



# Pennsylvania Gaming Control Board



***Right to Know Law Policy and Procedure pursuant to 65 P.S. §67.504(a)  
As Amended, May 29, 2024***

## **I. AUTHORITY**

In accordance with the Right-to-Know Law, 65 P.S. §67.101 et seq. (RTKL), which can be viewed in its entirety at <https://www.openrecords.pa.gov>, and the Pennsylvania Race Horse Development and Gaming Act, the Pennsylvania Gaming Control Board (“PGCB” or “Board”) sets forth the following policies, process, and procedures, regarding the receipt of RTKL Requests and Board responses to requests made pursuant to the RTKL.

## **II. DEFINITIONS**

All definitions set forth in the RTKL are incorporated into this policy by reference. *See* 65 P.S. §67.102.

*AORO.* The Agency Open Records Officer designated by the PGCB pursuant to Section IV of this policy.

*Business day.* The regular business hours of the PGCB are 8:30 AM to 4:00 PM, Monday through Friday, excluding holidays and days when the Board Office is closed for a full/partial day.

## **III. PGCB WEBSITE**

The PGCB maintains a public website at [www.gamingcontrolboard.pa.gov](http://www.gamingcontrolboard.pa.gov). Many of the records most requested from the Board are available on the website. The following information is also posted on the Board’s website: AORO contact information; contact information for the OOR; a form which may be used to file an RTKL request; and a copy of this policy. *See* 65 P.S. §67.504(b).

The Board also uploads contracts to the Department of Treasury’s website [www.patreasury.org](http://www.patreasury.org), pursuant to the requirements of Chapter 17 of the RTKL, 65 P.S. §§67.1701-1702.

#### IV. SUBMITTING A RTKL REQUEST

- A. ***Open Records Officer.*** The PGCB has designated an AORO to respond to RTKL Requests.

The contact information for the AORO is:

***Luana DeBernardis***, AORO

By E-mail: [pgcbrtklrequests@pa.gov](mailto:pgcbrtklrequests@pa.gov)

By Mail or In Person: Pennsylvania Gaming Control Board  
303 Walnut Street, Strawberry Square  
Commonwealth Tower, 5<sup>th</sup> Floor.  
Harrisburg, PA 17101-1825

Phone: (717) 346-8300

Fax: (717) 346-8350

***Request.*** Requests should be submitted in writing using the form designated on the Board’s website [www.gamingcontrolboard.pa.gov](http://www.gamingcontrolboard.pa.gov) or the form provided by the Office of Open Records <https://www.openrecords.pa.gov> and should be addressed to the AORO. *See* 65 P.S. §67.703.

***It is recommended that all requests be made by e-mail.***

If a requester chooses not to use the request form, the request should clearly indicate that it is seeking records under the RTKL. To allow the PGCB to locate requested records and determine whether those records are public, requests for records should be specific and concise and clearly identify as precisely as possible the records sought. *See* 65 P.S. §67.703.

**Note: Only requests that can be identified as a RTKL request either by designation “RTKL”, “Open Records Officer”, or other language that**

**makes it clear that the request is being made under the RTKL will be forwarded to the Open Records Officer. If a request does not clearly identify itself as an RTKL request, the request will be treated as an informal request and no privileges under the RTKL will attach.**

Requesters should clearly indicate the preferred method of access – paper copies, electronic copies or by inspection. Requesters should retain a copy of the request for their file, as a copy of the request is necessary should a requester appeal the Agency response.

**B. *Receipt of the Request.*** To calculate the response deadline, the PGCB is deemed to have received the request on the business day that the AORO receives the request. *See* 65 P.S. §67.901. Any request that is received by the Board after the close of regular business hours shall be deemed to be received on the next business day. If the request is received by a PGCB employee other than the AORO, and it meets the requirements stated in Section A, the request will be forwarded to AORO as soon as practical.

**C. *Verbal requests.*** The PGCB will respond to verbal requests at its discretion. Requesters submitting verbal requests for records should be aware that they may not pursue the remedies available to a requester under the RTKL.

**D. *Anonymous requests.*** The PGCB will respond to anonymous requests at its discretion. Requesters submitting anonymous requests for records should be aware that they may not pursue the remedies available to a requester under the RTKL. A requester must be a “person” as defined by the Statutory Construction Act of 1972, 1 Pa.C.S. §1991; be a legal resident of the United States, in accordance with 65 P.S. 67.102; and provide an address to which a response may be sent.

**E. *Disruptive Requests.*** The Board will deny an individual’s request for a record if the request has been made repeatedly, and the repeated requests have placed an unreasonable burden upon the Board. *See* 65 P.S. §67.506(a).

## V. PGCB RESPONSE

- A. ***Response period generally.*** The PGCB has 5 business days to respond to a request for records under the RTKL. For purposes of determining the end of the 5-business day period, the day that a RTKL request is received is not counted. The first day of the 5-business day period is the Board's next business day. If the PGCB does not respond, the request is considered “deemed denied,” and a requester’s appeal rights commence.
- B. ***Extension of time for response.*** The PGCB is permitted to take an additional 30 calendar days to respond to any request for the reasons set forth in Section 902 of the RTKL. *See* 65 P.S. §67.902. If the PGCB invokes an extension, the PGCB will inform the requester in writing, in accordance with the requirements set forth in Section 902(b)(2) of the RTKL.
- C. ***Requester’s agreement to extend the response period.*** The requester may agree, in writing, to extend the PGCB’s response period. *See* 65 P.S. §67.902(b)(2). The requester *must* agree to the extension during the initial 5 business-day response period or the extended 30 calendar day response period if the PGCB has invoked one.
- D. ***Interim Response.*** Any interim response must: 1) be sent to the requester on or before the last day of the 5-business day period; 2) state that the request is being reviewed and the reason for the review; 3) if applicable, give an estimate of applicable fees owed when the records are available at which time the requester must pay in full; 4) if applicable, notify the requester that they owe fees to another agency and records will not be provided until both fees are paid; and 5) state a reasonable date that a response is expected to be provided. This date must not be more than 30 calendar days from the end of the 5-business day period. *See* 65 P.S. §67.902.

The PGCB shall also send an interim response when the estimated fee for responding to the request is in excess of \$100. Once the estimated payment is received, the Board will proceed to 1) make a final determination as to what records, if any, are public records under the RTKL, 2) begin search and retrieval of those records, 3) perform any required redaction and 4) advise the requester, within 30 days, as to a date when any responsive public records will be produced. Failure to make an estimated payment by the date required by the Board in its interim response will result in the request being deemed withdrawn.

**E. *Final Response.*** The PGCB may grant a request, partially grant, and partially deny a request, or deny a request in its entirety. The final response of the PGCB will be in writing. Should the PGCB fail to issue a response within the applicable response period, the request is deemed denied. *See* 65 P.S. §67.901.

1. *Granting access to records.* The Board may grant a request for records by providing a requester with an electronic copy of a record, if maintained in that format, or as otherwise maintained by the Board, either: (1) by notifying the requester that the records are available on the PGCB website or other publicly accessible electronic means; (2) by sending copies of the records to the requester; or (3) by granting access to inspect Board records during regular business hours. *See* 65 P.S. §67.701(a), 704.

a) The Board may:

- i) Make copies of the records;
- ii) Allow the requester to bring a copier or scanner without an automatic feeder to make its own copies (subject to review and inspection by the Board prior to its use);
- iii) Allow the requester to photograph documents; or
- iv) Contract with a duplication service and require the requester to pay the applicable rate.

- b) The Board will provide a public record to a requester in the medium in which it is requested if the record exists in that medium. Otherwise, the public record must be provided in the medium in which it exists. *See* 65 P.S. §67.705.
- c) The Board will not create a public record that does not already exist, nor is it required to compile, maintain, format, or organize a public record in a manner or medium which the Board does not maintain at the time of the request.

2. *Denying or partially denying access to records.* Should the Board deny or partially deny a request for records through redaction or otherwise, the Board will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the PGCB does not possess the responsive records or, if the records are exempt from public access, provide a citation to the relevant legal basis for withholding the requested records. *See* 65 P.S. §67.903. Additionally, the response will provide the name, signature, title, business address and telephone number of the Agency Open Records Officer who denied the request, as well as the date of the response and the procedure to appeal the denial. *See* 65 P.S. §67.903.

**F. *Redaction.*** The Board will not deny access to a public record based upon the fact that portions of the record are confidential and, as a result, not subject to disclosure. The Board will redact the portions that are confidential and produce the portions that are public records. If a record is a non-public record, the record is exempt in total.

## **VI. FEES**

**A. *Fees Determined by the OOR.*** Under the RTKL, the Office of Open Records has the authority to establish two fees for Commonwealth agencies: Duplication, 65 P.S. §67.1307(b) and Enhanced Electronic

Access (an agency may establish user fees, subject to approval by the Office of Open Records), 65 P.S. §67.1307 (e). The fees for duplication are established by the Office of Open Records, as posted on its website at [OOR - Official RTKL Fee Schedule \(pa.gov\)](#).

The Board may waive duplication fees for 20 pages or less. Duplication charges are to be paid for any duplication more than 20 pages.

- B. *Reasonable and Necessarily Incurred Costs.*** As expressly provided by 65 P.S. §67.1307(g), the PGCB has the authority to charge requesters reasonable fees for necessarily incurred costs. The Board will determine and charge such fees on a case-by-case basis.
- C. *Transcripts of Administrative Proceedings (§67.707(c)).*** Prior to an adjudication becoming “final, binding, and non-appealable,” transcripts should be provided to the requester by the Board stenographer or a court reporter, in accordance with the applicable contract with the stenographer. The stenographer or court reporter is permitted to charge the regular fees for this service. Following an adjudication becoming “final, binding, and non-appealable,” a transcript of an administrative proceeding shall be provided in accordance with the duplication costs established above.

***No transcript of an administrative hearing made confidential by law or where the record has been sealed under Board authority shall be released.***

## **VII. APPEALS**

When a request is denied or deemed denied, whether in whole or in part, the requester may file an appeal with the Office of Open Records, where it will be assigned to an Appeals Officer. This appeal must be filed within 15 business days of the mailing date of the Agency’s denial, partial denial or deemed denial of the request. The Office of Open Records has created an online and preferred appeal process for the submission of appeals.

See: [OOR - How to File an Appeal \(pa.gov\)](#)

A person other than the Board or the requester, with a direct interest in the record that is subject to an appeal, has 15 days following actual knowledge of the appeal, but no later than the date the Appeals Officer issues an order, to file a written request to provide information or to appear before the Appeals Officer in support of the requester's or the Board's position in the appeal. The Appeals Officer may, but need not, grant the request. See Section VIII below.

**Note: Under 65 P.S. §1304, a court may impose sanctions, including attorney fees and costs of litigation frivolous requests or appeals.**

### **VIII. AGENCY NOTIFICATION OF THIRD PARTIES ON APPEAL**

If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary, or trademarked records of a person or business entity; or are held by a contractor or vendor, the PGCB must notify such parties of the appeal immediately and provide proof of that notice to the OOR within 7 business days from the date of the OOR's Official Notice of Appeal. Such notice must be made by (1) providing a copy of all documents included with the appeal to the OOR; and (2) advising that interested persons may request to participate in the appeal. *See* 65 P.S. §67.1101(c).

### **IX. MEDIATION**

The RTKL requires the OOR to establish an informal mediation process to resolve disputes under the RTKL. 65 P.S. §67.1310(a)(6). This is a voluntary process to help parties reach a mutually agreeable settlement on records disputes before the OOR. Mediation, a facilitated conversation between the parties that can serve as a fair and efficient tool to resolve conflict, can save time and expense. When appropriate, the PGCB is open to resolving RTKL disputes through the OOR's mediation process. [OOR - Mediation Program \(pa.gov\)](http://www.openrecords.pa.gov).

### **X. ADDITIONAL INFORMATION ABOUT THE RTKL**

Additional information about the RTKL, the request process, and the appeal process is available on the OOR website at <https://www.openrecords.pa.gov>.