

December 5, 2024

Patrick Hitchens, Esq.
patrick@skilkennylaw.com

RE: Advisory Opinion on Faxed Requests

Dear Attorney Hitchens:

The Office of Open Records (“OOR”) received your request for an advisory opinion on November 20, 2024. The OOR may issue advisory opinions pursuant to Section 1310 of the Right-to-Know Law (“RTKL”), 65 P.S. § 67.1310(a)(2). Your request for an advisory opinion is **GRANTED**.

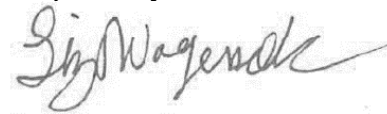
Your advisory opinion request concerns whether agencies are required to maintain a fax line. As you note, Section 703 of the RTKL states that “[a] written request for access to records may be submitted in person, by mail, by e-mail, by facsimile or, to the extent provided by agency rules, any other electronic means.” 65 P.S. § 67.703.

While Section 703 sets forth how requests can be made, the RTKL is generally silent as to an agency’s requirements to maintain technology. Section 504(b) requires an agency open records officer’s contact information to be “posted at each agency and, if the agency maintains an Internet website, on the agency’s Internet website.” 65 P.S. § 67.504(b). This Section notably does not dictate what types of contact information must be posted, and notably, does not require an agency to even maintain a website. At this juncture, if the RTKL does not require an agency to maintain a website, it stands to reason that an agency cannot be required to maintain an outdated piece of technology such as a fax line.

We interpret the only necessary “contact information” referenced in Section 504(b) to be a mailing address and e-mail address, as the RTKL contemplates that a request may be made both electronically and non-electronically. *See generally* 65 P.S. § 67.502(b)(2) (requiring agency open records officers to “[m]aintain an electronic or paper copy of a written request”); 65 P.S. § 67.703. Agencies are not required to maintain a fax line, just as they are not required to accept records through “any other electronic means” other than e-mail. 65 P.S. § 67.703.

This response to your request for an Advisory Opinion will be posted on the OOR’s website at <https://www.openrecords.pa.gov/RTKL/AdvisoryOpinions.cfm>.

Respectfully,

A handwritten signature in black ink, appearing to read "Liz Wagenseller". The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

Liz Wagenseller
Executive Director

From: Patrick Hitchens <patrick@skilkennylaw.com>

Sent: Tuesday, November 19, 2024 3:14 PM

To: Applegate, Kyle <kyapplegat@pa.gov>

Subject: [External] RTKL - faxed requests

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Mr. Applegate –

My apologies for emailing you directly and I would understand if you were unable to respond.

I am a municipal solicitor who represents a municipal client who has eliminated its fax line in order to save costs. In their experience, they have never received any faxes nor have had a need internally for its use.

A question was raised whether the RTKL mandates that a fax line be maintained in order to receive RTK requests. Section 703 of the RTKL states, in part “A written request for access to records may be submitted in person, by mail, by e-mail, by facsimile or, to the extent provided by agency rules, any other electronic means.”

Has the OOR provided guidance as to whether Section 703 mandates a fax option? My municipal client already accepts requests via email, mail and in person. This would seem to provide sufficient means for a requester to submit. I suspect if a person called and asked for a fax line, they would likely try to make accommodations for that specific requester.

If the OOR has not provided guidance, I would also not be surprised as I suspect this is not a common question raised during training sessions.

Thank you for your time and attention. If a call would be easier, please call me at 610-780-5252.

Best,
Patrick

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