

Juniata County Right to Know Policy

Purpose and Effective Date

On February 14, 2008, Act 3 of 2008 was passed into law amending the Pennsylvania Right to Know Law (Purdons, 65 P.S. 65 et sec). The Act governs the rights of the public to inspect and obtain copies of public records. The effective date of the Act is January 1, 2009.

Public Records

Public records are defined by the Act.

A record is defined as any information, regardless of form, documenting a transaction or activity of an agency, is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the agency. It includes documents, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically, and a data processed or image-processed document.

Section 708 outlines the number of items **NOT** covered by the Act. The burden of proof is on the agency to make this determination. However, a partial list of items in Section 708 include: aides to memory/personal notes, autopsy records, minutes (drafts/executive sessions), real estate appraisals/reviews prior to decision, procurement (before bid is awarded), 911 records, legislative drafts, and pre-decisional records to name but a few. This should not be considered the exclusive list as there are many other components identified in Section 708.

Inspection

The availability of records for public inspection is defined by the Act.

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

Request for Public Records

Agencies may fulfill electronic, verbal, written or anonymous verbal or written requests for access to records under Act 3. If the requester wishes to pursue the relief and remedies provided for in Act 3, the request for access to records must be a written request. Written requests must be addressed as follows:

Coroner's Records: Juniata County Coroner, Juniata County Courthouse, Bridge & Main Street, PO Box 68, Mifflintown, PA 17059

Court Records: Juniata County Prothonotary/Clerk of Courts, Juniata County Courthouse, Bridge & Main Street, PO Box 68, Mifflintown, PA 17059

District Attorney's Records: Juniata County District Attorney, Juniata County Courthouse, Bridge & Main Street, PO Box 212, Mifflintown, PA 17059

District Justices' Records: Juniata County Court Administrator, Perry County

Courthouse, PO Box 668, New Bloomfield, PA 17068

Domestic Relations Records: Juniata County Court Administrator, Perry County Courthouse, PO Box 668, New Bloomfield, PA 17068

Probation and Parole Office Records: Juniata County Court Administrator, Perry County Courthouse, PO Box 668, New Bloomfield, PA 17068

Recorder of Deeds Records: Juniata County Recorder of Deeds, Juniata County Courthouse, Bridge & Main St., PO Box 68, Mifflintown, PA 17059

Register of Wills/Orphans Court Records: Juniata County Register of Wills, Juniata County Courthouse, Bridge & Main St., PO Box 68, Mifflintown, PA 17059

Sheriff's Office Records: Juniata County Sheriff, Juniata County Sheriff's Office, Juniata County Courthouse Annex, 26 North Main Street, PO Box 42, Mifflintown, PA 17059

Treasurer's Office Records: Juniata County Treasurer, Juniata County Courthouse Annex, 26 North Main Street, PO Box 68, Mifflintown, PA 17059

Records of other Juniata County government offices: Chief Clerk, or other person designated by the Juniata County Commissioners, Juniata County Courthouse Annex, 26 North Main Street, PO Box 68, Mifflintown, PA 17059 .

The written request must:

Provide the name of the person requesting the records.

Provide a mailing address to which a written reply and/or the requested information can be sent.

Provide a phone number where the requestor can be contacted.

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 department which has custody of the record.

The signature of the person making the request.

The written request **does not** need to include an explanation of the requestor's reason for the request or of the requestor's intended use of the record(s).

Agree to reimburse the cost of reproducing the records requested, and if the cost of reproducing the records exceeds \$100, include a deposit equal to the lesser of \$100 or 25% of the estimated cost of producing the records. The balance shall be due and payable at the time the records are delivered.

A written request for information under the county's Open Records/Right to Know Policy may be filed on the Juniata County Public Record Request Form, or by letter which contains the required information. Each Department authorized to receive and respond to written requests for public records under the Act shall keep a file of written requests received under the provisions of the Pennsylvania Right to Know Law and whether the request was approved, reviewed, or denied, as provided for in the Act, and the date of each action taken.

Record Creation

In the course of responding to a request for access, an agency shall not be required to

create a record that does not currently exist or to compile, maintain, format, or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.

Redaction

The County will grant access to public records according to this Policy and will separate and exclude any records which are not public records 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 that information. Only information subject to the Act will be included in the response.

The County's Response and Time for Response

Once a written request for public records, regardless of the format, the office with custody of the records shall respond to the request within **five (5) business days** in one of the following manners:

The requested records will be provided; 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 reason 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 Act 3; or

If it is determined that:

The requested records require redaction (blacking out of sections of the records that are not public).

The requested records require retrieval from remote location.

The requested records require legal review.

The requestor has not complied with the County's Policy.

A timely response cannot be made due to staffing limitations.

The requestor refuses to pay the applicable fees set forth by this Policy.

The agency which received the written request will send written notice that the request is being reviewed, the reason for the review, and a reasonable date by which a response is expected to be provided. The records must be provided, or a written denial issued, within 35 days of the date original written request was received.

Certain records may require the agency to notify any third party that is subject of a record or the provider of the record if the agency gives access to any record that is not a public record. If the record was submitted accompanied by a notice of trade secret or proprietary information, the agency notice must be given within five (5) days and the third party has five (5) days to comment on the release. Agency denial may be based on this determination or at the request of the third party.

Appeal of Denial

Upon denial of a written request the requester may file an appeal with the Office of Open Records, or judicial, legislative, or other appeals officer within 15 business days of the mailing date of the agency response or deemed denial. The appeal states the grounds for

the asserting openness and addresses the grounds for the agency denial.

The appeals office must make a final written determination, with explanation, within thirty (30) days. Failure to meet that date is deemed denial.

A third party with direct interest in the record on appeal may join the appeal within fifteen (15) days of receiving “actual knowledge” of the appeal but no later than the date the appeals officer issues a decision.

Written request for records denied by the Chief Clerk may be appealed to the Juniata County Board of Commissioners. Written requests denied by independently elected officials listed above, or by the Court Administrator, may be appealed directly to that office.

Judicial Appeal

Appeals from appeals officer determinations for these agencies are taken to the Court of Common Pleas within thirty (30) days of the mailing date of the decision. The petition for review constitutes a stay on the release of the documents until a decision is rendered by the court.

Fees

A request for copies of public records or information produced there from must be accompanied by payment of fees to cover the direct cost of duplication as set forth below:

Record Type	Fee
Copies: A “photocopy” is either a single-sided or one side of a double sided black-and-white copy of a standard 8.5” x 11” page	\$.25 per page
Certification of Record	\$1.00 per record, not per page. Please note that certification fees do not include notarization fees.
Specialized Documents: For example, but not limited to, blue-prints, color copies, non-standard sized documents	Actual cost
Facsimile/Microfiche/Other Media	Actual cost
Redaction Fee	No Redaction Fee may be imposed
Conversion to Paper	If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication in the original media unless the requestor specifically requests for the record to be duplicated in the more expensive medium. (Sec. 1307 (e)).
Postage Fees	Postage may not exceed the actual cost of mailing.

PLEASE ALSO BE ADVISED

Statutory Fees: If a separate statute authorizes an agency to charge a set amount for a certain type of record, the agency 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 P.S. 21051. Police departments have the authority to charge up to \$15 per report for providing a copy of a vehicle accident report. 75 Pa. C.S. 3751 (b)(2). Philadelphia police may charge up to \$25 per copy. Id. At (b)(3). State Police are authorized to charge “\$5 for each copy of the Pennsylvania State Police full report of investigation.” 75 Pa. C.S. 1956(b).

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 agency shall redact the non-public information. An agency may not charge the requester for the redaction. However, the Agency 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.

Enhance Electronic Access: If an agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester, the agency 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 as required by this Act. 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. **The user fees for enhanced electronic access must be reasonable, must be pre-approved by the Office of Open Records and shall not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the agency.**

Fee Limitations: Except as otherwise provided by statute, the law states that **no other fees may be imposed** unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for an agency's review of a record to determine whether the record is a public record, legislative record or financial record subject to access in accordance with this Act. No fee may be charged for searching for or retrieval of documents. An agency may not charge staff time or salary for complying with a Right to Know request.

Prepayment: Prior to granting a request for access in accordance with this Act, an agency may require a requester to prepay an estimate of the fees authorized under this section if the fees required to fulfill are expected to exceed \$100. Once the request is fulfilled and prepared for release, the Office of Open Record recommends that the agency obtain the cost of the records prior to releasing the records. This recommendation is designed to avoid situations in which the agency provides the records and the requester fails to submit payment.

Adopted this day of December 2008.

JUNIATA COUNTY BOARD OF COMMISSIONERS

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