

Hanover Township Policy for Implementing the Right-to-Know Law Resolution No. 2009- 1 Access to Public Records

The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101 et seq., to provide access to public records of Hanover Township, to preserve the integrity of the Township's records, and to minimize the financial impact to the taxpayers of the Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records. This policy shall be effective January 5, 2009.

It is the policy of the Township to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Township. The Township designates the Township Public Records Officer as responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

1. Definitions

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

Public record – a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order.

Record – information, regardless of physical form or characteristics, that documents an Township transaction or activity and is created, received or retained pursuant to law or in connection with an Township transaction, business or activity, including: 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.

Response – the Township's notice informing a requester of a granting of access to a record or the Township's written notice to a requestor granting, denying, or partially granting and partially denying access to a requested record.

Requester – a legal resident of the United States, or an agency, who requests access to a record.

2. The Township designates the (TOWNSHIP SECRETARY) as Open Records Officer, who shall be responsible to:

1. Receive written requests for access to records submitted to the Township.
2. Review and respond to written requests in accordance with law and Township policy.
3. Direct requests to other appropriate individuals in the Township or in another agency.
4. Track the Township's progress in responding to requests.
5. Issue interim and final responses to submitted requests.
6. Maintain a log of all record requests and their disposition.
7. Ensure Township staff are trained to perform assigned job functions relative to requests for access to records. Upon receiving a request for access to a record, the Open Records Officer shall:

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

3. The Township Open Records Officer is responsible for minimizing, where possible, the financial impact to the Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

4. Requesters may access and procure copies of the public records of the Township during the regular business hours of the administration offices.

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5. A requester's right of access does not include the right to remove an original record from the control or supervision of the Open Records Officer.

6. The Township shall not limit the number of records requested.

When responding to a request for access, the Township 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 Township does not currently use.

7. Information shall be made available to individuals with disabilities in an appropriate format, upon request and with sufficient advance notice.

8. The Township shall post at the administration office and on the Township's web site, if the Township maintains a web site, the following information:

1. Contact information for the Open Records Officer.
2. Contact information for the state's Office of Open Records or other applicable appeals officer.
3. The form to be used to file a request, with a notation that the state Office of Open Records form may also be used in addition to any forms used by the Township.
4. Township policy and procedures governing requests for access to the Township's public records.

9. Request For Access

All requests for public records of the Township under this policy shall be specific in identifying and describing each public record requested. In no case shall the Township be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Township does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and on a form provided by the Township, as attached hereto entitled

“Public Record Review/Duplication Request,” or the form published by the State Office of Open Records.

Written requests may be submitted to the Township in person, by mail, to a designated facsimile machine, and to a designated e-mail address.

Each request must include the following information:

- a. Identification or description of the requested record, in sufficient detail.
- b. Medium in which the record is requested.
- c. Name and address of the individual to receive the Township’s response

The Township shall not require an explanation of the reason for the request or the intended use of the requested record, unless otherwise required by law.

10. Response To Request

Township employees shall be directed to immediately forward requests for access to public records to the Open Records Officer.

Upon receipt of a written request for access to a record, the Open Records Officer shall determine if the requested record is a public record and if the Township has possession, custody or control of that record.

The designated employee shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Township does not respond within five (5) business days of receipt thereof, the request is deemed denied.

The initial response shall grant access to the requested record; deny access to the requested record; partially grant and partially deny access to the requested record; notify the requestor of the need for an extension of time to fully respond; or request more detail from the requestor to clearly identify the requested material.

11. Granting Of Request

If the Open Records Officer determines that the request will be granted, the response shall inform the requestor 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 publically 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 \$100, and the medium in which the records will be provided. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Township. The designated employee shall cooperate fully with the requester, while also taking reasonable measures to protect the Township’s public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

A public record shall be provided to the requestor 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 requestor 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) 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) days of receipt of the request for conversion to paper.

A public record that the Township does not possess but is possessed by a third party with whom the Township has contracted to perform a governmental function and which directly relates to that governmental function shall be considered a public record of the Township. When the Township contracts with such a third party, the Township shall require the contractor to agree in writing to comply with requests for such records and to provide the Township with the requested record in a timely manner to allow the Township to comply with law.

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) days of the Township's response, the Township shall dispose of the copy and retain any fees paid to date.

12. Extension Of Time

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) 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) 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.

Requests for extensions shall be limited to situations where:

(a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;

(b) The record requires retrieval from a remote location;

(c) A timely response cannot be accomplished due to bona fide and specified staffing limitations;

(d) A legal review is necessary as, for example, for the purpose of determining whether the record requested is a public record;

(e) The requester has failed to comply with the Township's policy and procedure requirements;

(f) The requester refuses to pay the applicable fees; or

(g) The extent or nature of the request precludes a response within the required time period.

13. Notification To Third Parties

When the Township produces a record that is not a public record in response to a request, the Open Records Officer shall notify any third party that provided the record to the Township, the person that is the subject of the record, and the requester.

The Open Records Officer shall notify a third party of a record request if the requested record contains a trade secret or confidential proprietary information, in accordance with law and administrative regulations.

14. Denial Of Request

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

1. Description of the record requested.
2. Specific reasons for denial, including a citation of supporting legal authority.
3. Name, title, business address, business telephone number, and signature of the Open Records Officer on whose authority the denial is issued.
4. Date of the response.
5. 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.

If a written request for access to a record, other than a criminal investigative 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 Open Records Officer's response or deemed denial. If a written request for access to a criminal investigative record is denied or deemed denied, the requestor may file an appeal with the Washington County District Attorney's Office within fifteen (15) business days of the mailing date of the Open Records Officer's response or deemed denial.

15. If access to the record requested is denied, the notice provided by the Township shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate."

16. Fees for duplication of public records shall be as established by the State or as follows in the absence of state guidance:

- (a) Photocopying: 25 cents (\$0.25) per single sided page.
- (b) Duplication of public electronic and/or tape records: actual cost to the Township of duplicating the public record.
- (c) Certification of Records: \$1.00 per document.
- (d) Postage: actual cost to the Township of mailing the public record.
- (e) Reportable vehicle accident reports: \$15 per report.
- (f) Specialized Documents: Actual cost.

The Township may in its discretion waive fees.

17. In the event the estimated cost of fulfilling a request submitted under this policy is expected to **exceed \$100.00**, the designated employee(s) shall obtain fifty percent (50%) of the expected cost in advance of fulfilling the request to avoid an unwarranted expense impact on Township resources. No copies will be released, including by mail, without pre-payment of the fees designated above.