

NORTHAMPTON TAX COLLECTION COMMITTEE

Right-to-Know Law Request Policy **Effective October 14, 2010**

I. Purpose

The purpose of this policy is to establish procedures to ensure the Tax Collection Committee (referred to herein as the "TCC") complies with the requirements of the Right-to-Know Law, 65 P.S. § 67.101 *et seq.*, which allows legal residents of the United States to inspect and obtain copies of "public records."

II. Definitions

For purposes of this policy, the terms set forth below have the following meanings:

"Business day" means a calendar day on which the TCC office is open for business, but does not include any day where the TCC office, if any, is closed due to inclement weather, holidays, or emergencies. If the TCC does not have a TCC office, "business day" shall mean a calendar day on which the county office is open for business.

"Financial Record" means any account, voucher, or contract dealing with the TCC's receipt or disbursement of funds, or the TCC's acquisition, use, or disposal of services, supplies, materials, equipment, or property; or the salary, or other payments, or expenses paid to an employee, delegate, or officer of the TCC, including the individual's name and title; or a financial audit report of the TCC excluding the underlying work papers.

"Public Record" means a record, including a financial record, that: (i) is not exempt from disclosure under Pennsylvania's Right-to-Know Law; (ii) is not exempt from disclosure under any other federal or state law, regulation, judicial order, or decree; and (iii) is not protected by a privilege.

"Record" means information, regardless of physical form or characteristics, that documents a transaction or activity of the TCC or another agency and that is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the TCC or another agency. The term "record" 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" means any person who is a legal resident of the United States or an agency that requests access to a record under the Right-to-Know Law.

"Response" shall mean granting access to a record or written notice from the TCC granting, denying, or partially granting and partially denying access to a record.

III. Open Records Officer

The TCC shall appoint an individual who will be the Open Records Officer. The appointed TCC Secretary shall serve as an assistant Open Records Officer, and shall temporarily be responsible for the implementation of this Policy in the event the Open Records Officer is absent or unable to fulfill his or her duties, or the office of Open Records Officer is vacant,

The Open Records Officer is responsible for the following duties under this policy:

1. Receive, review, and respond to all written requests for access to records submitted to the TCC.
2. If appropriate, direct requests to other persons within the TCC or within another agency for a response.
3. Track the TCC's progress in responding to requests for access to records.
4. Issue interim and final responses to submitted requests.
5. Maintain a log of all record requests and of the TCC's responses.
6. Ensure appropriate TCC staff are trained to perform assigned job functions relative to requests for access to records.

After receiving a written request for access to a public record, the Open Records Officer shall take the following steps in order to track the status and final disposition of the TCC's response:

1. Note the date on which the written request was received by the TCC.
2. Compute the day on which the five (5) business day period for the TCC response will expire and make a notation of that date on the written request.
3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, at least until the request has been fulfilled.
4. If the written request is denied, in full or in part, maintain the written request for at least thirty (30) days or, if an appeal is filed to challenge the denial, until a final appellate determination is made.

IV. Requests for Access to Public Records

Any requester seeking access to or duplication of a public record from the TCC must submit a written request addressed to the Open Records Officer. All TCC employees, delegates, and officers must forward written requests for access to public records received by them to the Open Records Officer.

A requester must complete the Right-to-Know Request Form created by either the TCC, if any, or the Pennsylvania Office of Open Records when submitting a written request. Copies of the TCC form, if one has been created, may be obtained by request.

The written request must identify or describe the public record sought with sufficient specificity to allow the Open Records Officer to determine which record is being requested, the medium in

which the record is requested, and the name and address to which the TCC should send its response.

The TCC may grant verbal requests or written requests not made on a Right-to-Know Request Form in cases where access can be allowed immediately or granting such requests serves the convenience of the TCC. However, such requests shall not be considered an official request requiring a TCC response.

Any requester may submit a written request to the Open Records Officer on a prescribed Right-to-Know Request Form in person, by regular mail, by facsimile, or by email as set forth in the attachment to this policy.

The Open Records Officer may not require a requester to explain the reason for a record request, or the intended use of the record being requested.

When responding to a request for access, the TCC is not required to create a record that does not exist nor to compile, maintain, format or organize a record in a manner which the TCC does not currently use.

The TCC reserves the right to deny a requester access to a public record if the requester has repeatedly requested the same record, the record has already been provided to the requester, and the repeated requests are unreasonably burdensome on the TCC.

When in receipt of sufficient advance notice, the TCC shall cooperate with requesters with disabilities to make public records available in an appropriate format.

V. Requests for TCC Records in the Possession of Another Party

A record that is not in the possession of the TCC, but is in the possession of a party which the TCC has retained to perform responsibilities on behalf of the TCC, is a public record of the TCC when the record directly relates to the TCC's operations and is not otherwise exempt from public disclosure. A written request for a record in possession of a party retained by the TCC shall be submitted to the Open Records Officer.

The Open Records Officer shall process the request for such a record identically to all other record requests. The Open Records Officer may assess a duplication fee to make the record available to the requester, if the TCC duplicated the record in order to make it accessible for public inspection.

VI. TCC Response to Written Request

The Open Records Officer will respond to a written request within five (5) business days after receipt. During that period, the Open Records Officer will make a good faith effort to locate the requested record, determine if it is a public record, redact any confidential portions to allow for disclosure, and prepare an appropriate response.

A TCC response may take any of the following forms:

1. A decision that the requested record is a public record and allowing the requester to inspect and obtain a copy of the public record, in whole or in part. If the requested record is on the TCC's official website, if any, the response should also explain how to access the information. Alternatively, the requested record may be provided with the response.
2. A partial or total written denial explaining why the requested record, or a portion of the requested record, is not a public record.
3. A written decision explaining the requested record does not exist.
4. A written notice explaining the request is under review and that a final determination can be expected within thirty (30) calendar days from the date of the notice.

A denial of a request shall be in writing and shall include the following information:

1. A description of the requested record.
2. The specific reason for the denial, including a citation of supporting legal authority.
3. The name, title, address, telephone number, and signature of the Open Records Officer under whose authority the denial is issued.
4. The date of the response.
5. An explanation of the procedure to appeal the denial.

A written notice explaining a request is under review must set forth the reasons for the review and list a date when a final response can be expected; the listed date shall be within thirty (30) calendar days from the date of the written review notice. The TCC may review a request if any of the following applies:

1. The requested record requires redaction.
2. The request requires the TCC to retrieve records stored in a remote location.
3. The TCC cannot timely respond due to bona fide and specified staffing limitations.
4. Legal review is necessary to determine if the record is a public record.
5. The request does not comply with TCC policies regarding access to records.
6. The requester has failed to pay applicable fees.
7. The extent or nature of the request makes it impossible to respond within the required time period.

The Open Records Officer shall make a final determination regarding a written request within thirty (30) days from the date of written notice explaining a request is under review.

If the Open Records Officer does not provide the requester with a written response within the applicable time period (whether it be the initial five [5] day period, or the thirty [30] day review period), the written request is deemed denied and the requester may file an appeal within fifteen (15) business days of the expiration of the applicable time period, as provided by Section XI of this policy.

In addition, if the TCC produces a non-public record in response to a written request, the Open Records Officer shall notify the third-party that provided the record to the TCC, the person that is the subject of the record, and the requester.

In the event a requested record contains a third-party's trade secret or confidential proprietary information and the interested third-party filed the written statement required by the administrative regulations, the Open Records Officer shall notify the interested third-party of the request and will follow the other procedures in the administrative regulations for processing requests for third-party trade secret or confidential proprietary information in responding to the request.

The Open Records Officer may consult with the TCC solicitor before responding to a Right-to-Know Law request.

VII. Redacting Records to Allow for Public Access

If a requester seeks access to a record which contains both public and confidential information, the TCC shall grant access to the public information contained in that record and redact the confidential information that need not be disclosed under the Right-to-Know Law, if it is possible to redact the confidential information. The TCC may provide public information contained in a redacted record in a format of its choice that will allow for timely disclosure of public information, while simultaneously protecting against the release of confidential information. If the confidential information is a critical part of the record and cannot be separated, the TCC shall deny access to the entire record requested.

A person's social security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee numbers and other confidential personal identification numbers; the name of a person's spouse or a person's marital status; a person's beneficiary or dependent information; and the home addresses of law enforcement officers and judges are generally not subject to public disclosure. The TCC will redact this information from a record that would otherwise be considered a public record.

Nothing in this Section shall prohibit the TCC from releasing the name, position, salary, actual compensation, or other payments made to any person. Nothing in this Section shall prohibit the TCC from disclosing any employment contracts with, employment-related contracts with, or the length of service of any person.

If the TCC redacts information from any record, this redaction constitutes a partial denial of the record request, and the Open Records Officer will provide the requester with a written response regarding the partial denial, as provided in Section VI of this policy.

VIII. Electronic Access to Public Records

The TCC may make public records available through its official website, if any. When a request is made for a public record already available through the TCC website, the Open Records Officer may respond by directing the requester to the website. If the requester is unwilling or unable to access the TCC website, the requester may within thirty (30) days of the TCC's response submit a written request to have the record converted to paper. If such a request is made, the TCC shall provide access to the public record in printed form within five (5) days of the written request.

The TCC will permit electronic access to a public record if the requester requests electronic access and the record exists in electronic form. The TCC is not required to permit use of any computer for purposes of electronic access, nor is the TCC required to permit direct access to its computer systems for the purpose of allowing access to a record.

If a requester makes a written request to access a public record in electronic form, and the public record exists in that medium, the TCC will provide access in one of the following formats:

1. On a computer disk containing the record.
2. In an e-mail containing an attachment or link to the record.
3. In a redacted copy of an electronically-stored record, if confidential information must be redacted from the record to permit access to the public information contained in the record.

IX. Inspection of Public Records

After determining that a record requested is a public record, the TCC will allow inspection and duplication. The TCC will provide access in a requested medium if the record exists in that medium. The TCC need not create documents, but will provide access to public records in their existing formats. The TCC shall not charge a fee if a requester only seeks to inspect a public record, except where conversion from electronic to paper form is required.

The inspection of a public record by a requester shall take place at the TCC office during regular business hours if there is a TCC office; otherwise, at a location and time designated by the Open Records Officer.

No public record shall be removed from the control or supervision of the TCC, with the exception of copies the TCC creates and delivers to a requester under the terms of this policy. In order to preserve the integrity of public records, the TCC will take reasonable steps to ensure a requester does not alter, deface, or otherwise damage public records. Such reasonable steps may include, but are not limited to: the prohibition of eating and drinking when inspecting public records; monitoring of a requester who is inspecting public records; and immediate termination of public records inspection if the TCC reasonably believes the requester's conduct would result in damage to the public records.

When inspecting records, a requester will comply with all TCC rules and procedures applicable to the public or reasonably established by the Open Records Officer. The TCC may ask a

requester to leave its office if the requester engages in conduct which materially disrupts the operations of the TCC, accesses, or attempts to access unauthorized areas or records systems, or threatens, harasses, or intimidates TCC representative.

X. Duplication and Fees

If requested, a public record will be duplicated for the requester. Generally, a requester seeking a duplicate of a public record is required to appear in person at the TCC office if there is a TCC office; otherwise, at a location designated by the Open Records Officer. If the TCC decides it is appropriate to do so, it may mail or otherwise deliver duplicates of public records to a requester.

The TCC will charge fees consistent with the maximum charges established by any duly-promulgated regulations of the Pennsylvania Office of Open Records. The TCC will attach to this policy a schedule of fees, which may be revised from time to time.

If the Open Record Officer makes copies of a public record in response to a written request, and the requester fails to pick up the copies within sixty (60) days of the TCC notifying the requester that the copies are available, the copies may be discarded and the TCC may retain any fees already paid by the requester.

XI. Filing of Appeals

If a requester wishes to challenge the written or deemed denial of a written request for a record, the requester must file an appeal with the Pennsylvania Office of Open Records within fifteen (15) business days from the date of the written or deemed denial. The appeal shall: 1) be in writing; 2) state the reasons why the requester believes the requested record is a public record; and 3) address the TCC's stated reasons for delaying or denying the written request.

XII. Posting of Policy

The TCC shall post the following information at the TCC office, if any, in an area accessible to the public and on its official website, if any:

1. Contact information for the TCC's Open Records Officer.
2. Contact information for the Pennsylvania Office of Open Records.
3. A copy of the TCC form that may be used to file a request, if one has been created.
4. A copy of this policy with appendices.

Appendix 1 – Fee Schedule

The TCC will charge the following fees relating to public records:

1. Paper copy standard size – **25¢ per page**.
2. Electronic Copying – **25¢ per page** (pages to be attached to e-mail).
3. Certified copy – **\$5 per certified copy**.
4. Mailing – actual mail cost.

The total sum owed shall be paid before the public record is given to the requester. If the duplication or transmission of a public record will cost one hundred dollars (\$100) or more, that fee must be paid in advance of the request being processed.

Fees are not mutually exclusive of one another. For example, if a record must be duplicated before being mailed, the TCC may charge a 25¢ duplication fee and the actual cost of mailing.

Fees representing actual reasonable costs may be charged for staff time in cases where substantial time is required to comply with the request or for other costs not listed, subject to legal counsel opinion that the charges are permissible under applicable law.

The TCC may waive fees in circumstances it deems appropriate.

Appendix 1A – Detailed Fee Explanation

The TCC is required to provide a public record in a requested medium only if the record exists in that medium. For example, if a request is made for an electronic copy of a paper record that is not held in electronic form, the TCC may provide an electronic copy, but is not required to do so. The TCC is not required to use a specific method of transmission. For example, if the TCC makes available for inspection and photocopying a record that is held only on paper, it is not required to then e-mail or fax a duplicate.

The TCC will charge the following fees relating to public records:

1. **Paper copy standard size – 25¢ per page.** This fee applies anytime a record is copied to fulfill a request, including photocopying of a paper record or printing a copy of an electronic record. The TCC will charge a duplication fee for copies of redacted material it must make in order for a requester to view a public record. However, if the requester chooses to obtain these copies, the TCC will not charge an additional fee.
2. **Electronic copying** – Electronic copies will normally be provided by e-mail attachment. There will be no fee unless the TCC must make a tangible copy of a record (either by photocopy or print) to fulfill the request. If the TCC must make a tangible copy, the fee is **25¢ per page**. [Note: If the TCC transmits an electronic copy using a more expensive medium such as computer disk, the TCC may only charge 25¢ per page if it was required to make a tangible copy to fulfill the request unless the requester asks for duplication in the more expensive medium, in which case the TCC may provide the copy in an electronic format of its choice (and charge the 25¢ per page only if a tangible copy was made) or may provide a copy in the more expensive medium and charge the actual cost.]
3. **Certified copy – \$5 per certified record** regardless of the number of pages, plus any applicable duplication fees. If a requester asks for certification of multiple records, a separate charge will be assessed for each record certified.
4. **Mailed copy** – If a request is made for mailing and the TCC chooses to mail the copy instead of requiring personal pickup, the requester will pay the actual cost of postal fees plus any applicable duplication fees. [Note: Mailing is not required.]
5. **Facsimile transmission** – If a request is made for facsimile transmission and the TCC chooses to fax the copy instead of requiring personal pickup, the requester will pay the actual cost of facsimile plus any applicable duplication and certification fees. [Note: Facsimile is not required.]
6. **Duplication in special formats** – If a request is made for duplication in a special format and the TCC chooses to comply, the fee will be the actual cost. Specialized formats include, but are not limited to, removable electronic storage devices, color copies, and non-standard sized documents. [Note: Duplication in special formats is not required.]

The TCC may waive fees in circumstances it deems appropriate. If the TCC receives a request for personal inspection of a record, but decides it is more convenient to mail, fax, or e-mail a copy of the record, the TCC will waive the fees associated with duplication and transmission.

Appendix 2 – Right-to-Know Law Contact Information

Contact Information for the TCC Open Records Officer

Name: David L. Woglom

Title: Open Records Officer

Office Address: Northampton Tax Collection Committee
c/o David L. Woglom
Lafayette College Meyner Center
14 Kirby Hall of Civil Rights
Easton, PA 18042

Facsimile Number: (610)-330-5648

E-mail Address: woglomd@lafayette.edu

Contact Information for Pennsylvania Office of Open Records

Address: Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
717-346-9903

Email: openrecords@state.pa.us

Executive Director: Terry Mutchler

Deputy Director: Barry Fox

Chief Counsel: Leo L. Dunn

Appendix 3 – Request Submissions

Right-to-Know Law record requests may be submitted using any of the following delivery methods:

In person: At the offices of the TCC's Administrator, David L. Woglom, Lafayette College Meyner Center, 14 Kirby Hall of Civil Rights, Easton, PA 18042, on any business day during regular business hours.

By regular mail: Sent to the attention of the Open Records Officer of the Northampton Tax Collection Committee, c/o David L. Woglom, Lafayette College Meyner Center, 14 Kirby Hall of Civil Rights, Easton, PA 18042.

By facsimile: Sent to the attention of the Open Records Officer of the Northampton Tax Collection Committee, c/o David L. Woglom, David L. Woglom, Lafayette College Meyner Center, at the following facsimile number: (____)-____-____. A written request sent via facsimile will not be considered submitted until a complete, accessible, and legible copy of the facsimile is received by the Open Records Officer.

By e-mail: Sent to the attention of Open Records Officer at woglomd@lafayette.edu. An e-mail will not be considered submitted until a complete, accessible, and legible copy of the e-mail is received by the Open Records Officer.

C:\DOCUME~1\mag\LOCALS~1\Temp\MetaSave\Open Records Policy (7-2).doc