

Right-to-Know Law (Open Records Act) Overview

The Right-to-Know Law or Open Records Act was amended (SB 1 or Act 3-2008) in 2008. The amended law applies to all levels of government and, for the first time, is expanded to include the state.

Many of the requirements in prior law still apply. However, one significant change in the new law reverses the burden of proof to the government entity of whether a record is public or not. In addition, a number of other areas have been expanded and/or changed.

Act 3 presumes all public records, legislative records and financial records to be open for public inspection and copying unless certain conditions apply. Conditions include 30 exceptions delineated in the new law, other state or federal laws that exempt a record from disclosure, or the agency (i.e., authority, local government entity, etc.) provides specific reasons for the denial in addition to other requirements outlined in the act.

The amended law gives citizens the ability to appeal open records disputes to an administrative agency, the Pennsylvania Office of Open Records, without the need to file a court action. The newly created state records office will operate within the Department of Community and Economic Development and will handle appeals and hearings.

The response period for a local agency will remain five business days. In addition, financial penalties for noncompliance are increased (a maximum of \$1,500 in civil fines for violations and authorized additional fines of up to \$500 for each day an official fails to comply with any court order to produce requested documents) and plaintiffs can recover attorney's fees if an agency acts in bad faith.

Act 3 requires that authorities appoint an open records officer. The following information must be posted in the authority office and on it's website if you have one: contact information for the authority's open records officer, the State Office of Open Records, and a form which may be used to file a request (authorities may use the Office of Open Records Uniform Request Form or may create their own. Authorities must accept requests filed on the Uniform Request Form even if they have their own form).

To assist member authorities, PMAA has available a sample Right-to-Know policy for public records on our website. The sample document is provided to you as guidance. We strongly urge you to share this with your authority solicitor for their review in order to tailor it to the specific needs and practices of your individual authority.