

CUMBERLAND COUNTY RIGHT-TO-KNOW POLICY

Effective: January 1, 2009

Revised 12-12-08

Purpose and Effective Date

On February 14, 2008, Act 3 of 2008 (65 P.S. § 67.101) was passed into law amending the Pennsylvania Right-To-Know Law (Act). The Act governs the rights of the public to inspect and obtain copies of public records. The effective date for most of the provisions in the Act is January 1, 2009. This policy shall be construed in such a manner as to comply with the Act and, where this policy is in conflict with the Act, the Act shall control.

Public Records

For County purposes, “public record” is defined in the Act as a County record, including a financial record, that: (1) is not exempt under section 708 of the Act; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege.

“Record” is defined in the Act as information, regardless of physical form or characteristics, that documents a County transaction or activity and that is created, received or retained pursuant to law or in connection with a County transaction, business or activity. 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.

Inspection

Public records are open to inspection and for duplication during normal office hours, 8:00 a.m. to 4:30 p.m. Monday through Friday, except for holidays, subject to the regulations set forth herein.

Format

A public record must be provided to a Requester in the medium requested, if it exists in that medium. Otherwise, it will be provided in the medium in which it exists. The County may make its records available through any publicly accessible electronic means, in which event it may respond to a request by notifying the requester that the record is available through publicly accessible electronic means or that the County will provide access to inspect the record electronically. If the requester is unwilling or unable to access the record electronically, the requester may submit a written request to have the record converted to paper. The County will provide copies of identifiable and existing public records but is not required to create, synthesize, compile, maintain, format, convert, or organize records in response to a request. Nevertheless, the County may choose to do so for an appropriate fee.

Request for Public Records

An individual may make a verbal, written or anonymous verbal or written request for access to a record. A written request includes those sent via electronic mail (e-mail). The office or department to which the request is made shall immediately forward the request to the County Open Records Officer. The recipient of the request shall not inquire as to the intended use of the record. A requester shall not be granted access to a County computer unless it is customarily provided for public access to public documents in row offices. The request shall indicate whether the records are to be certified.

A requestor may not pursue any relief available under the Act unless the request is in writing. Written requests for County records are to be sent to the County Records Officer and addressed as follows:

County Open Records Officer, 1 Courthouse Square, Room 200, Carlisle, PA 17013

Except record requests for the offices listed below shall be sent to that office at the address indicated:

- Coroner's records: Cumberland County Coroner, 6375 Basehore Road, Suite 1, Mechanicsburg, PA 17050
- Criminal Court records: Cumberland County Clerk of Courts, 1 Courthouse Square, Room 205, Carlisle, PA 17013
- Civil Court records: Cumberland County Prothonotary, 1 Courthouse Square, Room 100, Carlisle, PA 17013
- District Attorney's records: Cumberland County District Attorney, 1 Courthouse Square, Room 202, Carlisle, PA 17013
- Domestic Relations' records: Cumberland County Court Administrator, 1 Courthouse Square, Room 400, Carlisle, PA 17013
- Probation and Parole Office records: Cumberland County Court Administrator, 1 Courthouse Square, Room 400, Carlisle, PA 17013
- Register of Wills' records: Cumberland County Register of Wills, 1 Courthouse Square, Room 102, Carlisle, PA 17013
- Treasurer's Office records: Cumberland County Treasurer, 1 Courthouse Square, Room 103, Carlisle, PA 17013

Cumberland County Recycling & Waste Authority records: 7 Irvine Row, Carlisle, PA 17013

- Cumberland County Municipal Authority records: Herbert Gilroy, Esquire, 10 East High Street, Carlisle, PA 17013

The written request must:

- Provide an address to which the records are to be mailed or indicate that the records will be picked-up by the requester in person at the appropriate office listed above.
- Identify or describe the specific records being sought. The request must be sufficiently specific to enable the County to ascertain which records are being requested, and include the date of the information requested as well as type of information, and the County office or department which has custody of the record.
- If the fee for reproduction of the records exceeds One Hundred Dollars (\$100.00), the requester shall pre-pay the cost prior to the records being reproduced.

Types of Records

Cumberland County identifies three types of requests for public records:

- Type I: A request for a photocopy of a physical document, or a paper print-out of a document maintained on a microfilm or computer system.
- Type II: A request for an electronic, magnetic, or other computer media copy of a computer record. Type II computer record requests involve only the copying to computer storage media of an entire exact computer file, as the County maintains it, onto storage media for which the County has copying equipment. A single computer document is a computer record. A Type II request involves simply the copying of that document onto storage media. Such a request does not involve the selecting of any specific portion of that computer document, nor any formatting or other activity with that record. For example: The Cumberland County Assessment database is presently a single computer document. A Type II request is for a copy of that database. A request for only certain municipalities, or only certain types of properties, or only certain data fields, or the data in a particular format which could be read by a particular computer program, would be a Type III request. The County makes no warranty whatsoever as to any computer media copy of a computer record, including the usability of the computer record. The purchaser of a Type II computer record is additionally cautioned that the data may not be readily accessed without the purchase of specialized software and/or the use of professional computer staff. The purchase of a computer record is the purchase of the raw data and of a computer document, format, and structure of the type used by the County. Such a purchase does not include the purchase of the software to open, view, or use the document, nor any specialized templates or other County programs used to display the data in a particular format.

Type III: A request for an electronic, magnetic, or other computer media copy of a computer record which is not a Type II request. The County is not obligated to fill Type III requests but may choose to do so on a case by case basis depending upon the nature of the request and the time and abilities of County staff or that of any outside contractor. There shall be no policy regarding the election to fulfill such requests and a decision to fill a particular request shall in no way establish a precedent that a similar request will be filled in the future for the same or a different party. Type III requests are also filled without any warranty whatsoever, including the usability of the computer record, even if the County or its outside contractor has attempted to create a particular record for a particular party, in a particular format. There are separate and additional charges for Type III requests.

Redaction

The County will grant access to public records according to statutory requirements and this Policy. The County will separate and exclude any records which are not public record or which are otherwise excluded or exempted from the definition of public records. If information which is not subject to access is an integral part of a public record and cannot be separated, the County shall redact from the public record the information which is not subject to access and the response shall grant access only to the information which is subject to access.

The County's Response and Time for Response

The County's response time shall be governed by the Act and the following procedure will apply:

- The requested records will be provided or the requester will be notified that the request will be fulfilled upon the payment of a fee; or
- The request will be denied. If a request is denied in whole or in part, the denial will contain a description of the records requested, the reasons for the denial, including citation of supporting legal authority, the name, title, business address, business telephone number, and signature of the person on whose authority the denial is issued, a date of the response, and the procedure to appeal the denial of access under the Act; or
- If the Requester refuses to pay the applicable fees set forth by this Policy, then the Requester will be informed in writing that the request is denied for that reason, which will include a description of the record requested, the name, title, telephone number, and signature of the denying public official or employee, date of the response, and appeal procedure.

Manner of Response

If not otherwise requested by the requester, the County shall send the requested public records by regular mail, or at the option of the County, may send the public records by electronic mail to

those requesters capable of receiving electronic mail.

The requester may request delivery of the public records by mail, facsimile, express mail, e-mail or other customarily available methods. The County shall make a good faith effort to send the public records by the method requested.

The postage or other actual fees for delivery shall be charged to the requester.

If a requester desires to receive the public records in person, he may communicate his request by mail or facsimile to the County to retain the records for pick-up at the designated County Office.

Upon receiving the request, the County shall make a good faith effort to hold the requested public records at the designated County Office for a reasonable period of time, which shall not exceed sixty (60) days.

The County may waive the fees for duplication of a public record including, but not limited to, when:

- (1) The requester duplicates the public record; or
- (2) The County deems it is in the public interest to do so.

Determination as to waiver of fees, in whole or in part, shall be made by the County Open Records Officer.

Written requests for records denied by the County Open Records Officer may be appealed to the Office of Open Records of the Commonwealth of Pennsylvania, Director of Communications, DCED, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225.

Judicial Appeal

Appeals from final decisions of the Office of Open Records of the Commonwealth of Pennsylvania may be filed with the Court of Common Pleas of Cumberland County.

Electronic Access

The County may make enhanced electronic access available on a yearly subscription basis to selected Cumberland County records via the Internet on a flat rate, subscription fee for a period of time, a per transaction fee, a fee based on cumulative time on the system, or any other reasonable method or combination thereof.

Posting of policy

This policy shall be conspicuously posted at the County offices designated above and may be made available by electronic means.

Fees

Fees are to be paid at the time the records are delivered unless prepayment is required.

Record Type	Fee
Copies: (A "photocopy" is either a single-sided copy or one side of a double-sided black-and-white copy of a standard 8.5" x 11" page)	\$.25 per page
Certification of a Record:	\$1.00 per record, fee does not include notarization fees.
Specialized documents : For example, but not limited to, blue prints, color copies, non-standard sized documents	Actual Cost
Floppy Disk:	\$1.00
CD:	\$5.00
DVD:	\$25.00
Tax Maps:	
11 X 17	\$7.00
13 X 19	\$10.00
Conversion to Paper:	If a record is only maintained electronically or in other non-paper media, duplication fees shall be the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium.
Facsimile/Microfiche:	Actual Cost

Statutory Fees: Should a separate statute authorizes a County office to charge a set amount for a certain type of record, the County may charge no more than that statutory amount. For example, a Recorder of Deeds may charge a copy fee of \$.50 per uncertified page and \$1.50 per certified page under 42 P.S. § 21051.

Inspection of Redacted Records: If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, the County will shall redact the non-public information. The County may charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee may be charged.

Enhanced Electronic Access: The County may offer enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the County may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof.