



# Pennsylvania Office of Open Records

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## The Latest Developments in the Right-to-Know Law

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# Roadmap for Discussion



## Today's Topics

- Bulk requesters
  - Anonymous requesters
  - Agency Policy
- Artificial Intelligence (AI)
  - Automated requests
  - Bots
- OOR's New Standard  
RTKL Request Form
- Sunshine Act: Executive Sessions

# Terminology



Easy to confuse  
concepts that are  
different but  
overlap in  
application and use

Anonymous requester - bulk requester

Automated requests - Artificial  
Intelligence (AI)

Resident of US – Citizen of US

# Anonymous Requester: Relevant Sections



## Section 702 of the RTKL provides that:

Agencies may fulfill . . . anonymous verbal or written requests for access to records under this act.

## Section 703 of the RTKL requires that:

All written requests under the RTKL “shall include the name and address to which the agency should address its response.”

## Section 102 defines requester as:

A person that is a legal resident of the United States and requests a record pursuant to this act. The term includes an agency.

# Anonymous Requesters: Basics



Use common sense – be reasonable

If you have no reason to question the identity of a requester – don't

e.g. You know the requester lives in the area or had requests from them in the past

The RTKL must be construed to maximize access to government records.

You will be required to provide proof of an actual factual dispute regarding the requester's identity on appeal to the OOR.

# Anonymous Requesters: Summary of Final Determinations



Section 702 gives agencies discretion to process or not process “anonymous verbal or written requests.”

The RTKL defines “[r]equester” as a “[a] person that is a legal resident of the United States ....” 65 P.S. § 67.102.

Requester must both  
be a person and a  
legal resident of the  
United States.

Requester **DOES NOT**  
need to be a citizen  
of the US

# Anonymous Requesters: Summary of Final Determinations



## Person

includes a “corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.” 1 Pa.C.S. § 1991.

## Requesters

can be individuals, businesses, non-profits, government entities, etc.

# Anonymous Requesters: Specific Final Determinations



## Anonymous Final Determinations

Anonymous v. Downingtown  
Area School District,  
OOR Dkt. AP 2023-2329

No evidence a person =  
anonymous and not a  
requester

Industry Residents v. Industry  
Borough Municipal Authority,  
OOR Dkt. AP AP 2023-1439

No name included, no known  
legal entity, not a person =  
anonymous

Concerned Citizens of West  
Easton v. West Easton Borough,  
OOR Dkt. AP AP 2013-0246

No legal entity of “Concerned  
Citizens of West Easton”, not  
a person = anonymous



# Anonymous Requesters: Specific Final Determinations



## Anonymous Final Determinations

Ryan v. Cumberland County,  
OOR Dkt. AP 2024-0349

First Name and email address  
= anonymous and not a  
requester

John Doe v. DCED,  
OOR Dkt. AP 2024-0543

No evidence a person =  
anonymous and not a  
requester



For larger list, use the [OOR's Docket Search](#) using the term 'anonymous' in the description field.

# FDs on Anonymity



## Jason Delp v. Barrett Township, OOR Dkt. AP 2024-2159

- Agency denied requests as incomplete and anonymous because the Requester did not provide his mailing address or telephone number.
- Both requests included a full name and email address.
- Because requests included a full name and email address, they satisfied Section 703 of the RTKL. 65 P.S. § 67.703.

The Township presented no evidence before the OOR supporting the assertion that the requests were anonymously filed.

# Anonymous Requesters: What Ifs



## What if a requester uses automated system that conceals identity?

- Individual requesters are permitted to file requests using their own name.
- However, the use of a tool, process, or entity that creates anonymity or has an anonymous function may result in a finding that the request was anonymously filed, even if there is an identity attached to that request.

Curry and FOIA Buddy v. Sw. Sch. Dist., OOR Dkt. AP 2024-1311

# Anonymous Requesters: What Ifs



What if a requester uses what appears to be a real name but the agency reasonably suspects they are anonymous? How can that be proved?

- Internet search for "Harold Diehl" in Pennsylvania (given that the address on the Requests was in Pennsylvania) and only found reference to deceased individuals.
- The County's IT Department could not confirm a person behind the email address

Diehl v. Centre County, OOR Dkt. AP 2024-1695

# Anonymous Requesters: What Ifs



## John Denacola v. Huntington Township, OOR Dkt. AP 2024-2263

- First request from Jay Dino
- Second request from John Denacola
- There are three houses located on Plain Street and county tax records do not list Jay Dino as an owner. Further, an internet search of the owners appear to show that they are all owners of occupied houses.
- Searching the internet for Jay Dino and the 17093 zip code provided no relevant results to verify that anyone with such a name lives at that zip code.
- The [R]equest was identical to the previous request from Jay Dino and clearly appeared to be from the same person considering the email address name showed as Jay Dino.
- Searching for the name of John Denacola does not yield any results relevant to the zip code provided, and the previous analysis related to the people who live on Plain Street at the zip code 17093 made no mention of John Denacola.
- A general internet search of the name John Denacola provides little to no evidence as to this being anything but an alias.

# Tools for Addressing Anonymous Requesters



## Policy – update

- Will agency accept anonymous requests – make it clear – make it known
- Will agency accept only the OOR form
- Will agency accept only the agency's own form and the OOR's form – must accept the OOR form

Keep intent of law in mind – maximizing access to records

This is a request for public records. Even if not sure who is requesting records can still release obvious public records. (e.g. budget)

Agency could face a bad faith finding if agency policy or application of that policy is unreasonable

# New Standard Right-to-Know Law Request Form



Now 2 pages long

Minor changes:  
Existing language  
moved to different  
place on form

Clearer language in  
response to  
“Do you want  
copies?”

## Biggest change:

Check box affirming that:

- Full name and contact information is true and correct
- Requester is a legal resident of the United States

# New Standard Right-to-Know Law Request Form



The OOR's old form should be replaced with the new one if posted on agency webpage(s)

- We recommend just linking to the form on the OOR webpage
- The form/link to the form should be easily found and available on agency webpage(s)

Agency policies should be reviewed to be sure they correlate with how the agency accepts, processes and handles RTKL requests.



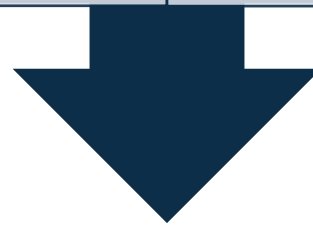
# Recent FAQs



## Can an agency refuse to open email attachments?

OOR has not addressed this in an FD. However, Section 703 permits the filing of requests via email, and Section 505 requires agencies to accept the OOR's uniform request form, as well as any agency-created form.

The OOR would need to determine whether the denial was reasonable based upon the facts.



### Additional Factors:

Is the attachment a PDF or other commonly used file format?

Can the agency explain why there is a security-risk in opening the attachment?

Are alternate ways to submit requests to the agency available?

# Recent FAQs



Is failure to check the "legal resident of the U.S." box on the OOR's standard RTKL form an automatic denial?

Practice good government and act in a reasonable and good faith manner

Contact requester and let them know they missed checking the box.

Is there a reasonable reason for denying on this basis

How does an agency confirm requester is legal resident? Who will be enforcing whether the box is checked accurately or not?

The agency is not bound to accept a checked box as true, but must act in in good faith. Agencies will be able to give OOR evidence on appeal, if one is filed. The OOR will decide on a case-by-case basis. See the Final Determinations above and others for what agencies have presented as evidence to the OOR.

If someone checks the box knowing they are misleading/misrepresenting the agency or the OOR, there are potential legal ramifications both civil and criminal for such actions.

# Recent FAQs



## Is an agency required to accept the OOR's old standard RTKL form?

Agency has discretion to accept or deny use of the old form

Does the agency have a policy addressing the use of forms

If agency has a policy:  
Technically no, but be reasonable – if you can respond easily - do so

If there is a relevant reason for use of the new form – contact requester and ask them to use it before denying

# Cases of Note



PIAA v. Campbell,  
No 71 MAP 2022  
(Pa Supreme Court)

PIAA is a  
state-affiliated  
entity, and thus  
an agency under  
the RTKL

Previte v. Erie County Bd.  
of Elections,  
320 A.3d 908  
(Pa Commonwealth  
Court)

Absentee and  
mail-in ballots can  
be obtained  
through a  
RTKL request

Honey v.  
Lycoming County  
Office of Voter Services,  
312 A.3d 942  
(Pa Commonwealth  
Court)

Cast vote records  
are exempt  
under the  
RTKL/Election Code

Currently on appeal  
to Pa Supreme Court

Coleman v.  
Parkland Sch. Dist.,  
305 A.3d 238  
(Pa Commonwealth  
Court)

Sunshine Act and  
agenda  
requirements

Currently on appeal  
to Pa Supreme Court

# Sunshine Act: Executive Sessions



## *Scheduling*

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

## *Announcing*

*Specific* reason must be announced during the open meeting – the public must be able to determine from the reason given that they are being properly excluded from the session

# Public Not Completely Shut Out



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

Public must be allowed to comment before final action

# Allowable Reasons For Executive Sessions



- Discuss 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

# Questions?



Today's training has been recorded and will be posted to our website.

If we did not answer your questions today or you have more questions, contact us:

- Via website form: <https://www.openrecords.pa.gov/ContactOOR.cfm>,
- Via email: [openrecords@pa.gov](mailto:openrecords@pa.gov), or
- Via phone: 717-346-9903.

Submitted questions are records under the RTKL.

The OORs website has resources for agencies & requesters

- <https://www.openrecords.pa.gov/>



# Additional Resources



[www.OpenRecords.pa.gov](http://www.OpenRecords.pa.gov)

- Sunshine Act
- FAQ
- Recorded Trainings



Open Records Officer Guidebook



On Site Training: [openrecords@pa.gov](mailto:openrecords@pa.gov)



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