

CHAPTER 303. RIGHT-TO-KNOW LAW—STATEMENT OF POLICY

Subch.

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Subchapter A. PRELIMINARY PROVISIONS

Sec.

303.1. Definitions.

303.2. Open-records officer.

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Authority

The provisions of this Chapter 303 adopted under section 504(a) of the Right-To-Know Law (65 P. S. § 67.504), unless otherwise noted.

Source

The provisions of this Chapter 303 adopted November 28, 2008, effective January 1, 2009, 38 Pa.B. 6502, unless noted otherwise.

§ 303.1. 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.

Commission—The Local Government Commission.

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

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 record.
- (ii) Each request is to the Commission.
- (iii) The number exceeds the daily average number of requests to the Commission 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 (65 P. S. § 67.1310).

Open-records officer—The individual responsible for receiving and responding to requests for records of the Commission under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)).

Requester—A person that makes a request for a record from the Commission under the law.

Record—

(i) Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.

(ii) 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.

§ 303.2. Open-records officer.

Under section 502(a)(2) of the law (65 P. S. § 67.502(a)(2)), and upon publication in the *Pennsylvania Bulletin* in accordance with 101 Pa. Code § 31.2 (relating to open-records officers), the designation of the open-records officer for the Commission will be as follows:

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

Source

The provisions of this § 303.2 amended April 24, 2015, effective April 25, 2015, 45 Pa.B. 2051. Immediately preceding text appears at serial page (345082).

§ 303.3. Cooperation.

The Commission may coordinate with the Legislative Reference Bureau for assistance 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
COMMISSION**

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§ 303.11. Records of the Commission.

(a) *Legislative records.* Subject to § 303.17 (relating to mass requests), the Commission will provide a requester access to any of the following legislative records generated by the Commission and not otherwise exempt under the law:

- (1) A financial record.
- (2) The minutes of, record of attendance of members at a public hearing or Commission meetings and all recorded votes taken, if any, at a Commission hearing or meeting.
- (3) The transcript of a public hearing when available.
- (4) Any administrative staff manuals or written policies.
- (5) Final or annual reports required by law to be submitted to the General Assembly.
- (6) The results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion funded by the Commission.

(b) *Contracts.* Contracts of the Commission will be available for review electronically from the State Treasurer or for duplication from the Commission.

(c) *Other records.* The Executive Director of the Commission, in his sole discretion, may authorize the open-records officer to provide access to other records of the Commission in accordance with section 506(c) of the law (65 P. S. § 67.506(c)). The Executive Director of the Commission may not authorize access to research work product or correspondence produced at the request of a member of the General Assembly without obtaining prior authorization from the member.

Cross References

This section cited in 101 Pa. Code § 303.16 (relating to response to requests).

§ 303.12. Hours of access.

The Right-To-Know Office of the Commission will be open from 9 a.m. to 5 p.m. Monday through Friday except for official State and Federal holidays and other days the Commission is closed by direction of the Commission Chairperson. The Right-To-Know Office will not be open during other hours that the Commission is open for legislative session business, including evenings (after 5 p.m.), Saturdays and Sundays.

§ 303.13. Request format.

The Right-to-Know Office of the Commission will respond to verbal, written or anonymous verbal or written requests for access to records in accordance with the law. If the requester wishes to pursue the relief and remedies provided in the law and Subchapter C (relating to appellate procedure), the request for access to records must be a written request. Written requests 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 the form prescribed by the Commission and available for downloading at the Commission web site, www.lgc.state.pa.us.
- (2) In a manner so that material requested describes records requested with specificity.

§ 303.14. Contact information.

Right-to-Know requests must be made as follows:

- (1) Written requests made by mail:
Open-Records Officer
Local Government Commission
Senate Box 203078
Harrisburg, Pennsylvania 17120-3078
- (2) Written requests made by facsimile:
Fax: (717) 772-4524
- (3) Written requests made by e-mail:
LGCopenrecords@palegislature.us
- (4) Other requests: In person at the Commission offices, Forum Place Building, the corner of 5th and Walnut Streets, 555 Walnut Street, Harrisburg, PA 17101, or by telephone at (717) 787-7680. Verbal requests must be made to the Commission open-records officer or a designee.

Source

The provisions of this § 303.14 amended April 24, 2015, effective April 25, 2015, 45 Pa.B. 2051. Immediately preceding text appears at serial page (345084).

§ 303.15. Referral.

The Commission will accept written requests made for Commission records initially sent to the Legislative Reference Bureau upon forwarding of the request to the Commission by the Bureau.

§ 303.16. Response to requests.

(a) *Response to verbal requests.* Upon receipt of a verbal request, the open-records officer will determine whether the record is subject to access in accordance with § 303.11 (relating to records of the Commission). If the record is subject to access and none of the factors listed in section 902(a) of the law (65 P. S. § 67.902(a)), regarding determination of extension of time, apply, the open-records officer will provide access to the record as follows:

- (1) If the record is in paper form, the open-records officer will make the record available for inspection and duplication to the requestor at the Commission offices.

(2) If the record is accessible only in electronic form, the open-records officer will make the record available through any publicly accessible electronic means or convert the record to paper for review at the Commission offices. Under no condition may the requester review records in electronic form on computers of the Commission.

(3) Duplication of Commission records subject to access and maintained in either paper or electronic form will be provided upon request in accordance with § 303.18 (relating to fee schedule).

(4) If the record requested is not subject to access under § 303.11, the open-records officer will so inform the requester. If the record requested is subject to access and if one or more of the factors listed in section 902(a) of the law, regarding determination of extension of time, apply to the record, the open-records officer will so inform the requester, and, if necessary, obtain contact information from the requester for a response from the Commission.

(5) Nothing in this chapter may be construed as authorizing access to any computer, file, office or work station of the Commission or any of its employees.

(b) *Response to written requests.* Subject to § 303.17 (relating to mass requests), the open-records officer will respond to written requests for records in accordance with Chapter 9 of the law (65 P. S. §§ 901—905) regarding agency response.

§ 303.17. Mass requests.

If the open-records officer determines that a mass request places an unreasonable burden on the Commission, 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 Commission.

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

Cross References

This section cited in 101 Pa. Code § 303.11 (relating to records of the commission); and 101 Pa. Code § 303.16 (relating to response to requests).

§ 303.18. 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.

(5) The fee for electronic media such as a diskette or compact disc shall be \$1 per diskette or disc.

(b) *Exception.* The Executive Director of the Commission reserves the right to waive a duplication fee if the total amount due under this section does not exceed \$5.

(c) *Payment.*

(1) In accordance with paragraphs (2) and (3), payment arrangements shall be made between the requester and the open-records officer.

(2) If the actual fee is expected to exceed \$100, payment of an estimated fee under section 1307(h) of the law (65 P. S. § 67.1307(h)) shall be made prior to the initiation of providing of the document. If payment under this paragraph is required, a check, certified check or money order must be made payable to “Local Government Commission” in the amount of the estimated fee.

(3) Payment of the actual fee shall be made prior to providing the document. In the event that the amount of the prepayment of an estimated fee required under paragraph (2) exceeds the amount of actual fees required to provide the document, the Commission will refund the difference between estimated fees paid and actual fees, along with an accounting of actual fees incurred, within 45 days of providing the document.

(4) If a check provided for the payment of estimated or actual fees fails to clear due to insufficient funds, additional fees incurred by the Commission will be added to the total amount due under this section.

Source

The provisions of this § 303.18 amended February 8, 2013, effective February 9, 2013, 43 Pa.B. 878. Immediately preceding text appears at serial page (345086).

Cross References

This section cited in 101 Pa. Code § 303.16 (relating to response to requests).

Subchapter C. APPELLATE PROCEDURE

Sec.

303.21. Appeals officer.

303.22. Practice and procedure.

Cross References

This subchapter cited in 101 Pa. Code § 303.3 (relating to cooperation); and 101 Pa. Code § 303.13 (relating to request format).

§ 303.21. Appeals officer.

Under section 503(c)(1) of the law (65 P. S. § 67.503(c)(1)), the Legislative Reference Bureau will provide appeals officers for appeals of determinations relating to written requests for Commission records.

§ 303.22. Practice and procedure.

The provisions of Chapter 31, Subchapter C (relating to appellate procedure), shall govern all appeals from determinations relating to written requests for Commission records.

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