Submit questions for panel discussion at openrecords@pa.gov
Submit questions for panel discussion at openrecords@pa.gov
OOR Annual Training
November 7, 2019

Submit questions for panel discussion at openrecords@pa.gov
Is It a Meeting?

• Is there a quorum?
  (members can “phone in”)

• Is there deliberation?

• Is there decision making?

• Beware of email meetings and Social Media commenting!

Submit questions for panel discussion at openrecords@pa.gov
What is Not a Meeting?

• Work Sessions, Conferences, Retreats, etc...

• Communication is one way (reports from staff)

• There is no deliberation

• There is no decision making

Submit questions for panel discussion at openrecords@pa.gov
Who is Covered?

• Applies to any state or local government body

• and all committees

• that perform an essential government function

• and exercises authority to take official action

• Making recommendations = official action
Public Notice

• Three days in advance of the first regular meeting of the year, along with all of the remaining meetings

• Legal notice in a paid newspaper of general circulation
  - newspaper articles don’t count
  - websites don’t count
  - sales circulars don’t count

• Posted at the meeting site

Submit questions for panel discussion at openrecords@pa.gov
• Special Meetings (not previously scheduled) = 24 hours advance notice

• Emergency Meetings = no notification required, but you can’t “create” your emergency

• No notification requirement for cancellations

Submit questions for panel discussion at openrecords@pa.gov
• Commenters can be limited to residents and taxpayers

• Right to comment on issues that are or may be before the board (before any pertinent votes)

• Board may establish *reasonable* rules for public comment (time limits, spokespersons, specific v. general)

Submit questions for panel discussion at openrecords@pa.gov
Executive Sessions

• Can be held before, during, or after an open meeting, or announced for some future time

• *Complete* reason must be announced during the open meeting (Reading v. Reading Eagle)

• No requirement for minutes

• No official action can be taken during an Executive Session – votes must occur in a public session

Submit questions for panel discussion at openrecords@pa.gov
Executive Sessions II

Allowable Reasons for Executive Sessions:

• Personnel matters (hiring, firing, discipline)
• Discussing labor negotiations
• Considering purchasing, leasing or selling property
• Consulting with counsel about litigation
• Avoiding violating privilege or confidentiality
• Discussing university admission standards
• Discuss emergency preparedness

Submit questions for panel discussion at openrecords@pa.gov
• The public can object to a perceived violation at any time during the meeting

• Agencies can “cure” violations

• Complaints = public has 30 days to go to court to seek legal relief, or to a District Attorney to investigate alleged criminal intent

• Meetings can be voided

• Fines are paid by the officials, not the agency
Miscellaneous

• Must produce meeting minutes recording board attendance and who voted for and against

• No requirement for an agenda

• Public can record public meetings unannounced

• Agency recordings and minutes are public records

Submit questions for panel discussion at openrecords@pa.gov
OOR Annual Training
November 7, 2019

http://openrecords.pa.gov
charlebrow@pa.gov
(717) 346-9903
Section 102, 65 P.S. § 67.102 (defines agencies)


Contractor records

Section 506(d)(1), 65 P.S. § 67.506(d)(1) (records in the possession of contractors)

Coroner’s records

Section 708(b)(20), 65 P.S. § 67.708(b)(20) (coroner records)

Coroner’s Act, 16 P.S. § 1201-B et seq.

Walker v. County of Lancaster, No. CI-18-09547 (Lancaster C.C.P. Aug. 23, 2019)

Submit questions for panel discussion at openrecords@pa.gov
Section 708(b)(13), 65 P.S. § 67.708(b)(13) (donation records)

Educational records

Federal Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g

Internal, predecisional deliberative records

Section 708(b)(10)(i)(A), 65 P.S. § 67.708(b)(10(i)(A)


Submit questions for panel discussion at openrecords@pa.gov
Judicial records

Section 102, 65 P.S. § 67.102 (defines judicial agencies)

Section 304, 65 P.S. § 67.304 (obligations of judicial agencies)

Section 503(b), 65 P.S. § 67.503(b) (judicial appeals officers)


Submit questions for panel discussion at openrecords@pa.gov
Fees & Penalties

Section 1304, 65 P.S. § 67.1304 (court costs and attorney fees)

Section 1304, 65 P.S. § 67.1305 (civil penalties)


Right to Privacy

Pa. Constitution, Article 1, § 1


Procedural Matters


Procedural Matters cont.


Submit questions for panel discussion at openrecords@pa.gov
Cases to look out for next year...

*Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 76 MAP 2019 (Pa.) (fees & penalties)

*Easton Area Sch. Dist. v. Miller*, 13 MAP 2019 (Pa.) (FERPA/bus video)

*Central Dauphin Sch. Dist. v. Fox43 News*, 16 MAL 2019 (Pa.) (FERPA/bus video)

*Pa. State Police v. ACLU*, 66 MAP 2018 (Pa.) (in camera review)

Submit questions for panel discussion at openrecords@pa.gov

Lehighton Area Sch. Dist. v. Campbell, No. 2019-0421 (Carbon C.C.P.) (procedural due process)

OOR Annual Training
November 7, 2019

http://openrecords.pa.gov
Nbyerly@pa.gov; Dlantz-Joh@pa.gov
(717) 346-9903

Submit questions for panel discussion at openrecords@pa.gov
OOR Regulations

• Updated draft regs on website

• Proposed Rulemaking Steps
  – Internal process
  – Attorney General/Office of Budget
  – Legislative Committees/Legislative Reference Bureau/ Internal Regulatory Review Commission
  – Public Comment period

Submit questions for panel discussion at openrecords@pa.gov
The OOR Appeal portal is an online docketing records management system designed to streamline and automate the appeals process. Appeals filed and all submissions to the OOR are accessible in real time and allow the requestor, the agency and the Appeals Officers to file, receive and have access to documents and submissions.

Submit questions for panel discussion at openrecords@pa.gov
Filing a new appeal

How to File an Appeal

All appeals must be made in writing and must be submitted to the Office of Open Records within 15 business days from the mailing date of the Agency's response or the date that the request was deemed denied. If that timeframe expires before you provide the required information to the OOR, you lose your right to appeal and may need to file a new RTK request with the Agency.

Submit questions for panel discussion at openrecords@pa.gov
FILE AN APPEAL

Requester

Name: [First Name] [Last Name]

Company: [Company Name (if applicable)]

Address:

Address 1

City

Pennsylvania

Address 2

Zip

Contact:

Phone

Email

Agency:

Agency Address:

Address 1

City

Pennsylvania

Address 2

Zip

Agency Contact:

Records at issue in this Appeal:

(If you run out of space, you may attach a file with more details.)

Request Submitted to Agency Via:

Dates:

Date of Request

Date of Response

Check if no response

Agency Open Records Officer:

Name & Title of Person Who Denied Request (if available)

I requested the listed records from the Agency named above. By submitting this form, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under 5708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.

Attach Files:

Maximum file attachments: 10

Maximum file size: 10MB per attachment

Allowed file types: pdf, doc, docx, rtf, txt, xls, xlsx, ppt, pptx, png, jpg, gif, bmp, tiff

File names may not contain the following characters: / \ * ? " < > |

I have attached a copy of my request for records.

I have attached a copy of all responses from the Agency regarding my request.

I have attached any letters or notices extending the Agency's time to respond to my request.

I hereby agree to permit the OOR an additional 30 days to issue a final determination.

I am interested in resolving this issue through OOR mediation. (This stays the initial OOR deadline for the issuance of a final determination by 7 business days; if mediation is unsuccessful, the OOR has 30 days from the conclusion of the mediation process to issue a final determination.)

I am not a robot

Submit

Reset

Printable versions of this form (revised September 2019):

You will receive a copy of your submission by email.
Portal access granted

You have been granted access to the Office of Open Records Portal. This website can be used to view details and updates to appeals of which you are an interested party. Please log in to the portal at https://testwww.openrecords.pa.gov/portal using the information listed below.

Email: dlantz-joh@pa.gov
Password: J5GrSqpg

Sincerely,
Office of Open Records

Submit questions for panel discussion at openrecords@pa.gov
How to access portal

Submit questions for panel discussion at openrecords@pa.gov
# Party Information

## Appeal Portal - Party Info (Docket # 2019-0013)

<table>
<thead>
<tr>
<th>Requester</th>
<th>Attorney Info</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requester Info</strong></td>
<td><strong>Attorney Info</strong></td>
</tr>
<tr>
<td>Ms. Delene Lantz</td>
<td>John Doe</td>
</tr>
<tr>
<td>123 Main St, Anytown, PA 12345</td>
<td>567 Law Ave, Anytown, PA 12345</td>
</tr>
<tr>
<td>717-555-0123</td>
<td>717-555-0234</td>
</tr>
<tr>
<td><a href="mailto:my.email@pa.gov">my.email@pa.gov</a></td>
<td><a href="mailto:attorney@lawfirm.com">attorney@lawfirm.com</a></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Agency</th>
<th>Attorney Info</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency Info</strong></td>
<td><strong>Attorney Info</strong></td>
</tr>
<tr>
<td>Applegate, Kyle</td>
<td></td>
</tr>
<tr>
<td>Pennsylvania Department of Health</td>
<td></td>
</tr>
<tr>
<td>625 Forster Street</td>
<td></td>
</tr>
<tr>
<td>625 Health and Welfare Building</td>
<td></td>
</tr>
<tr>
<td>Harrisburg, PA 17120</td>
<td></td>
</tr>
<tr>
<td>717-547-3075</td>
<td></td>
</tr>
<tr>
<td><a href="mailto:pADOHRTH@pa.gov">pADOHRTH@pa.gov</a></td>
<td></td>
</tr>
</tbody>
</table>

**Direct Interest Participants**

No Direct Interest Participants found.
### List of appeals

Submit questions for panel discussion at openrecords@pa.gov

**APPEAL PORTAL - MY APPEALS**

<table>
<thead>
<tr>
<th>Request Date</th>
<th>Docket Number</th>
<th>Name</th>
<th>Interest</th>
<th>FD Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/22/2019</td>
<td>2019-0013</td>
<td>delene lantz v. pennsylvania department of health</td>
<td>Requester</td>
<td>08/22/2019</td>
</tr>
</tbody>
</table>
Submitting files

Submit questions for panel discussion at openrecords@pa.gov
Submitting files

Submit questions for panel discussion at openrecords@pa.gov
New files have been added to your Office of Open Records portal for the following dockets:

- OOR Dkt. AP 20190010
- OOR Dkt. AP 20190013

Log into the portal at www.openrecords.pa.gov/portal to view them.

Sincerely,
Office of Open Records

LDPC Only (Non-production): Email would have gone to name@domain.com
Adding a Direct Interest Participant

REQUEST DIRECT INTEREST PARTICIPANT STATUS

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

Docket #: [Blank]
Name: [First Name] [Last Name]

PUBLIC RECORD NOTICE
All filings with the OOR will be public records and subject to public access with limited exception. If you do not want to include personal contact information in a publicly accessible record, please provide alternate contact information in order to receive future correspondence related to this appeal.

Address: [Address 1] [Address 2]
City: [City] State: [State] Zip: [Zip]
Email: [Email]
Phone #: [Phone #]

I have a direct interest in the record(s) at issue as (check all that apply):
- The owner of a record containing confidential or proprietary information or trademarked records
- An employee of the agency
- A contractor or vendor
- Other [Other]

Submit questions for panel discussion at openrecords@pa.gov
A request has been received for Direct Interest Participant status regarding OOR Dkt. AP 20190001.

Name: Jason Tully
Organization: Personal
Email: jtully@legis.state.pa.us
Phone: 717-787-7357

Submit questions for panel discussion at openrecords@pa.gov
Direct Interest Participant

Dear Jason Tully:

This email confirms that the Office of Open Records ("OOR") received your submission with regard to the above appeal filed by David Burton relating to the Abington Township's response to the request for records under the Pennsylvania Right-to-Know Law, 65 P.S. §§67.101 et seq.

As your submission being deemed a Statement of Direct Interest under Section 1101(c) of the Pennsylvania Right-to-Know Law sets forth a specific and direct interest in this appeal, please be advised that your request to participate in this proceeding has been GRANTED and Jason Tully shall be deemed a participant that may appear of record in this proceeding and make submissions with regard to the claims that certain information withheld constitutes "proprietary" information.

Further, in order for submissions to be included in the record, the record closing date is extended for you as direct participant on 10/31/2013. Jason Tully's submissions shall be included in the record and considered provided they are timely received. The remaining due dates shall follow. The parties are copied on this correspondence, and are notified that Jason Tully shall be copied on all correspondence/submissions made to date and going forward.

Please be advised that the parties must be copied on all submissions related to this appeal, and include Docket No. AP 20190002 on all submissions.

Sincerely,

Office of Open Records

333 Market Street, 16th Floor | Harrisburg, PA 17101-2234 | 717.346.9903 | F 717.425.5343 | openrecords.pa.gov

Submit questions for panel discussion at openrecords@pa.gov
**Docket Sheet**

**delene Iantz v. Pennsylvania Department of Health**

<table>
<thead>
<tr>
<th>OOR Dkt. No.: AP 2019-0013</th>
<th>Case Status: Pending in Commonwealth Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>FD Due: 10/02/2019</td>
<td>Record Closing Date: 09/11/2019</td>
</tr>
<tr>
<td>Appeals Officer: Applegate, Kyle</td>
<td>Agency/County: Commonwealth</td>
</tr>
</tbody>
</table>

**Legal Issues:**

<table>
<thead>
<tr>
<th>Clause</th>
<th>Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitutional</td>
<td>Constitutional Right to Privacy, Pa. Const. Art. I, § 1. &quot;All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.&quot;</td>
</tr>
<tr>
<td>Deemed</td>
<td>Request was deemed denied.</td>
</tr>
<tr>
<td>Dental</td>
<td></td>
</tr>
<tr>
<td>Mediation</td>
<td>Mediation Requested</td>
</tr>
</tbody>
</table>

**Docket Entries**

<table>
<thead>
<tr>
<th>Filed</th>
<th>Description</th>
<th>Step</th>
<th>Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>08/22/2019</td>
<td>Petition for Review</td>
<td>Court Filing</td>
<td>📄</td>
</tr>
<tr>
<td>08/22/2019</td>
<td>Requester Correspondence</td>
<td></td>
<td>📄</td>
</tr>
<tr>
<td>08/22/2019</td>
<td>OOR Final Determination</td>
<td>Final Determination</td>
<td>📄</td>
</tr>
<tr>
<td>08/22/2019</td>
<td>OOR Appeal Deficiency Order</td>
<td></td>
<td>📄</td>
</tr>
<tr>
<td>08/22/2019</td>
<td>OOR Official Notice of Appeal</td>
<td></td>
<td>📄</td>
</tr>
<tr>
<td>08/22/2019</td>
<td>Requester Appeal</td>
<td></td>
<td>📄</td>
</tr>
</tbody>
</table>

Submit questions for panel discussion at openrecords@pa.gov
Office of Open Records Docket Sheet

OOR Dkt. AP 2019-0013: Delene Iantz v. Pennsylvania Department of Health

Appeals Officer: Kyle Applegate

Case Information:
- Insufficiency Notice: Yes
- Mediation Requested: Yes
- 30-day Extension Granted: No
- Record Closing Date: 09/11/2019
- Final Determination Due Date: 10/02/2019
- Case Status: Pending in Commonwealth Court

Final Determination Outcome: Issued: 08/22/2019
Incomplete

Appealed to a Higher Court:

<table>
<thead>
<tr>
<th>Issued</th>
<th>Docket</th>
<th>Court</th>
<th>Opinion</th>
<th>Enforce</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 CD 2019</td>
<td></td>
<td>Commonwealth Court</td>
<td></td>
<td>No</td>
</tr>
</tbody>
</table>

Consolidated Cases:

Parties:

Submit questions for panel discussion at openrecords@pa.gov
Questions

Submit questions for panel discussion at openrecords@pa.gov