

STATEMENT OF POLICY

Title 101—GENERAL ASSEMBLY

CAPITOL PRESERVATION COMMITTEE [101 PA. CODE CH. 1]

Right-to-Know Law—Statement of Policy

The Pennsylvania Capitol Preservation Committee, under section 504(a) of the Right-to-Know Law, enacted February 14, 2008, is adding the following statement of policy to read as set forth in Annex A.

This statement of policy is effective September 1, 2009.
RUTHANN HUBBERT-KEMPER,
Executive Director

(Editor’s Note: Title 101 of the Pennsylvania Code is amended by adding a Statement of Policy in §§ 1.1—1.4, 11.1—11.7, 21.1 and 21.2 to read as set forth in Annex A.

Annex A

TITLE 101. GENERAL ASSEMBLY

PART VI. CAPITOL PRESERVATION COMMITTEE

CHAPTER 1. RIGHT-TO-KNOW LAW—STATEMENTS OF POLICY

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Subchapter A. PRELIMINARY PROVISIONS

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§ 1.1. Authority.

This chapter is adopted and promulgated under section 504(a) of the law (65 P. S. § 67.504.4(a)).

§ 1.2. Scope.

This chapter establishes the process and procedures that the Committee will follow when responding to a request for access to or copies of legislative records in the possession, custody or control of the Committee.

§ 1.3. 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 (63 P. S. § 67.503(c)(1)) for appeals from determinations of an open-records officer.

Bureau—The Legislative Reference Bureau.

Committee—The Capitol Preservation Committee.

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

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 Committee.
- (iii) The number exceeds the daily average number of requests to the Committee 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.

Office of Open Records—The Office of Open Records established under section 1310 of the law (63 P. S. § 67.1310).

Open-records officer—The individual responsible for access to the information of the Committee under section 502(a)(2) of the law (63 P. S. § 67.502(a)(2)).

Requester—A person that makes a request for information from the Committee under the law.

§ 1.4. Open-records officer.

(a) Designation.

(1) Under section 502(a)(2) of the law (63 P. S. § 67.502(a)(2)), the Bureau has coordinated with the Committee to do one of the following:

- (i) Accept the Capitol Preservation Committee’s designation of the open-records officer.
- (ii) Designate the head of the Committee as the open-records officer.

(2) The designation under paragraph (1), as it applies to the Committee, is as follows:

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

(b) *Notice.* The Bureau has published the designation in subsection (a) in the *Pennsylvania Bulletin*. See 38 Pa.B. 5755 (October 18, 2008).

Subchapter B. OPEN RECORDS PROCEDURES OF THE CAPITOL PRESERVATION COMMITTEE

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11.6.	Mass requests.
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§ 11.1. Hours of access.

The Right-to-Know Office of the Committee will be open from 9 a.m. to 4:30 p.m. Monday through Friday, except for official State and Federal holidays and other days the Committee is closed by direction of the Executive Director of the Committee.

§ 11.2. Contact information.

Right-to-Know requests shall be sent to:

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

§ 11.3. Request format.

(a) *General.* The Committee will fulfill verbal, written or anonymous verbal or written requests for access under the law. If, however, the requester wishes to pursue the relief and remedies provided for in the law, the request must be a written request.

(b) *Written requests.* Requests in writing must be clearly marked as a Right-to-Know request and shall be submitted in person or by mail, e-mail or facsimile in one of the following manners:

- (1) On a form prescribed by the Office of Open Records.
- (2) On a form prescribed by the Committee.
- (3) In a manner so that material requested describes records requested with specificity. In the event that one of the forms referenced in paragraph (1) or (2) is not used, the request must also include an address to which the Committee can provide its response.

§ 11.4. Referral.

(a) *Scope.* The Committee will forward a request for a legislative record not generated by the Committee to the appropriate legislative agency, to the extent that the appropriate legislative agency can be reasonably determined. In that event, the requester will be advised of this action. If the appropriate legislative agency cannot be reasonably determined, the Committee will respond under Chapter 9 of the law (63 P. S. §§ 67.901—67.905).

(b) *Status.* Forwarding a request under subsection (a) does not constitute a deemed denial under section 901 of the law (63 P. S. § 67.901).

§ 11.5. Processing.

(a) *Production.* Subject to § 11.6 (relating to mass requests), the Committee will process a request for any legislative record in its possession, custody or control. Legislative records in the possession, custody or control of the Committee will be produced in accordance with the law, and, except as otherwise exempt from access as set forth in the law.

(b) *Redaction.* In response to a request, the Committee may redact certain information, as required under section 706 of the law (63 P. S. § 67.706).

(c) *Record disposal.* For those requested legislative records that are produced and available for delivery at the Committee, the requester shall have 60 days to retrieve the records. If the records are not retrieved within 60 days of the Capitol Preservation Committee's response, the Committee may dispose of any copies which have not been retrieved and retain any fees paid to date.

(d) *Creation of records.* In response to a request for access, the Committee will not create a record which does not currently exist and is not required to compile, maintain, format or organize a record in a manner in which the Committee does not currently compile, maintain, format or organize records.

§ 11.6. Mass requests.

If the open-records officer determines that a mass request places an unreasonable burden on the Committee, in an analogous manner to that described in section 506(a)(1) of the law (63 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; will respond to individual requests submitted in writing; and, if the request is granted, will make the legislative record accessible at the Committee.

(2) If the mass request is in electronic format, each requester will be informed of the action under paragraph (1).

§ 11.7. Fee schedule.

(a) *General rule.* The following apply:

(1) With the exception of blueprints, the fee for copying 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 25¢ per page.

(5) The fee for providing documents on a compact disc is \$5.

(6) The fee for copying blueprints is the cost incurred by the Committee to have the blueprints copied by an outside vendor, as the Committee does not have the means to copy blueprints. The fee will include not only the charge assessed by the outside vendor, but also any cost necessarily incurred for complying with the request.

(b) *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 of the document. If prepayment is required, the payment should be in the form of cash or a certified check or money order made payable to "Capitol Preservation Committee" in the total amount of the fee.

Subchapter C. APPEALS

Sec.

- 21.1. Right to appeal.
21.2. Appeal procedures.

§ 21.1. Right to appeal.

(a) If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the right-to-know appeals officer within 15 business days

of the mailing date of the agency's response or within 15 business days of the deemed denial at the following address:

Right-to-Know Appeals Officer
Legislative Reference Bureau
641 Main Capitol Building
Harrisburg, PA 17120
Fax: (717) 787-4828
E-mail: lrbbrighttoknow@palrb.net

(b) The appeal must state the grounds upon which the requester asserts that the record is a legislative record and must address any grounds stated by the Committee for delaying or denying the request.

§ 21.2. Appeal procedures.

The procedures on appeal shall be those as promulgated by the Bureau.

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