



Right-To-Know Policy
Date Last Revised/Approved

August 28, 2024

SUBJECT: PUBLIC ACCESS TO RECORDS

1. **Purpose:** The purpose of this policy is to provide for access to public records, and assure compliance with Pennsylvania’s Right to Know Law, Act of 2008, Feb. 14, P.L. 6, No. 3 (65 P.S. § 66.1 et seq.) and any amendments thereto, commonly known as the “Open Records Law” or “Right to Know Law.”
2. **Authority:** West Whiteland Township Board of Supervisors
3. **Application:** All West Whiteland Township boards, commissions, committees, officials and employees, as well as all third-party professional consultants and agencies performing delegated governmental functions on behalf of the Township
4. **Responsibility:** The Township Manager and the Chief of Police are responsible for overseeing and implementing this policy.

I. OBJECTIVE

To afford requesters the opportunity to examine or copy public records at reasonable hours and places; and to provide a uniform system for the access and release of public records.

II. SCOPE

This policy applies to all boards, commissions, committees, officials and employees of the Township, as well as all third-party professional consultants and agencies performing delegated governmental functions on behalf of the Township.

III. DEFINITIONS

The following terms when used in this Policy shall have the meanings set forth in this section unless the context clearly indicates otherwise:

- A. “Business day” shall mean any day other than a Saturday, Sunday, holiday or other day when Township employees are not required to be at work.
- B. “Board” shall mean the Board of Supervisors of West Whiteland Township.
- C. “Deputy Open Records Officer” shall mean any Township official, or employee designated by the Board to act on behalf of the Township pursuant to the Right to Know Law when the Open Records Officer is unable to perform the duties assigned or otherwise delegates authority under the Right to Know Law or this Policy. During the time the Deputy Open Records Officer performs any of the duties of the Open Records Officer, the Deputy Open Records Officer shall follow the policies and procedures described in this Resolution.

- D. “Open Records Officer” shall mean any Township official, or employee designated by the Board to act on behalf of the Township pursuant to the Right to Know Law.
- E. “Privilege” shall mean 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 the Commonwealth of Pennsylvania.
- F. “Public Record” shall mean a record which is subject to inspection and/or duplication pursuant to the Right to Know Law and does not fall within any of the exceptions set forth therein, as the definition and exceptions are amended from time to time and as the definition and exceptions are interpreted by state, federal and/or local courts.
- G. “Record” shall mean information, regardless of physical form or characteristics, that documents a transaction or activity of the Township and is created, received or retained pursuant to law or in connection with a transaction, business or activity of the Township. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording (not including law enforcement recordings exempt under Act 22), information stored or maintained electronically and a data-processed or image-processed document.
- H. “Regular business hours” shall mean 8:00 AM to 5:00 PM on a business day.
- I. “Requester” shall mean a person that is a legal resident of the United States and requests a record pursuant to the Right to Know Law.
- J. “Response” shall mean access to a record or the Open Records Officer’s written notice to a requester granting, denying or partially granting and partially denying access to a record.
- K. “Right-to-Know Law”, “RTKL” or “Law” shall mean Act of 2008, Feb. 14, P.L. 6, No. 3 (65 P.S §66.1 et seq.) as amended from time to time.
- L. “Township” shall mean the Township of West Whiteland, a Second-Class Township organized and existing under the laws of the Commonwealth of Pennsylvania, located at 101 Commerce Drive, Exton, PA 19341.

IV. PROCEDURES

The Law requires that the Township act upon each non-anonymous, written request when such request is made in person, by mail, by email, by facsimile or by online form. The Law does not require that the Township act upon oral or anonymous requests, and the Township shall refuse to accept any such requests.

Pursuant to the Law, the State Office of Open Records has created and published on its website a standard statewide form which must be accepted by the Township for the filing of a request. (<https://www.openrecords.pa.gov/RTKL/Forms.cfm>). The Township requires the use of either the standard statewide form or the forms provided on the Township’s website for the submission of Open Records-Right to Know requests and will not consider a request to be a written request

pursuant to the Open Records Law unless the request is submitted on or with either of these forms. The Township may consider any request not submitted on these forms to be an informal request, and not subject to the Open Records Law.¹

All employees of the Township are directed to mark the date of receipt on written requests made pursuant to the Right to Know Law and forward the request to the Open Records Officer in a timely manner. A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law. A request received by the Township after the close of regular business hours shall be deemed to have been received on the following business day.

The Law sets forth various specifications for the contents of a written request. To qualify as a written request under the Right to Know Law and the Township Open Records Policy the request must (a) be directed to the appropriate Open Records Officer.

designated above, (b) be submitted on or with the proper forms, as outlined above, and (c) contain, at a minimum, the following information:

- i. name of requester;
- ii. address of requester; and
- iii. records being sought, identified or described with sufficient specificity to allow the Township to ascertain which records are being requested.

Under the Law, the Township has a duty to make a good faith effort to determine if the record(s) requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request; this time shall not exceed five (5) business days from the date the request is received by the Open Records Officer. The Law provides that either a final or interim response be provided to the requester within five (5) business days from the date of receipt by the agency. If the Township fails to respond within this five (5) daytime period, the Open Records Request is deemed denied. While the Township will endeavor to provide a response to all requests within the five business days described above, the Law does provide the Township with specific reasons that may be invoked to receive a single extension of time, which shall not exceed thirty (30) calendar days. If an extension is invoked and no response is provided to the requester within the thirty (30) daytime period, the Open Records Request is deemed denied.

Additionally, should the Township notify the requester it needs more than the maximum thirty (30) day extension, the request is 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 agency has not provided a response by that date.

The Township's final response to a request will do one of the following: i. grant the request; ii. deny the request; iii. grant the request in part and deny the request in part; or iv. grant the request and redact part of the information provided pursuant to the Law and/or other applicable federal, state and local law.

¹ The Township reserves the right, at its sole discretion, to require a written request pursuant to the Right to Know Law before releasing records.

V. FEES

Fees for duplication of records have been established and posted by the State Office of Open Records. The Township adopts these fees as part of its fees resolution and will charge fees consistent with the State Office of Open Records regulations. The Township reserves the right to impose additional fees if it incurs costs for complying with a request, pursuant to the Open Records Law; such additional fees, when charged, must be reasonable. This includes, but is not limited to, fees for enhanced electronic access and certified copies of documents. These fees shall not apply to any records where the fees or costs for copies are set by any other Pennsylvania or Federal laws.

If a public record is only maintained in electronically or other nonpaper media, and the record is too large to send via email, duplication fees shall be the cost incurred by the Township to supply the necessary device required to transfer the public record in that media. (In order to maintain the security of the Township electronic files the Township reserves the right to require the requester to receive the public record on a transfer device purchased by the Township.)

To the extent possible, the Open Records Officer will make the direct charges known to the requester before the request is filled, If the total charge exceeds \$100.00, the requester will be required to pay costs before the documents are prepared.

A schedule of all current fees is to be available from the Open Records Officer.

VI. REVIEW OF PUBLIC RECORDS

The conditions under which a requester may review public records in the control of the Township are subject to the procedures and policies established by the Township based on the time and location of the requester's review and the materials to be reviewed.

In order to protect the security of material in the possession of the Township, file reviews may be monitored.

VII. APPEALS OF DENIED REQUESTS

If a request for access to a record is denied (in whole or in part) or deemed denied, the requester may file an appeal with the State Office of Open Records with fifteen (15) business days of the mailing date of the Township 's denial. The appeal should state the grounds upon which the requester asserts the items requested are public and/or financial records under the Law; the appeal shall also address any grounds stated by the Township for denying the request, if any. Appeals to the State Office of Open Records should be directed to the following address: Commonwealth of Pennsylvania, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225. Unless the requester agrees otherwise, the State Office of Open Records Appeals Officer shall make a final determination which shall be mailed to the requester and the County within thirty (30) days of receipt of the appeal. Should the appeals Officer fail to issue a ruling within thirty (30) days, the appeal is deemed denied. Before a final determination is issued, a hearing may be held. The determination by the Appeals Officer shall be a final order. The Appeals Officer shall provide a written explanation of the reasons for the decision to the requester and the Township. Within thirty (30) days of the mailing date of the final determination of the Appeals Officer, a requester or the Township may file a petition for review or other document(s) as required by rule of court with the Chester Court of Common Pleas.

