

2012

**YORK COUNTY RAIL TRAIL AUTHORITY  
POLICY MANUAL**

**I. PURPOSE**

The purpose of this policy is to provide guidelines that conform to the requirements of Act 3 of 2008 commonly known as the "Open Records Law" which fundamentally changes the "Right to Know Law". Effective January 1, 2009, the Open Records Law mandates a presumption of disclosure and shifts the burden of denial to provide information to the government.

**II. POLICY**

It is the policy of the York County Rail Trail Authority that requests for and duplication of public records will adhere to the requirements and procedures of the Open Records Law.

**III. DEFINITIONS**

A. *Act or Open Records Law* – The *Act of June 21, 1957 (P.L. 390, No. 212)*, commonly referred to as the "*Right-to-Know Law, (RTKL)*" as amended, 65 P.S. §§ 66.1-66.9 by Act 2002-50 and Act 3 of 2008 commonly known as the "Open Records Law". The principal change in the Open Records Law is the fundamental change in presumption. The Act in Section 305 states:

A record in the possession of a Commonwealth agency or local agency shall be presumed to be a public record. The presumption does not apply if the record is exempt under Section 708 of the RTKL Act, if it is protected by privilege or if it is exempt from disclosure under other federal or state law or regulation or by judicial order or decree.

- B. *Business Day*** – Any Monday, Tuesday, Wednesday, Thursday or Friday, except those days when the offices of the York County Rail Trail Authority are closed for all or part of the day due to a holiday, vacation, severe weather, natural or other disaster or at the request or direction of local, state or federal law enforcement officials. Record requests received after the close of regular business hours will be considered as being received on the following business day.
- C. *Deemed denied*** – Any request that (i) the applicable Open Records Office receiving a written Open Records Request fails to respond to within the initial five (5) business day period; (ii) the Open Records Office extends the five (5) business day period by up to thirty (30) calendar days, but then fails to respond by the end of that extended period; or (iii) the Open Records Office notifies the Requester that it requires additional time to respond in excess of the permitted thirty (30) calendar day period.
- D. *Mailing date*** – The date affixed to a response to a request for access to records, which is to be the date the response is deposited in the U.S. Mail or, for a person submitting a request or exceptions, the date of the postmark on the envelope transmitted the request.
- E. *Office of Open Records*** – The Administrative office established in the Department of Community and Economic Development (DCED) for those purposes set forth in Section 1310 of the “Right-To-Know Law” (Act 3 of 2008).
- F. *Open Records Office*** – The Office(s) designated by the York County Rail Trail Authority to receive Open Records requests.

- G. ***Open Records Official*** – Any official or employee designated by the York County Rail Trail Authority to receive Open Records requests.
- H. ***Open Records Request*** – Either (i) a written request submitted to the applicable Open Records Office or Open Records Official asking for access to a document, a copy of a document or information purported to be in the possession of the York County Rail Trail Authority; or (ii) a written request (but not appeal) presented to the applicable Open Records Office that invokes that Act.
- I. ***Privilege*** – The attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privileges recognized by a court interpreting the laws of this Commonwealth.
- J. ***Public Record*** – A record, including a financial record, of a Commonwealth or local agency that:
- (1) is not exempt under section 708 of the Open Records 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.
- K. ***Record*** – any document maintained by the York County Rail Trail Authority in any form, whether public or not.
- L. ***Requester*** – a resident of the United States who requests a record pursuant to the Act.

- M. *Response* – The applicable Open Records Office reply to a request made pursuant to the Act. A response may be either (i) the act of providing the Requester with access to a record, or (ii) the applicable Open Records Office’s written notice granting, denying or partially granting and partially denying access to a record.
- N. *Solicitor* – Office of the York County Rail Trail Authority Solicitor.

#### IV. PROCEDURE

##### A. Open Records Functions

1. The function of the applicable Open Records Office is to receive all Open Records requests directed to York County Rail Trail Authority, to track the progress in responding to Open Records Requests, to coordinate the preparation of a response and to prepare and issue interim and final responses to Open Records Requests.
2. The York County Rail Trail Authority chief Open Records Official, as designated by the York County Rail Trail Authority and pursuant to the Act, is responsible for receiving, tracking and responding to Open Records Requests.
3. The function of the Public Records Access Room is to provide a specific, established site where residents can have physical access to some or all of the York County Rail Trail Authority public records. If the York County Rail Trail Authority elects not to establish such a room, the applicable Open Records Official shall determine on an ad hoc basis the building and

room where records will be made available to a Requester and the hours of availability. In either instance the applicable Open Records Official has the discretion to establish written policies governing the use of that room including, but not limited to, the hours of access, the need and adequacy of proof of residency, restrictions or prohibitions on the removal of records, the use of written requests and the ability of a Requester to bring his or her own photocopying or other equipment into the room.

4. If the request seeks records maintained by the York County Rail Trail Authority, the written request must be directed to the Open Records Official for the York County Rail Trail Authority.

**B. Requests**

1. The Executive Director is the office designated by the York County Rail Trail Authority as the recipient of all Open Records Requests addressed to the York County Rail Trail Authority. All Open Records requests for the York County Rail Trail Authority are to be addressed to the Executive Director and may be submitted in person, by mail, by facsimile or e-mail. Written requests shall be addressed to York County Rail Trail Authority, P.O. Box 335, Seven Valleys, Pennsylvania 17360. The applicable facsimile number for requests is (717) 428-0998. The email address for requests is [info@yorkcountyrails.org](mailto:info@yorkcountyrails.org).
2. The York County Rail Trail Authority will not respond to oral or anonymous requests.

3. Each written request shall include the name of the Requester and the address to which the York County Rail Trail Authority should address its response. The request should also identify or describe the records sought with sufficient specificity to enable the York County Rail Trail Authority to ascertain which records are being requested. A Request may be submitted using the Open Records Request Form.
  - a. The Requester must be a resident of the United States. In determining whether the Requester meets this requirement, the applicable Open Records Officer may, in its discretion, require that the Requester produce photographic identification, such as a driver's license, showing an address.
4. A written request does not need to include any explanation of the Requester's reason for requesting or intended use of the records. A request must be reasonably specific so as to enable the reviewing officer to determine the nature and extent of the records requested. Failure to be reasonably specific may result in a denial of the request.
5. Upon receiving a written Open Records Request, the applicable Open Records Office, in conjunction with the Solicitor, will:
  - a. Make a good faith effort to determine if the requested record is a public record and respond as promptly as possible under the circumstances existing at the time of the request and that this time

shall not exceed five (5) business days, from the date the written request is received by the applicable Open Records Official.

- b. The first day of the five (5) business day period will be the York County Rail Trail Authority next business day after receipt of the request.
- c. If the Open Records Official fails to respond within the five (5) business day period with an interim or final response, the Open Records request is deemed denied.
- d. Make a duplication of the request, including all documents submitted and the envelope (if any) in which it came.
- e. Create an official file for the retention of the original request.
- f. Record the request in the system used by the York County Rail Trail Authority for tracking Open Record Requests.

**C. Response**

- 1. Physical access provided to a Requester of a document or copy of a requested document, in the applicable Open Records Office, will be considered a “response” to an Open Records Request. The Open Records Official will provide authorization for such access.
  - a. Public records of the York County Rail Trail Authority will be accessible for inspection by a Requester during the regular

business hours. The regular business hours, for purposes of this policy are from 9:00 a.m. until 4:00 p.m. on any business day.

- b. The York County Rail Trail Authority is not required and will not create a public record that does not already exist, nor is York County Rail Trail Authority required to compile, maintain, format, or organize a public record in a manner in which the York County Rail Trail Authority does not currently do so.
- c. In compliance with the Open Record Law's redaction requirements, the York County Rail Trail Authority is not required to alter their original records.
- d. In order to prevent the Requester from having access to information to which they are not entitled, the York County Rail Trail Authority will redact, or eradicate, a portion of a document while retaining the remainder for review.
- e. The York County Rail Trail Authority does not make duplication equipment available to a Requester but does provide for York County Rail Trail Authority staff to make copies or may contract for duplication services and require that the Requester pay the contractor for those services. In both instances, the York County Rail Trail Authority may charge a reasonable set fee as outline in Section D below that is consistent with prevailing charges for duplication.



2. Where timely access is not provided as listed in C.1 above or otherwise requested, the York County Rail Trail Authority is required to provide a response in writing. The Open Records Official has the duty to prepare and send written responses and may consult, as necessary, with the Solicitor and other York County Rail Trail Authority and employees having a concern or interest in the records.
3. The applicable Open Records Office shall send written response to Requesters by U.S. mail and, at its discretion, may also use the following means: facsimile transmission, e-mail, overnight or parcel delivery service or courier delivery.
4. The Act provides circumstances in which the York County Rail Trail Authority can obtain an extension of time in which to provide a final response to a request. The York County Rail Trail Authority must provide the Requester with written notice that additional time will be required. This notice is referred to as an “interim response”.
  - a. Single extensions of time may not exceed thirty (30) calendar days. Notification to a Requester by the applicable Open Records Office that it needs more than the maximum thirty (30) calendar days, acts as a deemed denial.
  - b. If an extension is invoked and then there is no timely final response, the Open Records request is deemed denied.

5. Written Final Responses may be one of three types:
  - a. The York County Rail Trail Authority grants the entire request.
  - b. The York County Rail Trail Authority refuses the entire request.
  - c. The York County Rail Trail Authority grants part of the request and refuses the remainder.
  
6. Final responses that deny requests in whole or in part will list all of the specific reasons relied on by the York County Rail Trail Authority for denying the request and will include one or more citations of supporting authority. The response shall also contain a notice informing the Requester of his or her right to file exceptions and shall set forth the name and mailing address of the Open Records Appeal Office.
  
7. Inaction by the York County Rail Trail Authority is not a response, even when it results in deemed denial.

**D. Fees**

1. The York County Rail Trail Authority will not charge for redaction services.
  
2. A duplicating fee for photocopying, printing from electronic media or microfilm will be imposed a 25 cents per page, per side.
  
3. A duplicating fee for copying onto electronic media will be imposed at \$1.00 per compact disk. A new disk will be used each time records are provided.

4. Facsimile transmission fees will be imposed at 50 cents per page faxed.
5. For other means of duplication and other costs incurred, reasonable fees based on prevailing fees for comparable duplication by local business entities or actual costs will be imposed.
6. The York County Rail Trail Authority may, in its discretion, insist that payment for duplication be made by certified check. If the fee is for copying only, the York County Rail Trail Authority shall provide access to the records but shall refuse to make any copies until the fee is paid. If the fee is for service that is necessary in order for access to be provided, the York County Rail Trail Authority shall deny access to the records until the fee is paid.
7. The York County Rail Trail Authority shall not be prohibited from exercising its discretion to waive collection of fees for documents to non-profit organizations and governmental agencies and authorities.
8. The York County Rail Trail Authority may require a requester to prepay an estimate of the fees if the fees required to fulfill the request are expected to exceed \$100.00.

**E. Retention and Disposal of Public Records**

1. The Open Records Law does not modify, rescind or supercede any statutes, regulations and other laws that regulate York County Rail Trail Authority's retention and disposal of records.

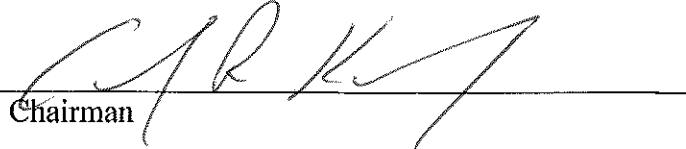
**F. Posting Record Requests and Response Thereto**

1. York County Rail Trail Authority reserves the right to post and/or release record requests and responses thereto. Individuals and entities submitting record requests should have no expectation of privacy concerning requests.

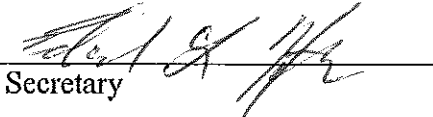
YORK COUNTY RAIL TRAIL AUTHORITY

September 17, 2012

Date:

  
Chairman

Attest:

  
Secretary