

**Revised: December 11, 2008**

**Approved by: Commissioners**

**RIGHT TO KNOW REQUESTS (ACCESS TO PUBLIC RECORDS)**

**1. PURPOSE**

Effective January 1, 2009, this policy is to provide citizens of the Commonwealth the right to request, inspect and obtain copies of public records per Pennsylvania’s Right-to-Know Law. This policy is not meant to supersede the normal business activity of County Offices. With respect to the policy, the following requests should be routed immediately to the County’s Open Record’s Officer:

- A. A “Right to Know Request” or an “Open Records Request,”
- B. A request for any document(s) that would not be distributed in the course of the office’s everyday operations, or
- C. A request for an item or items that may potentially be of a confidential, proprietary or of a legal nature.

All Right to Know requests must be forwarded to the County Open Records Officer by 5:00 p.m. on the date the request is received by any department/ROW office. Any questions arising from requests for records/documents must be directed IMMEDIATELY to the Open Records Officer.

**2. RELATION TO OTHER LAWS**

In the event the provisions of this policy conflict with the Open Records Act or any other State or Federal law, the provisions of this policy shall not apply.

**3. DEFINITIONS**

The following words and phrases when used in this policy shall have the meanings given to them in this section unless the context clearly indicates otherwise. Any terms not defined here may be defined in the Open Records Act.

Administrative proceeding	A proceeding by the County of Lycoming, the outcome of which is required to be based on a record or documentation prescribed by law or in which a statute or regulation is particularized in application to individuals. The term includes an appeal.
Aggregated data	A tabulation of data which relate to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories.

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Appeals officer	For the County of Lycoming this is the Office of Open Records established by Act 3 of 2008, as signed by Gov. Edward G. Rendell on February 14, 2008, and effective January 1, 2009.
Confidential proprietary information	Commercial or financial information received by the County: (1) which is privileged or confidential; and (2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.
Chief Clerk	Chief Clerk of the County of Lycoming.
County	County of Lycoming.
Deemed Denial	A request is deemed denied if one of the following conditions occurs: (i) the Open Records Office receiving a written Open Records Request fails to respond within the initial 5-business-day period; (ii) the Open Records Office extends the 5-business-day period by up to 30-calendar-days, but then fails to respond by the end of that extended period; or (iii) the Open Records Office notifies the Requester that it requires additional time to respond in excess of the permitted 30-calendar-day period.
Denial	Determination by the Open Records Officer that the requested information will be withheld from disclosure.
Financial record	Any of the following: (1) Any account, voucher or contract dealing with: (i) the receipt or disbursement of funds by the County; or (ii) the County's acquisition, use or disposal of services, supplies, materials, equipment or property. (2) The salary or other payments or expenses paid to an officer or employee of the County, including the name and title of the officer or employee. (3) A financial audit report. The term does not include work papers underlying an audit.

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Homeland security	Governmental actions designed to prevent, detect, respond to and recover from acts of terrorism, major disasters and other emergencies, whether natural or manmade. The term includes activities relating to the following: (1) emergency preparedness and response, including preparedness and response activities by volunteer medical, police, emergency management, hazardous materials and fire personnel; (2) intelligence activities; (3) critical infrastructure protection; (4) border security; (5) ground, aviation and maritime transportation security; (6) bio-defense; (7) detection of nuclear and radiological materials; and (8) research on next-generation securities technologies.
Independent agency	Any board, commission or other agency or officer appointed by the Board of Commissioners for the County of Lycoming, that is not subject to the policy supervision and control of the Commissioners. The term does not include a legislative or judicial agency.
Judicial agency	A court from the 29 <sup>th</sup> Judicial District of the Commonwealth or any other entity or related office.
Office of Open Records	The State Office of Open Records established in section 1310 of the Open records Act.
Open Records Act	Act 3 of 2008; 65 P.S. §§ 67.101.
Open Records Officer	For the County of Lycoming this is an assigned duty of the Chief Clerk and Director of Administration. In the absence of that officer, the Administrative Manager of the Commissioners' Office will serve as Open Records Officer.
Personal financial information	An individual's personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual's personal finances.
Privilege	The attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.

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Public record	A record, including a financial record, of the County that: (1) is not exempt under section 708; (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 a privilege.
Record	Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the County. 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.
Requester	A person that is a legal resident of the United States and requests a record pursuant to this act. The County may require that the Requester to produce photographic identification to establish proof of citizenship. The term includes an agency.
Response	Access to a record or the County's written notice to a requester granting, denying or partially granting and partially denying access to a record.
Right to Know Law	Official "short title" for the Pennsylvania Open Records Act.
Social services	Cash assistance and other welfare benefits, medical, mental and other health care services, drug and alcohol treatment, adoption services, vocational services and training, occupational training, education services, counseling services, workers' compensation services and unemployment compensation services, foster care services, services for the elderly, services for individuals with disabilities and services for victims of crimes and domestic violence.

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Terrorist act	A violent or life-threatening act that violates the criminal laws of the United States or any state and appears to be intended to: (1) intimidate or coerce a civilian population; (2) influence the policy of a government; or (3) affect the conduct of a government by mass destruction, assassination or kidnapping.
Trade secret	Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that: (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software obtained by an agency under a licensing agreement prohibiting disclosure.

**4. PROCEDURE FOR ACCESS TO PUBLIC RECORDS**

- A. General Rule - Unless otherwise provided by law, a public record of the County is accessible for inspection and duplication by a requester in accordance with this policy. A public record will be provided to a requester in the medium requested if the public record exists in that medium; otherwise, it will be provided in the medium in which it exists. Public records will be available for access during the regular business hours of the County. Nothing in this policy will provide for access to a record, which is not a public record. Please refer to section 708 of the Right to Know Law.
  
- B. Requests – Requests for access to records may be made verbally or in written form. However, if the requester wishes to pursue the relief and remedies provided for in Right to Know Law, the request for access to records must be a written request. (Appendix A).

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- C. Written Requests – A written request for access to records may be submitted in person, by mail, by facsimile or by electronic means. A written request must be addressed to the County Open Records Officer for the County of Lycoming. Written requests should identify or describe the records sought with sufficient specificity to enable the County to ascertain which records are being requested and must include the name and address to which the County should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records.
- D. Creation of a Public Record – When responding to a request for access, the County is not 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 does not currently compile, maintain, format or organize the public record.
- E. Conversion of an Electronic Record to Paper – If a public record is only maintained electronically or in other non-paper media, the County will, upon request, duplicate the public record on paper when responding to a request for access in accordance with this policy.

## 5. ACCESS TO PUBLIC RECORDS

Redaction – If the County determines that a public record contains information, which is subject to access, as well as information which is not subject to access, the County's response will grant access to the information, which is subject to access, and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, the County will redact from the public record the information which is not subject to access and the response will grant access to the information which is subject to access.

### A. Response To Written Requests For Access

- (1) General Rule – Upon receipt of a written request for access to a record, the County will make a good faith effort to determine if the record requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request. All requests must be forwarded to the County Open Records Officer by 5:00 p.m. on the date the request is received by any department/ROW office. Upon receipt of a request, the open records officer will:
- Stamp the date of receipt on the written request.
  - Compute the day on which the five-day period under Section 901 will expire and make a notation of that date on the written request.

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- Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled.
- If the request is denied, the written request shall be maintained for 30 days
- If an appeal is filed, keep the records until a final determination is issued or the appeal is deemed denied.
- Create a file and keep all of the following:
  - The original request.
  - A copy of the response.
  - A record of written communications with the requester.

A response will be made within five (5) business days from the date the written request is received by the County. If the County fails to send the response within five (5) business days of receipt of the written request for access, the written request for access shall be deemed denied.

(2) Exception - Upon receipt of a written request for access, the County shall determine if one of the following applies:

- a. The request for access requires redaction of a public record in accordance with Section 4.A;
- b. The request for access requires the retrieval of a record stored in a remote location;
- c. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
- d. A legal review is necessary to determine whether the record is a public record subject to access under this policy;
- e. The requester has not complied with the County's policies regarding access to public records; or
- f. The requester refuses to pay applicable fees.

Then, the County will send a written notice to the requester within five (5) business days of its receipt of the request notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided.

(3) Denial – If the County's response is a denial of a written request for access, whether in whole or in part, a written response will be issued and will include:

- a. A description of the record requested.

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- b. The specific reason(s) 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 County's determination that the record is not a public record will be included.
- c. 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.
- d. Date of the response.
- e. The procedure to appeal the denial of access under this act.
- f. The following is a non-inclusive summary list of items that are not available under this policy.
  - Social security numbers.
  - Drivers license numbers.
  - Employee identification number.
  - Home, cellular or personal phone numbers.
  - Personal financial information.
  - Spouse's name, marital status, beneficiary or dependent information.
  - Home addresses of law enforcement and judges.
  - Identity of confidential informants.
  - Autopsy reports – except name, cause and manner of death, which are public.
  - Records that identify social service recipients, including welfare recipients.
  - A minor's name, home address, date of birth.
  - Pre-decisional deliberations.

It is not the intent of this policy to make a document a public record that is not a public record in law.

(4) Certified Copies – If the County's response grants a request for access, it will, upon request, provide the requester with a certified copy of the public record providing the requester pays the applicable fees pursuant to Section 8.



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### 6. FINAL DETERMINATION

- A. Filing Of Exceptions – If a written request for access is denied or deemed denied, the requester may file exceptions with the Office of Open Records as set forth in Section 6 of this policy within 15 business days of the mailing date of the response or within 15 days of a deemed denial. The exceptions shall state grounds upon which the requester asserts that the record is a public record and shall address any grounds stated by the County for delaying or denying the request.
- B. Determination – The Office of Open Records shall make a final determination regarding the exceptions within 30 days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the Office of Open Records or its designee may conduct a hearing. If the Office of Open Records or its designee determines that the request for access was correctly denied, then the County will provide a written explanation to the requester of the reason for the denial.

### 7. OPEN RECORDS OFFICE APPEAL

- A. Authorization.
  - (1) If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d) of the Open Records Act within 15 business days of the mailing date of the County's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the agency for delaying or denying the request.
  - (2) Except as provided in section 503(d) of the Open Records Act, in the case of an appeal of a decision by a Commonwealth agency or local agency, the Office of Open Records shall assign an appeals officer to review the denial.
- B. Determination.
  - (1) Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (A).
  - (2) If the appeals officer fails to issue a final determination within 30 days, the appeal is deemed denied.

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- (3) Prior to issuing a final determination, a hearing may be conducted. The determination by the appeals officer shall be a final order. The appeals officer shall provide a written explanation of the reason for the decision to the requester and the agency.

#### C. Direct interest.

- (1) A person other than the County or requester with a direct interest in the record subject to an appeal under this section may, within 15 days following receipt of actual knowledge of the appeal but no later than the date the appeals officer issues an order, file a written request to provide information or to appear before the appeals officer or to file information in support of the requester's or agency's position.
- (2) The appeals officer may grant a request under paragraph (1) if:
  - (i) no hearing has been held;
  - (ii) the appeals officer has not yet issued an order; and
  - (iii) the appeals officer believes the information will be probative.
- (3) Copies of the written request shall be sent to the County and the requester.

## 8. FEES

The following fee schedule is prescribed by the Office of Open Records. Section 1307 of the Right-To-Know law requires the Office of Open Records to establish a fee structure for Commonwealth Agencies and Local Agencies. To promote uniformity among all agencies, the Office of Open Records encourages Judicial and Legislative agencies, which can set their own fees, to adopt the following fee structure. All agencies are advised that duplication fees can be waived.

The Office of Open Records establishes the following fee structure in accordance with the law.

- A) Copies:** A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page. A copy will cost \$0.25 (25 cents) per page for reproduction.
- B) Certification of a Record:** \$1.00 per record, not per page. Please note that certification fees do not include notarization fees.
- C) Specialized documents :** For example, but not limited to, blue prints, color copies, GIS data, non-standard sized documents will be the actual costs of the documents.

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- D) Facsimile/Microfiche/Other Media:** Actual cost of documents.
- E) Redaction Fee:** No redaction fee will be charged.
- F) Conversion to Paper:** If a 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 original media unless the requester specifically requests for the record to be duplicated in the more expensive medium.
- G) Postage Fees:** Fees for postage will be the actual cost of mailing.
- H) Statutory Fees:** If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of 50 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051. Police departments have the authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa.C.S. §3751 (b)(2). Philadelphia police may charge up to \$25 per copy. *Id.* at (b)(3). State police are authorized to charge “\$5 for each copy of the Pennsylvania State Police full report of investigation.” 75 Pa.C.S. §1956(b).
- I) Inspection of Redacted Records:** If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the County may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.
- J) Enhanced Electronic Access:** If the County offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the County may 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 records accessible for inspection and duplication by a requester as required by this Act. 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

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reasonable method and any combination thereof. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency.**

**K) Prepayment:** Prior to granting a request for access in accordance with this Act, the County may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed \$100.

**L) Waiver Of Fees.** The County 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) It is deemed in the public interest to do so.

**9. POSTING**

A copy of this policy and the following information shall be conspicuously posted at the following County locations: Court house, Executive Plaza, Lysock View Complex, Resource Management Services, Prison, as well as on the County Internet website:

- (1) Contact information for the Open Records Officer.
- (2) Contact information for the Office of Open Records or other applicable appeals officer.
- (3) A copy of the form which may be used to file a request.
- (4) Regulations, policies and procedures of the County relating to this act.

**Appendix A**

Commissioners:

**REBECCA A. BURKE**  
*Chairperson*

**ERNEST P. LARSON**  
*Vice-Chairman*

**JEFF C. WHEELAND**  
*Secretary*



**FRED F. MARTY**  
*Chief Clerk*  
*Director of Administration*

**THOMAS C. MARSHALL**  
*Solicitor*

Telephone: (570) 320-2124  
Fax: (570) 320-2127

48 WEST THIRD STREET  
WILLIAMSPORT PA 17701

www.lyco.org  
county.commissioners@lyco.org

**RIGHT-TO-KNOW REQUEST FORM**

**DATE REQUESTED:**

**REQUEST SUBMITTED BY:**            E-MAIL            U.S. MAIL            FAX            IN-PERSON

**NAME OF REQUESTOR :** \_\_\_\_\_

**STREET ADDRESS :** \_\_\_\_\_

**CITY/STATE/COUNTY (Required):** \_\_\_\_\_

**TELEPHONE (Optional):** \_\_\_\_\_

**RECORDS REQUESTED:**

*\*Provide as much specific detail as possible so the agency can identify the information.*

**DO YOU WANT COPIES? YES or NO**

**DO YOU WANT TO INSPECT THE RECORDS? YES or NO**

**DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO**

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**RIGHT TO KNOW OFFICER:**

**DATE RECEIVED BY THE AGENCY:**

**AGENCY FIVE (5)-DAY RESPONSE DUE:**

*\*\* If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*