



Lancaster County Right to Know Policy



Mission Statement

"The Mission of the Office of Open Records is to enforce the state's Right-to-Know law and to serve as a resource for citizens, public officials and members of the media in obtaining public records of their government."

A Message from the Executive Director

Ensuring open and honest government is a bedrock principle of democracy. It can only be attained through the unfettered exchange of information between citizens and their government. A citizen's right-to-know, sometimes known as freedom of information, fosters accountability, prevents abuses of power and promotes trust in government. Pennsylvania has codified this important right to access government records in Act 3 of 2008, called the Right-to-Know law.

Governor Edward G. Rendell signed the new Right-To-Know law on February 14, 2008 fundamentally changing the way people access public records of their government. The hallmark of this new law, which fully takes effect January 1, 2009, is its presumption of openness. For the first time in Pennsylvania history, citizens no longer have to prove that a record is public and that it should be released. Now, a government agency must presume that a record is a public record available for inspection or copying. If the government agency chooses to withhold a record, the agency has the burden to prove – with legal citation – why that record should not be available to the public.

The law, sponsored by Senate Majority Leader Dominic Pileggi, also established an Office of Open Records. The mission of the Office of Open Records is to enforce the new Right-to-Know law and to serve as a resource to citizens, public officials and members of the media. It is my great privilege to serve as the Commonwealth's first Executive Director of this independent office. You have my pledge that in this six-year term, I will work tirelessly to ensure compliance with the law and to help citizens, government officials and members of the media better understand their rights and obligations.

I encourage you to look through our website where you will find regularly updated information about the law and a schedule of on-going trainings regarding this new law. I will always welcome your questions, comments and suggestions to improve access to government because I believe that this government does not belong to me, or to any other public official, but rather this government belongs to you.

Terry Mutchler

Frequently Asked Questions

When does the new Right-To-Know law take effect? [Section 3104]

The new law was signed by Governor Edward G. Rendell on February 14, 2008. Most of the new law takes effect on January 1, 2009, but the entire law takes effect in three stages:

- The title, definitions and creation of the Office of Open Records took effect on February 14, 2008.
 - July 1, 2008: All state contracts exceeding \$5,000 must be posted on Treasury's Web site. Each agency must submit to the Treasury these contracts or a summary of thereof.
 - January 1, 2009, the remaining portion of the law.
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What is the single biggest change under the new law? [Section 305]

Agencies now have the burden to establish why a record should not be released. The old law put the burden on a requestor to establish why the record was a public record.

When will the Office of Open Records establish rules and regulations or guidelines regarding the new law? [Section 504, 1102]

OOR is in the process of establishing interim guidelines and a statement of policy that will outline rules and regulations.

These guidelines will serve as guidance until the formal regulations are approved during the 2009-2010 Legislative session. OOR intends to gather as much public comment and input as possible prior to the regulations being published in final form.

How can I request information from my local government or state agency? [Section 703]

You can make a request four ways: mail, fax, e-mail or in person.

The request must be sufficiently "specific" to allow the public body to identify what you are seeking.

Is there a form I can use to use to obtain records? [Section 505]

Yes, a standard Office of Open Records request form is available on this Web site (FORMS) that you can use.

A local government agency can use its own form, but they also must accept the Office of Open Records Request form.

Can a public body ask why a person wants obtain the information? [Section 1308]

No. The law prohibits a public body from requiring a person "to disclose the purpose or motive in requesting access to records."

Can a request be denied because the requestor is not a citizen of Pennsylvania? [Section 102]

No. Any legal resident of the United States can request a record, including a person with a green card.

Can a state agency or local agency charge me for copying records? [Section 1307]

Yes. However, the law states that the Office of Open Records will establish fees for duplication. The fee structure is available on this Web site.

Can a state agency or local agency charge additional fees? [Section 1307]

Generally, no. The law states that, "[e]xcept as otherwise provided by statute, 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."

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 cents per uncertified page and \$1.50 per certified page under 42 P.S. § 21051.

What should state and local agencies be doing before January 1, 2009?

Appoint an open records officer. Make sure this person is senior level so that he or she can manage requests and be aware of the implication of a request. [Section 502]

Create a records management policy and make sure you are in compliance with it. This is the most critical component for local governments to undertake immediately. Understand what your record retention law requires and organize your records. Do not wait until December to undertake this enormous project because it will appear as though you are simply destroying documents before the new law takes effect.

Write a memo to your staff outlining that this new law takes effect January 1; it will be a highly monitored law and all employees should make these requests a priority; indicate that the Office of Open Records will be a resource to them for questions.

Attend training. Plan to have your open-records officer and other officials attend a training session on this new law. A training schedule is available on this Web site.

If our local or state agency receives a right-to-know request what must we do to be in compliance with the new law? [Section 502, 703, 901]

Make sure the request is received by the designated open-records officer as fast as possible, preferably the same day it is received by agency staff.

The law requires the open-records officer to do the following:

Stamp the date of receipt on the written request.

Compute the day on which the five-day period under Section 901 will expire and make a notation of that date on the written request.

Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled.

If the request is denied, the written request shall be maintained for 30 days

If an appeal is filed keep the records until a final determination is issued or the appeal is deemed denied.

Create a file and keep all of the following:

The original request.

A copy of the response

A record of written communications with the requester

Are emails public record? [Section 102]

Yes. That does not mean there is wholesale release of e-mail records. It means that an email, like any other record, goes through the same analysis to determine whether it is a public record.

Can a public body limit the number of requests that a citizen can make? [Section 1308(1)].

No. The law states that a state or local agency cannot limit “the number of records which may be requested or made available for inspection or duplication.”

However, citizens should use good judgment in seeking records from the public body and not use this law to harass or overburden a public body from performing its job.

Also, a public body can deny repeated requests for the same records by the same requestor. [Section 506]

Can a requestor ask for records in person?

Yes. However, if a person wishes to take advantage of the appeal process, the request must be in writing.

Can a requestor ask for records by telephone?

No. A public body could provide information in this way if they so choose, but they are not required to.

Are itemized cell phone bills public record?

Yes. However, the Pennsylvania Supreme Court is considering whether an agency can redact all incoming and outgoing telephone numbers before producing them. *Tribune-Review v. Bodack*, 875 A.2d 402 (Pa. Commonwealth 2005). We will update our website when the Court issues its decision.

What are some examples of public records?

- 911 time response logs
 - Grant Applications
 - Contracts
 - Agreements
 - Agency decisions
 - Name, title, Salary of public employees and officials
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What are some types of information that will NOT be available?

- Social Security numbers
 - Drivers license numbers
 - Employee numbers
 - Home, cellular or personal phone numbers
 - Personal financial information
 - Spouse's name, marital status, beneficiary or dependent information
 - Home addresses of law enforcement and judges
 - Identity of confidential informants.
 - Autopsy reports – except that name, cause and manner of death, which are public.
 - Records that identify social service recipients, including welfare recipients
 - A minor's name, home address, date of birth.
 - Constituent requests to a member of the House or Senate
 - Library circulation cards
 - Pre-decisional deliberations
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Does the new law cover records created before January 1, 2009?

Yes. All records in the possession of an agency are covered even if they are decades old.

What personal liability does an open-records officer or agency have? [Section 1304, 1305, 1306]

If an agency denies a record in bad faith, the court may impose a civil penalty of up to \$1,500 per record. If the agency still refuses to disclose the record, the court may impose a penalty of up to \$500 per day until the record is disclosed.

In general, an open-records officer is immune from civil penalties for denying a request. However, the court has discretion in regards to imposing penalties and costs for willful and wanton disregard of the law.

Exceptions for Public Records

Section 708. Exceptions for public records.

(a) **Burden of proof.** —

- (1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.
- (2) The burden of proving that a legislative record is exempt from public access shall be on the legislative agency receiving a request by a preponderance of the evidence.
- (3) The burden of proving that a financial record of a judicial agency is exempt from public access shall be on the judicial agency receiving a request by a preponderance of the evidence.

(b) **Exceptions.** — Except as provided in subsections (c) and (d), the following are exempt from access by a requester under this act:

- (1) A record the disclosure of which:
 - (i) would result in the loss of Federal or State funds by an agency or the Commonwealth; or
 - (ii) would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.
- (2) A record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.
- (3) A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system, which may include:
 - (i) documents or data relating to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act;
 - (ii) lists of infrastructure, resources and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security and response needs assessments; and
 - (iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems.
- (4) A record regarding computer hardware, software and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.
- (5) A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.
- (6) (i) The following personal identification information:
 - (A) A record containing all or part of a person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee number or other confidential personal identification number.

- (ii) Subparagraph (i)(A) shall apply to agencies subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) in a manner consistent with 65 Pa.C.S. Ch. 7. A record which is not otherwise exempt from access under this act and which is presented to a quorum for deliberation in accordance with 65 Pa.C.S. Ch. 7 shall be a public record.
 - (iii) This paragraph shall not apply to a written or Internet application or other document that has been submitted to request Commonwealth funds.
 - (iv) This paragraph shall not apply to the results of public opinion surveys, polls, focus groups, marketing research or similar effort designed to measure public opinion.
- (11) A record that constitutes or reveals a trade secret or confidential proprietary information.
 - (12) Notes and working papers prepared by or for a public official or agency employee used solely for that official's or employee's own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.
 - (13) Records that would disclose the identity of an individual who lawfully makes a donation to an agency unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the agency, including lists of potential donors compiled by an agency to pursue donations, donor profile information or personal identifying information relating to a donor.
 - (14) Unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material and scholarly correspondence of a community college or an institution of the State System of Higher Education or a faculty member, staff employee, guest speaker or student thereof.
 - (15) (i) Academic transcripts
 - (ii) Examinations, examination questions, scoring keys or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.
 - (16) A record of an agency relating to or resulting in a criminal investigation, including:
 - (i) Complaints of potential criminal conduct other than a private criminal complaint.
 - (ii) Investigative materials, notes, correspondence, videos and reports.
 - (iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.
 - (iv) A record that includes information made confidential by law or court order.
 - (v) Victim information, including any information that would jeopardize the safety of the victim.
 - (vi) A record that, if disclosed, would do any of the following:
 - (A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.
 - (B) Deprive a person of the right to a fair trial or an impartial adjudication.
 - (C) Impair the ability to locate a defendant or codefendant.
 - (D) Hinder an agency's ability to secure an arrest, prosecution or conviction.
 - (E) Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b) (relating to accident prevention investigations).

- (17) A record of an agency relating to a noncriminal investigation, including:
- (i) Complaints submitted to an agency.
 - (ii) Investigative materials, notes, correspondence and reports.
 - (iii) A record that includes the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.
 - (iv) A record that includes information made confidential by law.
 - (v) Work papers underlying an audit.
 - (vi) A record that, if disclosed, would do any of the following:
 - (A) Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.
 - (B) Deprive a person of the right to an impartial adjudication.
 - (C) Constitute an unwarranted invasion of privacy.
 - (D) Hinder an agency's ability to secure an administrative or civil sanction.
 - (E) Endanger the life or physical safety of an individual.
- (18) (i) Records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings.
- (ii) This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.
- (19) DNA and RNA records.
- (20) An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.
- (21) (i) Draft minutes of any meeting of an agency until the next regularly scheduled meeting of the agency.
- (ii) Minutes of an executive session and any record of discussions held in executive session.
- (22) (i) The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by an agency relative to the following:
 - (A) The leasing, acquiring or disposing of real property or an interest in real property.
 - (B) The purchase of public supplies or equipment included in the real estate transaction.
 - (C) Construction projects.
- (ii) This paragraph shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.
- (23) Library and archive circulation and order records of an identifiable individual or groups of individuals.
- (24) Library archived and museum materials, or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.

- (25) A record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.
- (26) A proposal pertaining to agency procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes and other records of agency proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).
- (27) A record or information relating to a communication between an agency and its insurance carrier, administrative service organization or risk management office. This paragraph shall not apply to a contract with an insurance carrier, administrative service organization or risk management office or to financial records relating to the provision of insurance.
- (28) A record or information:
- (i) identifying an individual who applies for or receives social services; or
 - (ii) relating to the following:
 - (A) the type of social services received by an individual;
 - (B) an individual's application to receive social services, including a record or information related to an agency decision to grant, deny, reduce or restrict benefits, including a quasi-judicial decision of the agency and the identity of a caregiver or others who provide services to the individual; or
 - (C) eligibility to receive social services, including the individual's income, assets, physical or mental health, age, disability, family circumstances or record of abuse.
- (29) Correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services. This paragraph shall not apply to correspondence between a member of the General Assembly and a principal or lobbyist under 65 Pa.C.S. Ch. 13A (relating to lobbyist disclosure).
- (30) A record identifying the name, home address or date of birth of a child 17 years of age or younger.
- (c) Financial records. — The exceptions set forth in subsection (b) shall not apply to financial records, except that an agency may redact that portion of a financial record protected under subsection (b)(1), (2), (3), (4), (5), (6), (16) OR (17). An agency shall not disclose the identity of an individual performing an undercover or covert law enforcement activity.
- (d) Aggregated data. — The exceptions set forth in subsection (b) shall not apply to aggregated data maintained or received by an agency, except for data protected under subsection (b)(1), (2), (3), (4) or (5).
- (e) Construction. — In determining whether a record is exempt from access under this section, an agency shall consider and apply each exemption separately.

COUNTY OF LANCASTER
RIGHT TO KNOW POLICY

SECTION 1. Purpose

The purpose of this policy, which shall be known as “Lancaster County’s Right to Know Policy”, is to provide for access to public records, and assure compliance with Pennsylvania’s Right to Know Law, Act of 2008, Feb. 14, P.L. 6, No. 3 (65 P.S. § 66.1 et seq.) and any amendments thereto. This policy does not apply to requests for records of the judiciary other than financial records. Further, this policy is not applicable to requests for records pertaining to or related to the Office of the District Attorney or Lancaster Countywide Communications records, as those requests shall be handled by the District Attorney Open Records Officer and governed by the policies established by the Lancaster County District Attorney.

SECTION 2. Definitions

The following terms when used in this Policy shall have the meanings set forth in this section unless the context clearly indicates otherwise:

- A. “Business day” shall mean any day other than a Saturday, Sunday, holiday or other day when County employees are not required to be at work (this does not include those departments which operate on a twenty-four hour basis).
- B. “Commissioners” shall mean the Board of Commissioners of Lancaster County.
- C. “County” shall mean the County of Lancaster, Pennsylvania.
- D. “District Attorney Appeals Officer” shall mean the person(s) designated by the District Attorney of Lancaster County to handle appeals relating to access to records of the District Attorney and Lancaster Countywide Communications.
- E. “District Attorney Open Records Officer” shall mean the person(s) designated by the District Attorney of Lancaster County to receive and handle all requests for records pertaining to or related to the Office of the District Attorney and Lancaster Countywide Communications.
- F. “Open Records Officer” shall mean any County official or employee designated by the Commissioners to act on behalf of the County pursuant to the Right to Know Law.
- G. “Privilege” shall mean the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of the Commonwealth of Pennsylvania.
- H. “Public Record” shall mean a record which is subject to inspection and/or duplication pursuant to the Right to Know Law.

- I. “Record” shall mean information, regardless of physical form or characteristics, that documents a transaction or activity of the County and is created, received or retained pursuant to law or in connection with a transaction, business or activity of the County. 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.
- J. “Regular business hours” shall mean 8:30 AM to 5:00 PM on a business day.
- K. “Requester” shall mean a person that is a legal resident of the United States and requests a record pursuant to the Right to Know Law. This term also includes an agency.
- L. “Response” shall mean access to a record or the Open Records Officer’s written notice to a requester granting, denying or partially granting and partially denying access to a record.
- M. “Right-to-Know Law” shall mean Act of 2008, Feb. 14, P.L. 6, No. 3 (65 P.S. §66.1 et seq.) as amended from time to time.

SECTION 3. Responsibilities of Open Records Officer

The Open Records Officer(s) shall:

- A. Receive requests made pursuant to the Right to Know Law, unless said request involves records pertaining to or related to the Office of the District Attorney and/or Lancaster Countywide Communication;
- B. Act on behalf of the County in receiving and responding to requests for public records in accordance with the Right to Know Law;
- C. Make a good faith effort to determine whether the record requested is a public record;
- D. Direct requests to other appropriate persons within the County or to appropriate persons in another agency;
- E. Track the County’s progress in responding to requests;
- F. Issue interim and final responses pursuant to the Right to Know Law;
- G. Consult with the County’s Information Technology Department and the Pennsylvania Historical Museum Commission (PHMC) to determine the applicable retention laws that govern the County’s records;
- H. Respond to requests in a manner consistent with the County’s responsibilities and the requirements of the Right to Know Law;
- I. Number and track requests submitted to the County’s Open Records Officer to ensure compliance with the Right to Know Law;
- J. Consult with the County’s Solicitor’s Office or legal counsel as needed to address any legal issues related to a request and/or response to a request;

- K. Issue updates and/or reminders to and provide training for County staff regarding the Right to Know Law and any amendments thereto;
- L. Fulfill any and all duties and/or responsibilities set forth in the Right to Know Law and any amendments thereto.

SECTION 4. Access to Records

- A. A record in the possession of the County shall be presumed to be a public record. The presumption shall not apply if:
 - 1. the record is exempt under section 708 of the Right to Know Law;
 - 2. the record is protected by a privilege; or
 - 3. the record is exempt from disclosure under any other federal or state law or regulation or judicial order or decree
- B. Unless otherwise provided by law, including but not limited to Pa.R.J.A. 509, a public record in the County's control, custody, or possession shall be accessible for inspection and duplication in accordance with the Right to Know Law.
- C. In no case shall the County be required to create a record which does not exist or to compile, maintain, format, or organize a record in a manner which the County does not currently compile, maintain, format, or organize the record.
- D. A record being provided to a requester shall be provided in the medium requested, if it exists in that medium; otherwise, the record shall be provided in the medium in which it exists.
- E. The County shall not deny a requester access to a public record due to the intended use of the public record by the requester.
- F. The County shall not limit the number of records which may be requested by a person or made available for inspection or duplication.
- G. Nothing in this policy shall be construed to require access to any County computer or County employee computer.
- H. If access to a public record is granted, the public record shall be made available for access during regular business hours.
- I. The presence of a County employee is required when public records are examined or inspected.
- J. The County may make its records available through any publicly accessible electronic means. The County may respond to a request by notifying the requester that the record is available through publicly accessible electronic means, or that the County will provide access to inspect the record electronically. If the requester is unwilling or unable to access the record electronically, the requester may, within 30 days following receipt of County notification, submit a written request to the Open Records Officer to have the record converted to paper. The County shall provide access to the record in printed form within five days of the receipt of the written request for conversion to paper.

- K. A requester may have certified copies of the public record if:
 - 1. Access to the written request has been approved;
 - 2. The requester asks for a certified copy; and
 - 3. The requester pays the applicable fees.
- L. The County may, in its discretion, allow access to an otherwise exempt record if all of the following apply:
 - 1. Disclosure of the record is not prohibited under Federal or State law or regulation or judicial order or decree;
 - 2. The record is not protected by privilege; and
 - 3. The County determines that the public interest favoring access outweighs any individual, agency, or public interest that may favor restricting access to the record.
- M. If the County provides access to a record that is not a public record, the County shall notify any third party that provided the record to the County, the person that is the subject of the record, and the requester.
- N. If a third party provided a record to the County and included a written statement signed by a representative of the third party that the record contains a trade secret or confidential proprietary information, the County shall notify that third party of a request for that record within 5 business days of receipt of the request. The third party shall have 5 business days from receipt of the notification from the County to provide input on the release of the record. The County shall release the record or deny the request within 10 business days of providing notice to the third party and shall notify the third party of the County's decision.
- O. Redaction, when appropriate, shall be done in accordance with the Right to Know Law.
- P. The County may deny access to a record if the requester has made repeated requests for that same record and the repeated requests have placed an unreasonable burden on the agency.
- Q. The County may deny access:
 - 1. When timely access is not possible due to fire, flood, or other disaster; or
 - 2. To historical, ancient, or rare documents, records, archives, and manuscripts when access may, in the professional judgment of the curator or custodian of the records, cause physical damage or irreparable harm to the record.

SECTION 5. Requests

- A. Requests for records pursuant to the Right to Know Law shall be in writing. The County does not accept verbal requests or requests made via telephone. The County does not accept anonymous requests.
- B. Written requests may be submitted in person, by mail, by e-mail, or by facsimile. A written request shall be addressed to the Open Records Officer and submitted as follows:
 - 1. Open Records Officer, 150 North Queen Street, Suite 715, Lancaster, Pennsylvania 17603, or
 - 2. Email: OpenRecords@co.lancaster.pa.us or
 - 3. Fax: (717) 824-8520
- C. Requests pertaining to or related to the Office of the District Attorney and/or Lancaster Countywide Communications records shall be submitted directly to the District Attorney Open Records Officer, 50 North Duke Street, Lancaster, Pennsylvania 17608-3480.
- D. A written request should identify or describe the records sought with sufficient specificity to enable the County to ascertain which records are being requested and shall include the name and address to which the County should address its response.
- E. A written request shall be submitted on the Right to Know Request Form provided by the Commonwealth Office of Open Records or on a request form provided by the County.
- F. All employees of the County are directed to mark the date of receipt on written requests made pursuant to the Right to Know Law and forward the request to the Open Records Officer in a timely manner.
- G. A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law.
- H. A request received by the Open Records Officer after the close of regular business hours shall be deemed to have been received on the following business day.

SECTION 6. Response

- A. Upon receipt of a written request for access to a record, the County shall:
 - 1. Make a good faith effort to determine if the record requested is a public record and whether the County has possession, custody, or control of the record; and
 - 2. Respond as promptly as possible under the circumstances existing at the time of the request.
- B. If the County fails to respond to the request within 5 business days of receipt by the Open Records Officer, the request shall be deemed denied.

- C. If there is a basis for an extension of time in responding to the request pursuant to Section 902(a) of the Right to Know Law, the Open Records Officer shall provide the requester with notice in accordance with Section 902 (b).
- D. If the County denies the written request for access, the Open Records Officer shall issue a denial in writing and in accordance with Section 903 of the Right to Know Law.
- E. If the County's response to a requester states that copies of the requested records are available at the County's offices and the requester fails to retrieve the records within 60 days of the County's response, the County may dispose of any copies which have not been retrieved and retain any fees paid to date.
- F. Whenever a period of time is referred to in this Policy, the period shall be computed so as to exclude the first day and include the last day of such period.

SECTION 7. Appeals

- A. Upon denial of a written request by the County Open Records Officer, the requester may file an appeal with the Commonwealth Office of Open Records. The appeal must be filed within 15 business days of the mailing date of the County's official response or the date on which such a response should have been issued, in the case of a denial resulting from the County's failure to respond within the time required by the Right to Know Law.
- B. Upon denial of a written request by the District Attorney Open Records Officer, a requester may file an appeal with the District Attorney Appeals Officer if the appeal is related to a request for criminal investigative records. Appeals of denials related to all other types of records from the Office of the District Attorney and/or Lancaster Countywide Communications must be filed with the Commonwealth Office of Open Records. All appeals must be filed within 15 business days of the mailing date of the Open Records Officer's official response or the date on which such response should have been issued, in the case of a denial resulting from the Open Records Officer's failure to respond within the time required by the Right to Know Law.

SECTION 8. Fees

- A. All applicable fees shall be paid in order to receive access to the requested record.
- B. Postage fees may not exceed the actual cost of mailing.
- C. Basic duplicating fees: \$0.25 per page
- D. Fees for specialized documents (including, but not limited to, blue prints, color copies, non-standard sized documents) may not exceed the actual cost.
- E. Fees for certified copies: \$1.00 per record

- F. Conversion to Paper: If the record is not available on paper the fee shall be the lesser of electronic duplication or what the equivalent duplication fee would have been had the record been on paper.
- G. The County may waive applicable fees when:
 - 1. The requester duplicates the record; or
 - 2. The County determines it is in the public interest to do so.
- H. Any other fees charged by the County must be:
 - 1. Permitted by law or statute;
 - 2. Based on actual cost incurred by the County; and
 - 3. Reasonable.
- I. Prior to the County granting a request for access under the Right to Know Law, the requester shall prepay an estimate of the authorized fees if the fees required to fulfill the request are expected to exceed one hundred dollars (\$100.00).

SECTION 9. Posting

A copy of this Policy shall be posted in the Commissioners' Office and in the lobby of the Courthouse. A copy of this Policy, any applicable forms, and contact information for the Open Records Officer, the District Attorney Open Records Officer, the District Attorney Appeals Officer, and the Commonwealth Office of Open Records shall be made available on the County's website.

Lancaster County Information Technology

Email Retention Best Practices

December 19, 2008

I. Purpose

To serve as a practical guide for E-mail records and disposition in meeting the requirements set forth by the Lancaster County Right to Know policy, the Lancaster County Records Retention policies, and the Management Directive 210.13 of the Commonwealth of Pennsylvania Governor's Office, the Retention and Disposition of Records Created on Electronic Mail (E-mail) Systems, the County Records Manual issued by the Pennsylvania Historical Museum Commission (PHMC), and Administrative Office of Pennsylvania Courts (AOPC) Records Retention & Disposition Schedule with Guidelines.

Copies of E-mails considered to be records should be retained by each department according to this document, department-specific retention and disposition policies, and related County policies.

This document does not establish E-mail retention periods or schedules. Retention schedules are department specific. E-mail Usage policies as established in the Lancaster County Information Security should be adhered to.

II. Scope

Departments are encouraged to follow this as a guide and should expand upon it to create agency-specific electronic mail retention and disposition policies in accordance with PHMC and AOPC.

III. Responsibilities

A. Categorization of E-mail

1. A determination must be made on every E-mail, sent or received, of where it falls among four broad categories:
 - a) Non-record E-mail
 - (1) E-mail that is not a record and is considered personal in nature. Spam should also be considered a non-record.
 - b) Short-term records created as E-mail
 - (1) Records to be retained for less than 1 year and up to 10 years.
 - (2) Records of short-term interest that have no lasting business value, duplicate messages, retention-specific records, transitory messages, and administrative support records.
 - c) Long-term records created as E-mail
 - (1) Long-term records are retained more than 10 years and are not permanent records.
 - (2) Policy and Program Records where the E-mail is the primary business file.
 - d) Permanent records created as E-mail
 - (1) Permanent records are retained forever.
 - (2) Policy and Program Records where the E-mail is the primary business file.

B. Records Series

1. A group of E-mail records may relate to one another based on a particular subject, function, activity, or use.
 - a) Departments should create and publish a schedule listing each records series, the length of time each series is to be maintained, and the location where the E-mail records are to be stored utilizing .

IV. E-mail Retention

A. Non-record E-mail

1. E-mails that fall into this category should be deleted immediately after being read.

B. Short-term E-mail

1. A copy of the E-mail must be retained for the required retention period in either paper or electronic format. To save in electronic format:
 - a) Move E-mail record to Short-term folder in Microsoft Outlook. Folders representing record types and series may be created within the Short-term folder. These folder names should be created according to departmental policy or under the direction of the Lancaster County Records Management Department. Retained information should include:
 - (1) Body of the E-mail
 - (2) Name of sender
 - (3) Name of the recipient(s)
 - (4) The date/time of transmission and/or receipt

C. Long-term E-mail

1. A copy of the E-mail must be retained for the required retention period in either paper or electronic format. To save in electronic format:
 - a) Move E-mail record to Long-term folder in Microsoft Outlook. Folders representing record types and series may be created within the Long-term folder. These folder names should be created according to departmental policy or under the direction of the Lancaster County Records Management Department. Retained information should include:
 - (1) Body of the E-mail
 - (2) Name of sender
 - (3) Name of the recipient(s)
 - (4) The date/time of transmission and/or receipt

D. Permanent E-mail

1. A paper copy of the E-mail must be retained in the same manner as other permanent paper records. The following should be included in the record:
 - a) Body of the E-mail
 - b) Name of sender
 - c) Name of the recipient(s)
 - d) The date/time of transmission and/or receipt

V. Practical Suggestions

A. E-mail Originator

1. Save the E-mail if you are the originator of the message and the message(1)
 - a) is a substantive message.
 - b) has to do with the work of your office.
 - c) has content that you will need in future years to do your job.

- d) supports decisions that were made in your program area.
 - e) requires you to take action.
 - f) will be needed by someone else for operational, fiscal or legal purposes.
2. Delete the E-mail if you are the originator of the message and the message is(1)
 - a) personal.
 - b) just “chit-chat”.
 - c) informational only.
 - d) something you probably will not need and is being kept by someone else for operational, fiscal or legal purposes.
 3. Stay on topic and don’t combine subjects. If the E-mail comprises two or more subjects, consider using multiple messages.
 4. When more than one copy of an E-mail message is sent within the department, the Originator is responsible for maintaining the departmental copy for the required retention period.
- B. E-mail Recipient
1. Save the E-mail if you are the recipient of the message and the message (1)
 - a) content is something that you will need in future years to do your job.
 - b) requires you to take action.
 - c) has to do with the work of your office.
 - d) will be needed by someone else for operation, fiscal or legal purposes.
 2. Delete the E-mail if you are the recipient of the message and the message is (1)
 - a) personal.
 - b) just “chit-chat”.
 - c) informational only.
 - d) being kept by someone else for operational, fiscal or legal purposes.
 3. If duplicate copies of E-mail messages are sent to a department from an external source, the department must develop a policy defining who among the recipients should maintain the record.

Works Cited

(1)United States National Archives and Records Administration. (2008). December Records Management Training. *E-mail - The Smoking Gun (Briefing)*. Philadelphia.

Listed below are some instructions for printing, deleting, and managing emails within Outlook.

Printing an email record

The fastest way to print an email in Outlook is to:

1. Select the email that you wish to print.
2. Click the print icon  in the toolbar. The email will immediately print to your default printer.
3. Be sure to separately print any attachments and file them along with the email record.

Other ways to print:

- Select the email to print and press **Ctrl + P**.
- Select the email to print and go to **File → Print**.

Deleting an email record

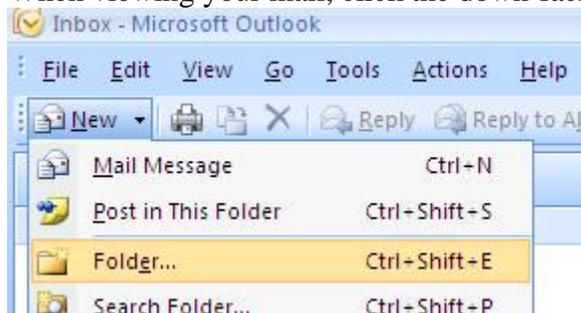
When you delete an email in Outlook, it is not instantly deleted – it is simply moved to the **Deleted Items** folder. In order to truly delete the emails from Outlook, you need to empty this folder. You can do this manually, or set it up to happen automatically.

- Automatically, every time you exit Outlook: On the **Tools** menu, click **Options**, and click the **Other** tab. Under **General**, select the **Empty the Deleted Items folder upon exiting** check box.
- Manually: Right-click the **Deleted Items** folder and click **Empty "Deleted Items" Folder** on the shortcut menu or click **Empty "Deleted Items" Folder** on the **Tools** menu.
- Select the email to be deleted and hold down the **"Shift"** key while holding down the **"Delete"** key.

Creating personal folders

To create personal folders in Outlook:

1. When viewing your mail, click the down-facing arrow next to **New** in the toolbar, then select **Folder**.



2. Type a Name for the folder.
3. In the **Folder contains** box, leave **Mail and Post Items** selected.
4. Select where to place the folder. You can make your new folder a sub-folder of an existing folder by selecting that folder. Or, you can make your new folder a top-level folder by selecting **Mailbox – Your Name** at the very top.

To move emails to your personal folders:

Simply drag-and-drop them into the appropriate folder(s).

Archiving your email

To turn AutoArchive on or off:

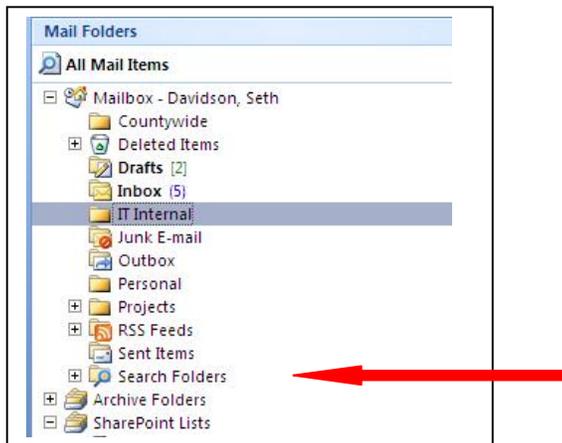
1. On the **Tools** menu, click **Options**, click the **Other** tab, and then click **AutoArchive**.
2. Select the **Run AutoArchive every** check box and specify the number of days that you want AutoArchive to run.
3. Under **Move old items to**, browse to a location on the network – **on your F: drive**. This way your archive will get backed up.
4. Make sure that the **Show archive folder in folder list** checkbox is checked.

To run AutoArchive at any time after you turn it on:

1. On the **Tools** menu, click **Mailbox Cleanup**.
2. Click **AutoArchive**.

To view archived e-mail:

After you run the AutoArchive for the first time, you should see an Archive Mail folder when you open Outlook:



Click this folder to open the archive.

If this folder doesn't show up automatically, you can manually open the archive by clicking **File** in the menu, selecting **Open**, and browsing to the location on the network where you put your archive.

Searching for email –

To search for emails within Outlook you can create Search folders, and update the criteria (or words) you which you want to search. The Microsoft website has a lot of good information for creating Search folders @ <http://office.microsoft.com/en-us/outlook/CH010380001033.aspx>