

BOROUGH OF NEW CUMBERLAND
CUMBERLAND COUNTY, PENNSYLVANIA
RESOLUTION 2024- **4**

A RESOLUTION ADOPTING RIGHT-TO-KNOW LAW POLICY

WHEREAS, the Borough of New Cumberland recognizes the Act of February 14, 2008, P.L. 6, No. 3, as amended by Act 2008-3, 65 P.S. § 67.101 et seq., commonly known as the “Right-to-Know Law”, controls the manner in which public documents and records are made available for public inspection; and

WHEREAS, the Borough of New Cumberland recognizes the Right-to-Know Law creates a presumption for disclosure of a public record or document and shifts the burden of denial to the municipality; and

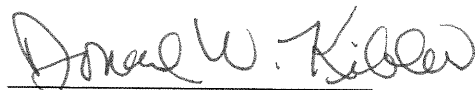
WHEREAS, the Borough of New Cumberland desires to maintain a policy consistent with 65 P.S. § 67.101 et seq. for public access to records and documents as to any office within the Borough of New Cumberland, so as to balance the public’s interest in having an open and transparent government against the Borough’s ability to conduct administrative affairs in an efficient manner free from excessive scrutiny, harassment, and the protection of confidential information, as well as statutorily precluded records; and

WHEREAS, the Borough of New Cumberland desires to appoint a person(s) as open records official(s) who shall have the authority to determine whether an exception exists as to a request for a record, to issue a written determination as to whether or not a request is approved or denied in accordance with the Right-to-Know Law or other statutory exemptions;


NOW THEREFORE, it is hereby resolved that the Borough of New Cumberland establishes the attached Right-to-Know Law Policy for records and documents maintained by the Borough of New Cumberland so as to comply with the above-referenced laws and statutes within the Borough of New Cumberland.

ADOPTED this 10th day of April, 2024.

BOROUGH COUNCIL OF THE
BOROUGH OF NEW CUMBERLAND

BY: 
Donald Kibler, President

ATTEST:



Nathaniel Dysard, Secretary

Borough of New Cumberland

Right-to-Know Law Policy

(Adopted April 10, 2024, pursuant to 65 P.S. § 67.504(a))

Effective Date: April 11, 2024

I. Authority

The Borough of New Cumberland (“Agency”) adopts this policy pursuant to Section 504(a) of the Right-to-Know Law, 65 P.S. §§ 67.101-67.3104 (“RTKL”). The Agency has made this policy available to the public at its administrative office(s) and on its public website along with a the Agency Request form or the RTKL Uniform Request Form. *See* 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

II. Definitions

All of the 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 Agency pursuant to Section IV of this policy.

Business day. The regular business hours of the Agency are Monday through Friday from 8:30 am to 4:30 pm. Business days exclude Saturday and Sunday and a weekday on which the Agency is closed for business.

III. Agency Website

The Agency maintains a public website at <https://newcumberlandborough.com>. Many of the records most commonly requested from the Agency are available on the website. The following information is also posted on the Agency’s website: AORO contact information; contact information for the OOR [and any another applicable appeals officer]; a form which may be used to file a RTKL request; and a copy of this policy. *See* 65 P.S. § 67.504(b) (relating to agency posting requirements under the RTKL).

IV. Submitting a RTKL Request to the Agency

A. *Open Records Officer.* The Agency has designated an AORO and an Alternate AORO to respond to RTKL requests.

Designation of the AORO and Alternate AORO, including contact information, shall be established by resolution, and may be modified from time to time.

The contact information for the AORO and Alternate AORO is posted on the Agency website.

- B. *Request.* Requests must be submitted in writing using the Agency Request Form or the RTKL Uniform Request Form available on the Agency website and must be addressed to the AORO. If a requester chooses not to use [the Agency Request Form or] the RTKL Uniform Request Form, the request will be considered an informal request, not subject to the RTKL. This means that the requester cannot pursue the relief and remedies provided for in the RTKL. To allow the Agency 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. Requesters should clearly indicate the preferred method of access – paper copies, electronic copies or by inspection. A requester should retain a copy of the request, as a copy of the request is necessary should a requester appeal the Agency response.
- C. *Receipt of the request.* For the purpose of calculating the response deadline, the Agency 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 Agency after the close of regular business hours shall be deemed to be received on the next business day. If the request is received by an Agency employee other than the AORO, the request will be forwarded to AORO as soon as practical.
- D. *Verbal requests.* The Agency will respond to verbal requests for records 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.
- E. *Anonymous requests.* The Agency will not respond to anonymous requests for records.
- F. *Response period generally.* The Agency has 5 business days to respond to a request for records under the RTKL. If an Agency does not respond, the request is considered “deemed denied,” and a requester’s appeal rights commence.

V. Agency Response

- A. *Extension of time for response.* The Agency 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 Agency invokes an extension, the Agency will inform the requester in writing, in accordance with the requirements set forth in Section 902(b)(2) of the RTKL.
- B. *Requester's agreement to extend the response period.* The requester may agree, in writing, to extend the Agency 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 Agency has invoked one.
- C. *Trade secrets.* If a request involves records provided to the Agency by a third party and the third party previously provided the Agency with a written statement that the record contains a trade secret or confidential proprietary information, the Agency shall provide notice to the third party. *See* 65 P.S. § 67.707(b).
- D. *Final response.* The Agency may grant a request, partially grant and partially deny a request, or deny a request in its entirety. The final response of the Agency will be in writing. Should the Agency 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 Agency may grant a request for records by issuing a response: (1) granting access to inspect Agency records during the Agency's regular business hours; (2) sending copies of the records to the requester; or (3) by notifying the requester that the records are available on the Agency website or other publicly accessible electronic means. *See* 65 P.S. §§ 67.701(a), 704.
 2. *Denying or partially denying access to records.* Should the Agency deny or partially deny a request for records through redaction or otherwise, the Agency will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the Agency 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 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.

- E. *Fees*. The Agency will charge fees consistent with the RTKL Fee Structure, currently available at <http://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>.

VI. RTKL Appeals

- A. *Generally*. To challenge the denial, partial denial, or deemed denial of a request for Agency records, an appeal may be filed using the OOR appeal form, available at <http://www.openrecords.pa.gov/Appeals/AppealForm.cfm>, or by contacting the OOR at the following address:

Office of Open Records
Commonwealth of Pennsylvania
333 Market St., 16th Floor
Harrisburg, PA 17101-2234
openrecords@pa.gov

- B. *Criminal investigative records*. To challenge the denial of a request or portion of a request on the basis that records were withheld because they are related to criminal investigative records, an appeal should be filed by contacting:

Open Records Officer
Cumberland County District Attorney's Office
1 Courthouse Square, Room 202
Carlisle, PA 17013
districtattorney@cumberlandcountypa.gov

- C. *Requirements of an appeal*. All appeals must be filed within 15 business days of the mailing date of the Agency's denial, partial denial, or deemed denial of the request. All appeals must be in writing; must state the grounds upon which the requester asserts that the requested records are public records; must address any grounds stated by the Agency for denying the request; and must include a copy of the request and the Agency's response, if any. *See* 65 P.S. § 67.1101(a)(1).

VII. Agency Notification of Third Parties on Appeal

Agency must notify third parties. 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 Agency 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).

VIII. 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 Agency is open to resolving RTKL disputes through the OOR's mediation process.

IX. Record Retention

The Agency's record retention policy follows the standards set forth in the Municipal Records Manual, Issued for the Local Government Records Committee by the Pennsylvania Historical and Museum Commission, approved December 16, 2008, as amended. Notwithstanding any other existing record retention policy, once a RTKL request is received, the Agency shall maintain, preserve, retain, protect, and not destroy any and all records, both electronic and hard copy, that are potentially responsive to the request until such time as the request is fulfilled and all associated appeals are resolved.

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>.