

# RULES AND REGULATIONS

## Title 101—GENERAL ASSEMBLY

### LEGISLATIVE REFERENCE BUREAU

[ 101 PA. CODE CH. 31 ]

#### Right-to-Know Law

The Legislative Reference Bureau, under section 504(a) of the Right-to-Know Law, as enacted February 14, 2008 (P. L. 6, 14, No. 3) (65 P. S. § 67.504(a)) *Purdons Pennsylvania Legislative Service*, No. 1 (2008), proposes to add 101 Pa. Code Chapter 31 (relating to Right-to-Know Law) as set forth in Annex A.

#### Public Comments

Interested parties are invited to submit written comments, objections or suggestions about the proposed statement of policy to Open-Records Officer, Legislative Reference Bureau, Room 641, Main Capitol Building, Harrisburg, PA 17120-0033, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

ROBERT W. ZECH, Jr.,  
Director  
Legislative Reference Bureau

**Fiscal Note:** 150-1. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 101. GENERAL ASSEMBLY

#### PART I. LEGISLATIVE REFERENCE BUREAU

##### Subpart E. STATEMENTS OF POLICY

#### CHAPTER 31. RIGHT-TO-KNOW LAW

#### Subch.

- A. PRELIMINARY PROVISIONS
- B. OPEN RECORDS PROCEDURES OF THE BUREAU
- C. APPELLATE PROCEDURE

#### Subchapter A. PRELIMINARY PROVISIONS

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| 31.2. | Open-records officers. |
| 31.3. | Cooperation.           |

#### § 31.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Appeals officer*—The individual responsible, under section 503(c)(1) of the law (65 P. S. § 67.503(c)(1)), for appeals from determinations of an open-records officer.

*Bureau*—The Legislative Reference Bureau.

*Law*—The Right-to-Know Law (65 P. S. §§ 67.101—67.3104).

*Legislative agency*—Any of the following:

- (i) The Senate.
- (ii) The House of Representatives.
- (iii) The Bureau.
- (iv) The Capitol Preservation Committee.
- (v) The Center for Rural Pennsylvania.
- (vi) The Joint Legislative Air and Water Pollution Control and Conservation Committee.

- (vii) The Joint State Government Commission.
- (viii) The Legislative Budget and Finance Committee.
- (ix) The Legislative Data Processing Committee.
- (x) The Independent Regulatory Review Commission.
- (xi) The Local Government Commission.
- (xii) The Pennsylvania Commission on Sentencing.
- (xiii) The Legislative Reapportionment Commission.
- (xiv) The Legislative Office for Research Liaison.
- (xv) The Legislative Audit Advisory Commission.

*Legislative service agency record*—A legislative record of a legislative service agency.

*Legislative record*—As defined in section 102 of the law (65 P. S. § 67.102).

*Legislative service agency*—A legislative agency other than the Senate or the House of Representatives.

*Mass request*—A number of requests under the law to which all of the following apply:

- (i) Each request is for the same legislative record.
- (ii) Each request is to the same legislative service agency.
- (iii) The number exceeds the daily average number of requests to the legislative service agency by at least 200%.
- (iv) The requests are substantially identical in format and language.
- (v) The open-records officer is able to trace the requests to a common source.

*Nonadjudicative legislative service agency*—A legislative service agency other than the Bureau or the Legislative Reapportionment Commission.

*Office of Open Records*—The Office of Open Records established in section 1310 of the law (65 P. S. § 67.1310).

*Open-records officer*—The individual responsible for access to the information of a legislative service agency under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)).

*Requester*—A person that makes a request for information from a legislative service agency under the law.

#### § 31.2. Open-records officers.

##### (a) Designation.

(1) Under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)), the Bureau will coordinate with each nonadjudicative legislative service agency to do one of the following:

(i) Accept the nonadjudicative legislative service agency's designation of the open-records officer.

(ii) Designate the head of the nonadjudicative legislative service agency as the open-records officer.

(2) The designations under paragraph (1) are as follows:

(i) The Bureau's designation is set forth in § 31.12 (relating to contact information).

(ii) The Capitol Preservation Committee:

Open-Records Officer  
Capitol Preservation Committee  
Room 630, Main Capitol Building  
Harrisburg, PA 17120  
Fax: (717) 772-0742  
E-mail: rtkrequest@cpc.state.pa.us

## (iii) The Center for Rural Pennsylvania:

Open-Records Officer  
 Center for Rural Pennsylvania  
 200 North Third Street, Suite 600  
 Harrisburg, PA 17101-1518  
 Fax: (717) 772-3587  
 E-mail: denkb@ruralpa.org

## (iv) The Joint Legislative Air and Water Pollution Control and Conservation Committee:

Open-Records Officer  
 Joint Legislative Air and Water Pollution Control and Conservation Committee  
 PA House of Representatives  
 Box 202254  
 Harrisburg, PA 17120  
 Fax: (717) 772-3836  
 E-mail: cbrooks@jcc.legis.state.pa.us

## (v) The Joint State Government Commission:

Open-Records Officer  
 Joint State Government Commission  
 108 Finance Building  
 Harrisburg, PA 17120  
 Fax: (717) 783-9380  
 E-mail: jntst02@legis.state.pa.us

## (vi) The Legislative Budget and Finance Committee:

Open-Records Officer  
 Legislative Budget and Finance Committee  
 400 Finance Building  
 P. O. Box 8737  
 Harrisburg, PA 17105-8737  
 Fax: (717) 787-5487  
 E-mail: openrecords@lbfc.legis.state.pa.us

## (vii) The Legislative Data Processing Committee:

Open-Records Officer  
 Legislative Data Processing Center  
 G-27 North Office Building  
 Harrisburg, PA 17120  
 Fax: (717) 772-1652  
 Email: ldpc@palegislature.us

## (viii) The Independent Regulatory Review Commission:

Open-Records Officer  
 Independent Regulatory Review Commission  
 14th Floor Harrisstown 2  
 333 Market Street  
 Harrisburg, PA 17101  
 Fax: (717) 783-2664  
 E-mail: irrc@irrc.state.pa.us

## (ix) The Local Government Commission:

Open-Records Officer  
 Local Government Commission  
 Senate Box 203078  
 Harrisburg, PA 17120-3078  
 Fax: (717) 772-4524  
 E-mail: mgasbarre@palegislature.us

## (x) The Pennsylvania Commission on Sentencing:

Open-Records Officer  
 Pennsylvania Commission on Sentencing  
 P. O. Box 1200  
 State College, PA 16804-1200  
 Fax: (814) 863-2129  
 E-mail: mhb105@psu.edu

## (xi) The Legislative Office for Research Liaison:

Open-Records Officer  
 Legislative Office for Research Liaison  
 P. O. Box 202218  
 Harrisburg, PA 17120-2218  
 Fax: (717) 783-3485  
 E-mail: LORLRTK@legis.state.pa.us

## (xii) The Legislative Audit Advisory Commission:

Open-Records Officer  
 Legislative Audit Advisory Commission  
 Room 105, East Wing Capitol Building  
 Harrisburg, PA 17120  
 Fax: (717) 780-4754  
 E-mail: repjoshshapiro@pahouse.net

(3) The designation for the Legislative Reapportionment Commission will be made by August 31 in the year in which the Legislative Reapportionment Commission convenes.

(b) *Notice.* As soon as possible after the designation under subsection (a)(2) and (3), the Bureau will publish the designations in the *Pennsylvania Bulletin*.

**§ 31.3. Cooperation.**

The Bureau will assist nonadjudicative legislative service agencies with all of the following:

- (1) Request entries under section 502(b)(2)(i) of the law (65 P. S. § 67.502(b)(2)(i)).
- (2) Time periods under section 502(b)(2)(ii) of the law.
- (3) Interim responses under section 502(b)(1) of the law.
- (4) Final responses under section 502(b)(1) of the law.
- (5) Dispositions under section 502(b)(2)(iii) of the law.
- (6) Implementation of Subchapter C (relating to appellate procedure).

**Subchapter B. OPEN RECORDS PROCEDURES OF THE BUREAU**

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31.11.	Hours of access.
31.12.	Contact information.
31.13.	Request format.
31.14.	Referral.
31.15.	Processing.
31.16.	Mass requests.
31.17.	Fee schedule.

**§ 31.11. Hours of access.**

The Right-To-Know Office of the Bureau will be open from 8:45 a.m. to 4:45 p.m. Monday through Friday except for official State and Federal holidays and other days the Bureau is closed by direction of the Bureau Director. The Right-To-Know Office will not be open during other hours that the Legislative Reference Bureau is open for legislative session business.

**§ 31.12. Contact information.**

Right to Know requests must be sent to:

Open-Records Officer  
 Legislative Reference Bureau  
 Room 641, Main Capitol Building  
 Harrisburg, PA 17120-0033  
 Fax: (717) 783-2396  
 Email: lrbrighttoknow@palrb.net

**§ 31.13. Request format.**

Requests must be made in writing, must be clearly marked as a right-to-know request and must be submitted in person or by mail, email or facsimile in one of the following manners:

- (1) On a form prescribed by the Bureau.
- (2) In a manner so that material requested describes records requested with specificity.

**§ 31.14. Referral.**

- (a) *Scope.* The Bureau will forward a request for a legislative service agency record not generated by the Bureau to the appropriate legislative service agency.
- (b) *Status.* Forwarding a request under subsection (a) does not constitute a deemed denial under section 901 of the law (65 P. S. § 67.901).

**§ 31.15. Processing.**

Subject to § 31.16 (relating to mass requests), the Bureau will process a request for any of the following legislative service agency records generated by the Bureau:

- (1) A financial record.
- (2) A bill or resolution that has been introduced, including resolutions to adopt or amend the rules of a chamber.
- (3) The minutes of, record of attendance of members at and all recorded votes taken in a meeting of the Joint Committee on Documents.
- (4) The transcript of a public hearing when available.
- (5) Any administrative staff manuals or written policies.
- (6) Final or annual reports required by law to be submitted to the General Assembly.
- (7) A record communicating to the appointing authority the resignation of a legislative appointee.
- (8) Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency. This paragraph is subject to 45 Pa.C.S. § 722(b) (relating to deposit of documents required) and 1 Pa. Code § 13.55 (relating to filing for public inspection).

**§ 31.16. Mass requests.**

If the open-records officer determines that a mass request places an unreasonable burden on the Bureau, in an analogous manner to that described in section 506(a)(1) of the law (65 P. S. § 67.506(a)(1)) for multiple requests by the same requester, the following apply:

- (1) The open-records officer will respond to the common source identified by the open-records officer; respond to individual requests submitted in writing; and, if the request is granted, will make the legislative record accessible at the Bureau.
- (2) If the mass request is in electronic format, each requester will be informed of the action under paragraph (1).

**§ 31.17. Fee schedule.**

- (a) *General rule.* Except as set forth in subsection (b), the following apply:
  - (1) The fee for providing a document is \$.25 per page.
  - (2) The fee for postage will not exceed actual mailing costs.
  - (3) The fee for certifying a document is \$5 per document, regardless of the number of pages. Each document requires separate certification and fee.
  - (4) The fee for redaction of a document is \$1 per page.
- (b) *Exception.* If the Office of Open Records charges a fee for providing a document of less than the amount set forth in subsection (a), the Bureau will charge the fee charged by the Office of Open Records.

(c) *Payment.*

- (1) Except as set forth in paragraph (2), payment arrangements shall be made between the requester and the open-records officer.
- (2) Under section 1307(h) of the law (65 P. S. § 67.1307(h)), if the total fee exceeds \$100, payment must be made prior to the initiation of the providing the document. If prepayment is required, a check, certified check or money order shall be made payable to "Commonwealth of Pennsylvania" in the total amount of the fee.

**Subchapter C. APPELLATE PROCEDURE**

Sec.	
31.21.	Administrative Agency Law.
31.22.	Appeals officer.
31.23.	Parties.

**§ 31.21. Administrative Agency Law.**

- (a) *Authority.* This section constitutes the adoption of practice and procedure provisions under section 1309 of the law (65 P. S. § 67.1309).
- (b) *Adoption.*
  - (1) Except as set forth in subsection (c), the provisions of 2 Pa.C.S. Chapter 5, Subchapter A and Chapter 7, Subchapter A (relating to Administrative Agency Law) apply to appeals under this subchapter.
  - (2) This subsection applies notwithstanding 2 Pa.C.S. § 501(a) (relating to scope of subchapter).
- (c) *Exceptions.*
  - (1) Testimony will be recorded, and a transcript will only be produced if there is an appeal under section 1301(a) of the law (65 P. S. § 67.1301(a)). This paragraph applies notwithstanding 2 Pa.C.S. § 504 (relating to hearing and record).
  - (2) The provisions of 2 Pa.C.S. § 508 (relating to notice to Department of Justice) do not apply.

**§ 31.22. Appeals officer.**

- (a) *Status.* Under section 503(c)(1) of the law (65 P. S. § 67.503(c)(1)), the following apply:
  - (1) Except as set forth in paragraph (2), the Bureau will provide appeals officers for appeals from all legislative service agencies.
  - (2) For an appeal from a denial by the open-records officer of the Bureau, the Bureau will arrange with a nonadjudicative legislative service agency to provide an appeals officer.
- (b) *Requirements.*
  - (1) The appeals officer must be an attorney at law.
  - (2) Except as set forth in paragraph (3), the appeals officer may be an employee of or an individual under contract with one of the following:
    - (i) The Bureau for an appeal under subsection (a)(1).
    - (ii) The nonadjudicative legislative agency for an appeal under subsection (a)(2).
  - (3) The appeals officer will be an individual under contract with the Bureau for an appeal from a denial by the open-records officer of the Legislative Reapportionment Commission.

**§ 31.23. Parties.**

- (a) *Original.*
  - (1) Under section 1101(a)(1) of the law (65 P. S. § 67.1101(a)(1)), an appeal may be made by a requester with respect to any of the following:
    - (i) A request denied under section 903 of the law (65 P. S. § 67.903).

(ii) A request deemed denied under section 901 of the law (65 P. S. § 67.901).

(2) Under section 1101(c) of the law, a party with a direct interest in the information subject to the appeal may intervene in the appeal.

(b) *Procedure.*

(1) A party under subsection (a) must file two copies of the appeal or petition to intervene with the Bureau. The copies must be in writing. Electronic filing is not permitted. For an appeal under subsection (a)(1)(i), the appeal or petition must refer to any disputed factual or legal matter in the denial under section 903 of the law.

(2) Upon receipt of the filing under paragraph (1), the Bureau will send a copy to the open-records officer whose denial or deemed denial is being appealed.

(3) The appeals officer may schedule an informal conference with the parties to attempt to resolve the matter.

(c) *Submission on documents.* Except as set forth in subsection (d), the appeal will be resolved under section 1102(b)(1) of the law (65 P. S. § 67.1102(b)(1)), based on the following:

(1) The appeal under section 1101(a)(1) of the law.

(2) The denial under section 903 of the law.

(d) *Hearing.*

(1) A hearing will be held on an appeal only if any of the following apply:

(i) The appeal is of a deemed denial under section 901 of the law.

(ii) The requester alleges willful misconduct under section 1304(a)(1) of the law (65 P. S. § 67.1304(a)(1)).

(iii) In the denial, the open-records officer rules that the request is frivolous under section 1304(b) of the law.

(iv) The appeals officer determines that there is good cause for a hearing.

(2) Under section 1102(b)(2) of the law, a hearing is subject to 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(e) *Determination.* Under section 1102(a)(4) of the law, the appeals officer will issue a final determination. The final determination will consist of the following:

(1) *Title.* Identification of the requester and the legislative agency.

(2) *Procedural history.*

(i) *Recital.* A brief recital of the facts up to disposition by the open-records officer.

(ii) *The disposition by the open-records officer.* This subparagraph includes a denial under section 903 of the law and a deemed denial under section 901 of the law.

(3) *Factual findings.* Resolution of disputed facts.

(4) *Legal conclusions.* Includes cited authority.

(5) *Order.* An order affirming the denial or granting the request, in whole or in part. An order under this paragraph is subject to judicial review under Chapter 13 of the law (65 P. S. §§ 67.1301—67.1310).

[Pa.B. Doc. No. 08-1884. Filed for public inspection October 17, 2008, 9:00 a.m.]

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[Correction]

[ 58 PA. CODE CHS. 401a, 435a, 439a, 441a, 461a, 461b, 463a, 465a, 503a AND 511a ]

**Preliminary Provisions; Employees; Junket Enterprises; Slot Machine Licenses; Slot Machine Testing and Control; Technical Standards; Possession of Slot Machines; Accounting and Internal Controls; and Self-Exclusion and Persons Required to be Excluded**

An error occurred in the document which amended § 511a.8(d)(1) (relating to duties of slot machine licensees), which appeared at 38 Pa.B. 5652, 5664 (October 11, 2008). The correct version of § 511a.8 is as follows:

#### Annex A

#### TITLE 58. RECREATION

#### PART VII. GAMING CONTROL BOARD

#### Subpart J. EXCLUSION OF PERSONS

#### CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

#### § 511a.8. Duties of slot machine licensees.

(a) Slot machine licensees shall establish procedures that are designed to prevent violations of this chapter and submit a copy of the procedures to the Director of OCPG 30 days prior to initiation of gaming activities at the licensed facility. A slot machine licensee will be notified in writing of any deficiencies in the plan and may submit revisions to the plan to the Director of OCPG. The slot machine licensee may not commence operations until the Director of OCPG approves its procedures. Amendments to these procedures must be submitted to and approved by the Director of OCPG prior to implementation.

(b) A slot machine licensee shall have the responsibility to distribute copies of the exclusion list to the appropriate employees. Additions, deletions or other updates to the list shall be distributed by a slot machine licensee to its employees within 2 business days of the slot machine licensee's receipt of the updates from the Board.

(c) A slot machine licensee shall exclude or eject the following persons from its licensed facility:

(1) An excluded person.

(2) A person known to the slot machine licensee to satisfy the criteria for exclusion in section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511a.3 (relating to criteria for exclusion).

(d) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall:

(1) Immediately notify the casino compliance representatives at the licensed facility.

(2) Notify the Director of OCPG in writing within 24 hours.

(e) It shall be the continuing duty of a slot machine licensee to inform the Bureau, in writing, of the names of persons the slot machine licensee believes are appropriate for placement on the exclusion list or a person who has been excluded or ejected under subsection (c)(2) and the reason for placement on the exclusion list.

[Pa.B. Doc. No. 08-1845. Filed for public inspection October 10, 2008, 9:00 a.m.]