

**Resolution Amending
PBA's Open Records/
Right to Know Policy**

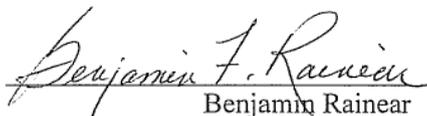
WHEREAS, on May 20th, 2008 the Board of Perkasio Borough Authority adopted a policy establishing a procedure for the public to access documents as Public Information; and

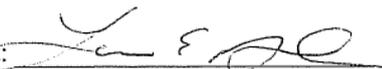
WHEREAS, The Commonwealth of Pennsylvania passed Act 3, also known as The Pennsylvania Right-To-Know Law of 2008, which is to take effect on January 1, 2009; and

WHEREAS, The Board of Perkasio Borough Authority wishes to replace its current policy with those established under Act 3;

NOW THEREFORE BE IT RESOLVED, that effective January 1, 2009 the attached document will become Perkasio Borough Authority's official policy establishing the procedures for person's wishing to obtain access to public documents in the possession of The Authority.

SO RESOLVED this 21st day of October, 2008.


Benjamin Rainear
Chairman

Attest: 
Lawrence E. Gular
Secretary

AUTHORITY POLICIES AND PROCEDURES RE: PUBLIC RECORDS

The Board recognizes the importance of public records as the record of the acts of this Authority and the repository of information about this Authority. The public has the right under law to inspect and to procure copies of such records with certain exceptions subject to Authority policy. At the same time, the Authority has an obligation to maintain confidentiality of certain information, such as personnel records, and to protect individuals' rights to privacy, and to protect the security and integrity of the Authority's facilities in accordance with applicable law.

These Policies and Procedures are intended to implement the Right to Know Law of 2008 (hereinafter the "Act"). In the event of any conflict between these Policies and Procedures and the Act, the terms of the Act shall control.

A record in the possession of the Authority shall be presumed to be a public record. This presumption shall not apply if (1) the record is exempt from public access under the Act; (2) the record is protected by a privilege; or (3) the record is exempt from disclosure under any other federal or state law or regulation or judicial order or decree.

A Public record does not include the following:

1. Any report, communication or other paper whose publication would disclose the institution, progress or result of an investigation undertaken in the performance of official duties.
2. Any record, document, material, exhibit, report, memorandum, or other paper access to which or publication of which is prohibited, restricted, or forbidden by law or court order or decree; or which would operate to the prejudice or impairment of a person's reputation or personal security; or which would impair the security and integrity of the Authority's systems and facilities; or result in the loss of federal funds, except the record of a conviction for any criminal act.
3. Any record, document, material, or other paper on the basis of which no action has been taken by order, motion or resolution of the Board.
4. Any record, document, material or other paper that would disclose personal information in violation of the individual's right to privacy. Unless the requester shows the employee's personal information (names, home address, home telephone numbers and social security numbers) is essential to an Authority decision, this information must be redacted.

5. Personnel files and medical records, in compliance with applicable laws; and
6. Any record, in addition to those described above, that is described as an exempt record in section 703(b) of the Act or other applicable section of the Act.

As required by the Act, the Board shall make the Authority's public records available for inspection and duplication to any resident of the United States, in accordance with Authority policy and payment of applicable fees, with the exception of records exempted by law.

The public record shall be provided in the medium (paper or electronic) requested if the public record exists in that format; otherwise, it will be provided in the medium in which it exists.

The Authority is not required to create a public record that does not exist nor to compile, maintain, format or organize a public record in a manner different from that currently maintained by the Authority. If a public record is maintained only in an electronic format, the Authority shall duplicate the record on paper, upon request, subject to applicable duplication charges.

Public records shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.

No public record shall be removed from the control or supervision of the designated custodian.

Request for Access

A request for access to a public record shall be submitted to the Manager of the Authority, who shall serve as the open records officer as described in the Act.

Requests must be submitted in writing in person, by mail, email, or by facsimile. The requester shall use the uniform form developed by the Office of Open Records. Information about the procedure and form for submitting the request shall be maintained on the Authority's website.

Each request must include the following information:

1. Identification of the requested record, in sufficient specificity to assist the Authority in determining what record is requested.

2. Medium in which the record is requested.
3. Name and address of the person to receive the Authority's response.

Verbal and anonymous requests will not be accepted.

Response to Request

Upon receipt of a request, the Manager shall do all of the following:

1. Note the date of receipt of the written request;
2. Compute the day on which the five-day period under the Act will expire and make a notation of that date on the written request; and
3. Maintain an electronic or paper copy of the written request, until the request has been fulfilled. If the request is denied, the written request must be maintained for 30 days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

The Manager or designee shall review the request and respond within five (5) business days of receiving the request. If the request is submitted to an individual or office other than the Manager, the five (5) day period will not begin until the request is received by the Manager.

Upon receipt of a written request for access, the Manager shall determine if one of the following applies:

1. The request for access requires redaction of public record;
2. The request for access requires the retrieval of a public record stored in a remote location;
3. A timely response to the request for access cannot be provided due to bona fide and specified staffing limitations.
4. A legal review is necessary to determine whether the record is public record subject to access under the Act;
5. The requester has not complied with the Authority's policies regarding access to public records;
6. The requester refuses to pay applicable fees; or

7. The extent of nature of the request precludes a response within the required time period.

Upon determination that one of the above factors applies, the Manager shall send written notice to the requester within five business days of receipt of the request. The notice shall include a statement notifying the requester that the request is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed if and when the record becomes available. If the date that a response is expected is in excess of 30 days, the request for access shall be deemed denied unless the requester has agreed to an extension of time to the date specified in the notice. If an extension is agreed to, the request shall be deemed denied on the day following the date specified in the notice if a response has not been provided by that date.

If the Authority determines that the request will be granted, a response shall be sent within five (5) business days. The response shall include the regular business hours of the Authority office, the medium in which the record is provided, and the assessed fees.

If the Authority fails to respond to a request within five (5) business days, the request for access will be deemed denied.

If the Authority determines that a public record contains information that is subject to access and information that is not subject to access, the Authority shall grant access only to the information which is subject to access. If the information subject to access cannot be separated from that which is not, the Authority will redact from the public record anything not subject to access.

Denial of Request

If the Authority denies a request for access to a public record, its response shall be sent within five (5) business days of receiving the request. The response denying the request shall include the following:

1. Description of the record requested;
2. Specific reasons for denial, including a citation to supporting legal authority. If the denial is a result of a determination that the record requested is not a public record, the Authority shall provide an explanation of its determination;

3. Name, title, business address, telephone number and signature of the Manager who denied the request;
4. Date of response.
5. Procedure to appeal denial of access.

The Authority shall not deny access to a public record based on the intended use by the recipient.

The Authority shall not limit the number of public records that may be requested; however, a request for a record may be denied if the requester has made repeated requests for the same record and the repeated requests have placed an unreasonable burden on the Authority.

Access to a record may be denied due to flood, fire, or other disaster, or where historical or rare documents are involved.

Appeal of Denial

If a request for access to a public record is denied or deemed denied, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the mailing date of the response or within 15 business days of a deemed denial. The appeal shall state the grounds on which the requester contends the record is a public record and shall address the Authority's grounds for delaying or denying the request. The appeal shall be assigned to an appeals officer and shall be conducted in accordance with the provisions of the Act and such procedures as may be adopted by the Office of Open Records.

Within thirty (30) days of the mailing date of the final determination of the appeals officer or the date a request for access is deemed denied. A requester or the Authority may file a petition for review or other document as required by rule of court with the Court of Common Pleas of Bucks County.

Fees

The fee schedule shall be reviewed annually and approved by the Board.

Copies of public records shall be provided by the Authority only upon payment of applicable fees to include the following:

1. Postage based upon actual cost of mailing.

2. Duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile and other electronic means, and other means of duplication, based upon a fee schedule established by the Office of Open Records..
3. Certification.
4. Conversion to paper.
5. Enhanced electronic access.

A list of fees and summary of the policy governing access to public records shall be provided to each requester, posted in all Authority buildings and on the Authority website.

Prior to granting a request for access, the Authority may require the requester to prepay an estimate of the fees required to fulfill the request if such fees are expected to exceed \$100.

The Authority shall not charge any fees for staff time or resources used to evaluate a request for access to public records.

The Manager or designee shall develop a list of specific fees that apply to requests for inspection and duplication of public records. The fees shall be reasonable and in accordance with the provisions of law.

Information to be posted

The Manager or designee shall ensure that the following information is posted at the Authority office and on the Authority's website:

1. Contact information for the Manager;
2. Contact information for the Office of Open Records;
3. A form that may be used to file a request;
4. The Authority's fee schedule; and
5. Regulations, policies and procedures of the Authority relating to the Act.