



March 27, 2025

Adam Ehrlich
mypublicrighttoknow@gmail.com

RE: Advisory Opinion on video recordings of public hearings/meetings and transcripts

Dear Mr. Ehrlich:

The Office of Open Records (“OOR”) received your request for an advisory opinion on March 25, 2025. The OOR may issue advisory opinions to agencies and requesters 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 partially **GRANTED**, as follows.

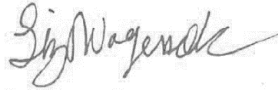
To summarize, your advisory opinion request concerns whether recordings of public hearings or meetings, made via Zoom or similar service, are public records. To make this determination, we must first look to whether an agency recording is a “record” as defined by the RTKL. Unquestionably, due to the broad definition of “record” in the RTKL, an agency video recording may qualify as a record, so long as it “documents a transaction or activity of an agency and ... is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.” 65 P.S. § 67.102. In a majority of situations, it appears that a video recording of a public hearing or meeting would indeed meet the definition of “record”.

If a video recording is a “record” under the RTKL, there is a presumption that it is a “public record.” 65 P.S. § 67.305(a). Agencies have the burden of proving that a record is exempt from disclosure, 65 P.S. § 67.708(a)(1), and may raise one of the RTKL’s exemptions, a privilege, or another law or regulation as a reason for denial. For this reason, we are unable to conclude that most types of “records” are always “public records”, as an agency may raise various reasons why a “record” is not a “public record.” It is a fact-intensive analysis. The only exception is if the RTKL, or another law, definitively makes a record a “public record.” There is nothing in the advisory opinion indicating that recordings of public hearings or meetings have been categorically made public by the General Assembly. As such, we must decline to issue an advisory opinion stating, one way or another, that the records are public records. Such an issue would need to be decided in an appeal made to the OOR, based upon the particular facts concerning the video recording at issue.

Finally, with respect to transcripts, there is no need to issue an advisory opinion, as transcripts are governed by Section 707(c) of the RTKL. A copy of the RTKL can be found at https://www.openrecords.pa.gov/Documents/RTKL/PA_Right-To-Know_Law.pdf?pdf=20220418, and Section 707(c) can be located on page 16. Disputes concerning fees and accessibility are addressed by that Section.

This response to your Advisory Opinion request 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", written in a cursive style.

Liz Wagenseller