information stored or maintained electronically.

What is a Public Record?

- A Record including a financial record of a Commonwealth or local agency that:
 - Is not exempt under Section 708 of the Act
 - Is not exempt from being disclosed under any other federal or state law or regulation or judicial order or decree
 - Is not protected by privilege
- General Rule – A record in the possession of a Commonwealth or local agency shall be presumed to be a public record.

Who can make a request?

- A legal resident of the United States
- This includes businesses

Requests

- May be verbal, written, and may be anonymous
- Written requests may be submitted in person, by mail, email, fax or by other electronic means.
- Open Records Office has a form on their website.
- You **cannot** require someone to submit a request on a **form**.
- Requests are to be directed to the Open Records Officer

Requirements

- Each agency must name an Open Records Officer and notify the State Open Record Office of who that person.
- Open Record Officer should log all RTK requests received
- Must respond to all RTK requests within 5 business days.

Electronically Available Records

- You may make public records available through and publicly accessible means.

Example: You may post board minute on your website. If you receive a RTK request for meeting minutes you may direct that person to the website to access those minutes.

Creation of a Record

- You are not required to create a record which does not exist
- You are not required to compile, maintain, format or organize the record in a form it does not exist.

Fees

- Fees are set by the State Open Records Office
- You may not charge fees that exceed those set by the Open Records Office
<https://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>
- You may not charge for the staff time it takes to fulfill a request

Exemptions

- Section 708 of the Act
 - There are 30 exemptions in section 708 of the RTK law. If the record requested does not fall into one of those categories, it is a public record.



Questions
on the
Pennsylvania Right to Know Act

Sunshine Act (Open Meetings)

PURPOSE:

To ensure the right of its citizens to have notice of and the right to attend all meetings of agencies at which any agency business is discussed or acted upon.

Who is Covered

- Applies to any state or local government body
- and all *committees*
- that perform an essential government function
- and exercises authority to take official action.
- Making recommendations = official action

What is a Meeting?

- Is there a quorum?
(members can “phone in”)
- Is there deliberation?
- Is there decision making?
- Beware of email meetings and Social Media commenting!

Is Your Committee Covered

- Does the committee have decision making authority?
- Are the members appointed by the board and are they authorized to act on its behalf?
- Are the recommendations pursuant to statute, ordinance, or regulatory authority
- Unsure? Lean towards transparency

Exceptions to meetings?

- Working Sessions, Conferences & Retreats
 - Communication is one way
 - Reports from staff
 - There is no deliberation
 - There is no decision making

Public Notice

- Notice must be a legal notice in a newspaper of general circulation where the meeting will take place
- Must provide notice at least 3 days prior to the first meeting of the year and the remaining scheduled meetings
- Must publish rescheduled or special meetings 24 hours prior to the meeting
- Must publish place, date, and time of the meeting
- No requirement to publish cancellation of meetings

Agendas

- Must post the meeting agenda on the agency's publicly accessible website at **least 24 hours** prior to a meeting.
- The agenda must list each matter of agency business that will or may be the subject of deliberation or official action at the meeting.
- Post the meeting agenda at both the meeting location and the agency's main office.
- Includes regular and special meetings (including committees)
- Does not include work sessions, conferences and executive sessions

Agendas Continued

Changing the Agenda

- Before the Meeting:

- “di minimus” with no expenditure of funds or entering into a contract

- During the Meeting:

- If initiated by the public – can be deferred to a future meeting
- If initiated by the board by majority vote:
 - Reason must be announced prior to official action
 - Amended agenda must be posted within 24 hours
 - Minutes must reflect the change

Executive Sessions

- Do not need to provide public notice
- Can be held before, during or after an open meeting, or announced for some future time.
- Must announce at a public meeting that an executive session was or will be held and the complete reason of the executive session
- No official action can be taken during an Executive Session – Votes must occur in a public session

Executive Sessions

- Allowable Reasons for Executive Session
 - Personnel Matters (hiring, firing, discipline)
 - Collective Bargaining Agreements (labor negotiations)
 - Considering purchase, lease or sale of property
 - Consulting with Attorneys/Advisors regarding Litigation
 - Avoiding violating privilege and confidentiality
 - Discussing university admission standards
 - Discuss emergency preparedness

Recording Votes

- Each member must cast their vote in a public meeting
- If a roll call vote is taken, then each member's vote must be recorded
- Secret ballots are prohibited

Minutes of Meetings

- Agencies are required to keep written minutes of all open meetings and must include:
 - Date, time and place of the meeting
 - Names of members present
 - Substance of all official actions, and a record by individual members of the roll call votes taken
 - Names of all citizens who appeared officially and the substance of their testimony

Public Participation

- Must provide reasonable opportunity for public comment
- May be at the beginning of the meeting or prior to each official action
- May establish written policy regarding public comment

Public Use of Recording Equipment

- Any person may record a public meeting with recording devices, including:
 - Video Tape Equipment
 - Cell Phones
 - Tablets
 - Laptops
- Agencies are permitted to adopt and enforce reasonable rules for the use of recording devices.

Important Websites

- Ethics Commission
 - www.ethics.pa.gov
- Open Records Office
 - www.openrecords.pa.gov
- Sunshine Act
 - www.DCED.pa.gov



Questions?

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