

Reading Area Community College

ADMINISTRATIVE POLICY: RIGHT-TO-KNOW LAW: OPEN RECORDS POLICY

A. PURPOSE

The Reading Area Community College ("College") Board of Trustees ("Board") recognizes the right of access to public records documenting the College's programs, services, and expenditures, and the official actions of the Board. The public has the right to access, inspect, and procure copies of public records, as required by the Pennsylvania Right-to-Know Law and other applicable laws, and in accordance with this Policy.

B. DEFINITIONS

Open Records Officer (ORO) – the Officer designated by the College to respond to requests under the Pennsylvania Right-to-Know Law, pursuant to Section IV of this policy. The senior vice president for finance and administrative services/college treasurer will designate the ORO. Upon such designation, the ORO will notify the Pennsylvania Office of Open Records as per the published procedures.

Business day. The regular business hours of the College are Monday through Friday, from 8:00 am to 4:00 pm. Business days exclude Saturday and Sunday and a weekday on which the College is closed for business.

Confidential proprietary information - Commercial or financial information received by the College, and which has been designated in writing by the person or entity providing it to the College as such. The commercial or financial information, to be considered confidential proprietary information, is information:

1. which is privileged or confidential; and
2. disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

Financial record - any account, voucher or contract dealing with the receipt or disbursement of funds or acquisition, use or disposal of services, supplies, materials, equipment or property; or the salary or other payments or expenses paid to an officer or employee, including the individual's name and title; and a financial audit report, excluding the audit's underlying work papers.

Office of Open Records (OOR). The OOR is the agency of the Commonwealth of Pennsylvania which is charged with interpretation and enforcement of the Pennsylvania Right-to-Know Law, which conducts training on the Right-to-Know Law, and which decides appeals filed under Pennsylvania's Right-to-Know Law. The OOR is located at 333 Market Street, 16th Floor, Harrisburg, PA 17101.

Public record - a record, including a financial record, that is not protected by a defined privilege or is not exempt from being disclosed under one of the exemptions in Pennsylvania's Right-to-Know Law or under other federal or state law or regulation, or judicial decree or order.

Record - information, regardless of physical form or characteristics, that documents a College transaction or activity and is created, received or retained pursuant to law or in connection with a College transaction, business or activity, including: 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.

Response - granting of access to a record or the College's written notice to a requester granting, denying, or partially granting and partially denying access to a requested record.

Requester - a legal resident of the United States who, or an agency which, requests access to a record.

Trade secret - Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that:

1. Derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and
2. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term "trade secret" includes data processing software obtained by the College under a licensing agreement prohibiting disclosure.

C. THE COLLEGE'S WEBSITE

The College maintains a public website at [<https://www.racc.edu/right-know-act>]. The following information is posted on the website: AORO contact information; contact information for the PA Office of Open Records (OOR) Executive Director; 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 College posting requirements under the RTKL.

D. SUBMITTING A RTKL REQUEST

Open Records Officer. The College has designated an ORO to respond to RTKL requests and the contact information can be found on the College's RTKL website.

Requests. Requests should be submitted in writing using the Open Records Request Form. If a requester chooses not to use the Open Records Request Form, the request may be considered an informal request, and may not be subject to the appeal rights provided under the RTKL. This means that the requester may not be able to pursue the relief and remedies provided for in the RTKL. To allow the College to locate requested records and determine whether those records are public, requests for records should be 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 College response.

Receipt of the request. For the purpose of calculating the response deadline, the College is deemed to have received the request on the business day that the ORO receives the request. See 65 P.S. § 67.901. Any request that is received by the College 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 College employee other than the ORO, the request will be forwarded to ORO as soon as practical.

Verbal requests. The College will not respond to verbal requests for records.

Anonymous requests. The College will not respond to anonymous requests for records.

Response period generally. The College has 5 business days to respond to a request for records under the RTKL. If the College does not respond, the request is considered "deemed denied," and a requester's appeal rights commence.

E. THE COLLEGE'S RESPONSE

Extension of time for response. The College 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 College invokes an extension, the ORO will inform the requester in writing, in accordance with the requirements set forth in Section 902(b)(2) of the RTKL.

Requester's agreement to extend the response period. The requester may agree, in writing, to extend the College'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 College has invoked one.

Trade secrets. If a request involves records provided to the College by a third party and the third party previously provided the College with a written statement that the record contains a trade secret or confidential proprietary information, the College shall provide notice to the third party. See 65 P.S. § 67.707(b).

Final response. The College may grant a request, partially grant, and partially deny a request, or deny a request in its entirety. The final response of the College will be in writing. Should the College fail to issue a response within the applicable response period, the request is deemed denied and the Requester's appeal rights commence. See 65 P.S. § 67.901.

1. *Granting access to records.* The College may grant a request for records by issuing a response: (1) granting access to inspect College records during the College'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 College's 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 College deny or partially deny a request for records through redaction or otherwise, the College will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the College 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.

Fees. The College will charge fees consistent with the RTKL Fee Structure, available at <http://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>. The College may, in its discretion, choose to waive some or all of the fees owed on a case-by-case basis upon good cause shown by the Requester.

F. RTKL APPEALS

General appeal process. To challenge the denial, partial denial, or deemed denial of a request for College 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:

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

Requirements of an appeal. All appeals must be filed within 15 business days of the mailing date of the College'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 College for denying the request; and must include a copy of the request and the College's response, if any. See 65 P.S. § 67.1101(a)(1).

G. COLLEGE'S NOTIFICATION OF THIRD PARTIES ON APPEAL

College must notify third parties. If records affect a legal or security interest of an employee or student of the College; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, the College 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).

H. RECORD RETENTION

The College's record retention policy is available upon request. Notwithstanding any other existing record retention policy, once a RTKL request is received, the College 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.

I. 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>.

Effective as an Administrative Policy on 11/26/2008

Revised 03/18/2021

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