

RESOLUTION NO. 2024-13

A RESOLUTION OF DERRY TOWNSHIP, MIFFLIN COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING ITS POLICY REGARDING REQUESTS FOR PUBLIC RECORDS UNDER THE PENNSYLVANIA RIGHT-TO-KNOW LAW, 65 P.S. §§ 67.101-67.3104

WHEREAS, the Pennsylvania Right to Know Law (“RTKL”), 65 P.S. §§ 67.101-67.3104, requires municipal subdivisions and authorities to adopt a policy implementing the provisions and requirements of the RTKL; and

WHEREAS, the Derry Township is an “agency” as defined By the RTKL; and

WHEREAS, the Board of Supervisors of Derry Township desires to amend its existing policy governing requests for public records under the RTKL to assure compliance with the RTKL, to provide access to public records of the Township; to preserve the integrity of the Township’s records; and to minimize the financial impact to the residents of the Township regarding; the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records, as referenced herein.

NOW, BE IT THEREFORE RESOLVED, by the Board of Supervisors of Derry Township, Mifflin County as follows:

Section 1. Right to Know Law Request Policy. The Township therefore adopts an amended policy governing requests for public records under the Pennsylvania Right to Know Law which is attached as **Exhibit A**. The Policy shall be prominently displayed on the Township’s website and a copy should be made available for inspection at the Township building. The Policy shall be amended from time-to-time by Resolution of the Board of Supervisors.

Section 2. Repealer. Any resolutions of Derry Township inconsistent herewith are repealed, in whole or in part, as to the extent of said conflict.

Section 3. Effective Date. This Resolution shall become effective immediately upon adoption.

the **UPON MOTION DULY MADE AND SECONDED**, this Resolution is adopted by the Board of Supervisors of Derry Township, Mifflin County on August 5, 2024.

DERRY TOWNSHIP, MIFFLIN COUNTY

By: 
Vice Chairman, Board of Supervisors

ATTEST:


Kelly Shutes, Manager

PENNSYLVANIA RIGHT-TO- KNOW LAW, 65 P.S. §§ 67.101-67.3104

I. Introduction

Derry Township, Mifflin County is a Pennsylvania municipal corporation, and therefore is a local agency for purposes of the Pennsylvania Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101-67.3104. Pursuant to the RTKL, all local agencies shall provide public records in accordance with Section 504(a) of the RTKL.

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 the RTKL; (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; (c) the record is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree; (d) the record is exempt or protected for any other statutory reason or based on judicial ruling.

II. Content of Request

Any Request for public records made to the Township must:

- A. Be made in writing;
- B. Be on a form established by the Office of Open Records and addressed to the Township’s Open Records Officer;
- C. Contain the Requester’s full legal name;
- D. Contain the full address of the Requester’s residence or place of business;
- E. Include the Requester’s daytime telephone number so that the Township can contact the Requester to discuss their request or obtain clarification or other information related to the request;
- F. Be signed by the Requester;
- G. Identify a return address or email address to which the Township can send an official response;
- H. State that the Request is being made under the Pennsylvania RTKL; and
- I. Identify the record or records in sufficient enough detail to enable the Township to understand what records are being requested.

III. Designation/Duties of the Township Open Records Officer

The Township shall designate an Open Records Officer, who shall be responsible for:

- A. Receiving written requests for access to records submitted to the Township.
- B. Reviewing and responding to written requests in accordance with law, Township policy, and administrative regulations.
- C. Directing requests to other appropriate individuals in the Township or in another agency.
- D. Tracking the Township's progress in responding to requests.
- E. Issuing interim and final responses to submitted requests.
- F. Ensuring Township staff is trained to perform assigned job functions relevant to requests for access to records.

Upon receiving a written request for access to a record, the Open Records Officer shall:

- A. Note the date of receipt on the written request.
- B. Compute and note on the written request the day on which the five-business day period for response will expire.
- C. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, until the request has been fulfilled.
- D. If the written request is denied, maintain the written request for thirty (30) calendar days or, if an appeal is filed, until a final determination is issued or the appeal is deemed denied.

IV. Where to Send Right-to-Know-Requests

Requestors must send RTKL requests to the Township Manager and current Township Open Records Officer, Kelly Shutes. Ms. Shutes' contact information is set forth below:

Email: twpmanager@derrytwp.info
Address: 73 Reserve Lane, Lewistown, PA 17044

V. Anonymous and Oral Requests

Requests must adhere to the guidelines of this Policy to warrant a response. The Township is not obligated to respond to oral Requests or anonymous Requests. A Request will be considered "anonymous" if the Requestor does not provide his or her full legal name or if the Requestor uses the services of a third-party requesting website that does not provide the Requestor's full legal name.

VI. Multiple Requests

If a Requestor wishes to send multiple RTKL requests, each request must be set forth in a separate, stand-alone document.

VII. Township's Response

Upon a receipt of a written request for access to a record, the Township shall make a good faith effort to determine if the record requested exists and is a public record and whether the Township has possession, custody, or control of the record.

Under the Right-to-Know Law, the Township shall respond as promptly as possible under the existing circumstances, and the initial response time shall not exceed five (5) business days from the date the written request is received by the Open Records Officer.

For the purposes of this policy, a business day is any weekday, except those days when the Township's office is closed due to a holiday.

If the Township fails to respond to a request within five (5) business days of receipt, the request for access shall be deemed denied.

VIII. Notification to Third Parties

If the Township receives a request for a record that is not a public record, legislative record or financial record, the Township shall, if applicable, notify the third party that provided the record to the Township, the person that is the subject of the record, and the Requester.

If the Township receives a request for a record that, when submitted to the Township, included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information, the Township shall notify the third party within five (5) business days of receipt of the request for the record. The third party shall have five (5) business days from receipt of notification from the Township to provide input on the release of the record. The Township shall deny the request for the record or release the record within ten (10) business days of the provision of notice to the third party and shall notify the third party of the decision.

IX. Extension Of Time

Upon receipt of a written request for access, the Open Records Officer will determine if any of the following apply:

- A. Redaction - the request for access requires redaction of a record.
- B. Retrieval Time/Remote Storage - the request for access requires retrieval of a record stored in a remote location.
- C. Staffing Limitations - a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations.

- D. Legal Review - a legal review is necessary to determine whether the requested record is a public record subject to access.
- E. Lack of Policy Compliance - the requester has not complied with Township policy governing access to public records.
- F. Failure to Pay Fees - the requester refuses to pay applicable, established fees.
- G. Nature of Request - the extent or nature of the request precludes a response within the required time period.

If the Open Records Officer determines that an extension of time is required to respond to a request, in accordance with the factors stated in law, written notice shall be sent within five (5) business days of receipt of request. The notice shall indicate that the request for access is being reviewed, the reason that the review requires an extension, a reasonable date when the response is expected, and an estimate of applicable fees owed when the record becomes available.

Up to a thirty (30) calendar day extension for one (1) of the listed reasons does not require the consent of the requester. If the response is not given by the specified date, it shall be deemed denied on the day following that date.

A requester may consent in writing to an extension that exceeds thirty (30) calendar days, in which case the request shall be deemed denied on the day following the date specified in the notice if the Open Records Officer has not provided a response by that date.

X. Granting Of Request

If the Open Records Officer determines that the request will be granted, the response shall inform the requester that access is granted and either include information on the regular business hours of the administration office, provide electronic access, or state where the requester may go to inspect the records or information electronically at a publicly accessible site. The response shall include a copy of the fee schedule in effect, a statement that prepayment of fees is required in a specified amount if access to the records will cost in excess of one hundred dollars (\$100.00), and the medium in which the records will be provided.

A public record shall be provided to the requester in the medium requested if it exists in that form; otherwise, it shall be provided in its existing medium. However, the Township is not required to permit use of its computers.

The Open Records Officer may respond to a records request by notifying the requester that the record is available through publicly accessible electronic means or that the Township shall provide access to inspect the record electronically. If the requester, within thirty (30) calendar days following receipt of the Township's notice, submits a written request to have the record converted to paper, the Township shall provide access in printed form within five (5) business days of receipt of the request for conversion to paper.

If the Open Records Officer determines that a public record contains information both subject to and not subject to access, the Open Records Officer shall grant access to the information subject to access and deny access to the information not subject to access. The Open Records Officer shall redact from the record the information that is not subject to access. The Open Records Officer shall not deny access to a record if information is able to be redacted.

If the Open Records Officer responds to a requester that a copy of the requested record is available for delivery at the administration office, and the requester does not retrieve the record within sixty (60) calendar days of the Township's response, the Township shall dispose of the copy and retain any fees paid to date.

XI. Denial Of Request

If the Open Records Officer denies a request for access to a public record, whether in whole or in part, a written response shall be sent within five (5) business days of receipt of the request. The response denying the request shall include the following:

- A. Description of the record requested.
- B. Specific reasons for denial, including a citation of supporting legal authority.
- C. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is issued.
- D. Date of the response.
- E. Procedure for the requester to appeal a denial of access.

The Open Records Officer may deny a request for access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the Township.

The Open Records Officer may deny a request for access to a record when timely access is not possible due to a disaster, or when access may cause physical damage or irreparable harm to the record. To the extent possible, a record's contents shall be made accessible even when the record is physically unavailable.

Information that is not subject to access and is redacted from a public record shall be deemed a denial.

XII. 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 Commonwealth Office of Open Records within fifteen (15) business days of the mailing date of the Township's response or within fifteen (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, and shall address any grounds stated by the Township for delaying or denying the request.

For information on the Office of Open Records, please go to openrecords.state.pa.us. The Office of Open Records is located at 333 Market Street, Harrisburg, PA 17101.

XIII. Fees

The requester shall be responsible for duplication costs at the rate of twenty-five cents (\$0.25) per page for all duplicated materials. Additional fees relating to the retrieval, certification and duplication of public records shall be established by the state Office of Open Records. A copy of this fee schedule shall be attached to this Policy and incorporated herein. The Current Fee Schedule is available: [OOR - Official RTKL Fee Schedule \(pa.gov\)](#)

No fee may be imposed for review of a record to determine whether the record is subject to access under law.

Prior to granting access, the Township may require prepayment of estimated fees when the fees required to fulfill the request are expected to exceed \$100.

The Township may waive duplication fees when the requester duplicates the record or the Township deems it is in the public interest to do so.

XIV. Amendments

The Township may adopt amendments to this Policy which are necessary to implement the provisions and purposes of the RTKL, as amended, or Court decisions pertaining thereto.