

FAWN TOWNSHIP, YORK COUNTY, PENNSYLVANIA
RIGHT-TO-KNOW POLICY FOR PUBLIC RECORDS

I. Introduction

Fawn Township ("Township"), York County, Pennsylvania, is a body corporate and politic, being a second class township, governed by the Second Class Township Code, 53 P.S. §65101 et seq. As such, the Township is a local agency for purposes of the Right-to-Know Law, Act 3 of 2008.

All local agencies are required to provide public records in accordance with the Right-to-Know Law. Therefore, any record in the possession of the Township shall be presumed to be a public record, except in the following circumstances:

- A. The record is exempt under §708 of the Right-to-Know Law;
- B. The record is protected by the attorney work product doctrine, the attorney/client privilege, or other privilege recognized by a court interpreting the laws of the Commonwealth of Pennsylvania; or
- C. The record is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree.

Records are broadly defined under the Right-to-Know Law. 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.

Requests for public records can be made by any person who is a legal resident of the United States, including resident aliens. Requests to the Township can also be made by other local agencies, Commonwealth agencies (e.g., The Department of the Auditor General or the Treasury Department), judicial agencies (i.e., the courts), or legislative agencies (e.g., the Senate and House of Representatives).

II. Access and Procedure

Requesters may make oral requests for access to records. However, if the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, including the right to appeal a determination of the Township, the request for access to records must be a written request. A written request for access to records may be submitted in person, by mail, by electronic mail, or by facsimile.

The Township has designated its Secretary, LuAnn Julius, to act as the Open-Records Officer ("Officer"). The Chairman of the Board of Supervisors shall be the Alternate Officer in her absence. The Officer's (and Alternate Officer's) contact information is set forth below:

Fawn Township
245 Alum Rock Road, P.O. Box 229
New Park, PA 17352-0229
Telephone: (717) 382-4834
E-mail: Fawntwp@nfdc.net

Questions regarding this policy may be directed to the Officer at the address, telephone number, or e-mail address listed above.

All written requests must be addressed to the Officer, and all such requests may be submitted in person, by mail, by electronic mail, or by facsimile. In the event that a written request for records is addressed to a Township employee other than the Officer, the Township employee shall promptly forward such requests to the Officer.

Written requests should identify or describe the record sought with sufficient specificity to enable the Township to ascertain which records are being requested. Unless otherwise required by law, a written request need not include any explanation of the requester's reason for requesting the records or the intended use of such records. A form which may be used to file a request is available from the Township upon request. The Township shall assign a tracking number to each filed form so as to track the Township's progress in responding to requests under the Right-to-Know Law.

The Township shall have the right to collect all fees due for the records prior to delivering the records to a requester. Once the records have been collected and the fee for those records has been determined, the Officer will notify the requester in writing of the availability of the records and the fees due. The fees shall be authorized by a resolution of the Township, and shall be based on the fees authorized by the state's Office of Open Records. Also, prior to granting a request for access in accordance with the Right-to-Know Law, the Township may require a requester to prepay an estimate of the authorized fees if the fees required to fulfill the request are expected to exceed \$100.00. Except as otherwise provided by statute, no other fees may be imposed unless the Township necessarily incurs costs for complying with the request, and such fees must be reasonable.

A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. In other words, the Township shall not be required to create a record which does not currently exist or to otherwise compile, maintain, format or organize a record in a manner in which it does not currently compile, maintain, format or organize such record.

Upon receipt of a written request for a public record, the Officer shall do the following:

- A. Note the date of the receipt on the written request;
- B. Compute the day on which the five-day period (see discussion of response, below) will expire, and make a notation of that date on the written request; and
- C. Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

III. Township's Response

Upon receipt of a written request for access to a record, the Township shall make a good faith effort to determine if the record requested is a public record and whether the Township has possession, custody or control of the identified record. When doing so, the Township will respond as promptly as possible under the circumstances existing at the time of the request. Under the Right-to-Know Law, the Township must send a response within five (5) business days of receipt of the written request for access, or else the written request shall be deemed denied. For purposes of this policy, a business day is any Monday, Tuesday, Wednesday, Thursday or Friday, except those days when the Township's office is closed for all or part of a day due to a state holiday.

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

- A. The request for access requires redaction of a record in accordance with the Right-to-Know Law;
- 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 record subject to access under the Right-to-Know Law;

- E. The requester has not complied with the Township's policies regarding access to records;
- F. The requester refuses to pay applicable fees authorized by the Right-to-Know Law; or
- G. The extent or nature of the request precludes a response within the required time period of five (5) business days.

Upon a determination that one or more of the factors listed above applies, the Officer shall send written notice to the requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access 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 when the record becomes available. Information which the Township redacts in accordance with the Right-to-Know Law shall be deemed a denial.

If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for above, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the Township has not provided a response by that date.

For purposes of this policy, the "mailing date" shall be the date affixed to a: (1) response from the Officer to a request, which is to be the date the response is deposited in the U.S. mail; (2) final determination from the Officer, which is to be the date the final determination is deposited in the U.S. mail.

IV. Appeal of Township's Determination

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

The state's Office of Open Records has established an internet website at www.openrecords.state.pa.us with information relating to the Right-to-Know Law, including information on fees, advisory opinions and decisions, plus the name and address of all Open-Records Officers in the Commonwealth of Pennsylvania. The name, address, telephone number, and e-mail address for the Appeals Officer of the Office of Open Records and for the Office of Open Records is:

Terry Mutchler
Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
Telephone: 717-346-9903
E-mail: openrecords@state.pa.us

V. Retention of Records; Access to Township Computers

Nothing in the Right-to-Know Law shall be construed to modify, rescind or supersede the Township's lawfully adopted record retention and disposition policy. Moreover, nothing in the Right-to-Know Law shall be construed to require access to any computer of the Township, or that of an individual or employee of the Township.