



pennsylvania

OFFICE OF OPEN RECORDS

Certifying Records Under the RTKL

Updated June 16, 2020

A request under the Right-to-Know Law, 65 P.S. § 67.101, *et seq.* (“RTKL”), may seek certified copies of agency records. *See* 65 P.S. § 67.904 (permitting a requester to seek certified copies of agency records). Agencies may charge a certification fee in compliance with the [RTKL Fee Schedule](#) available on the Office of Open Records (“OOR”) website when providing certified copies to a requester. *See* 65 P.S. § 67.1307(c) (allowing agencies to impose fees for creating certified copies of records).

While the RTKL does not define the term “certified copies,” courts have interpreted the term to mean copies of records that are self-authenticating documents under the Pennsylvania Rules of Evidence. *See Phila. Dist. Atty’s Office v. Cwiek*, 169 A.3d 711 (Pa. Commw. Ct. 2017) (holding that Section 904 of the RTKL requires that the agency “verifies the authenticity of the document for purposes of admitting the record as evidence during pending or future litigation.”); Pa.R.E. Rule 902 (relating to evidence that is self-authenticating); 42 Pa.C.S. § 6104 (relating to the effect of official records). Self-authenticating means that the party submitting the certified copies of records during a trial does not have to present witnesses testifying that the records presented are, in fact, true and correct copies of agency records. The Pennsylvania Rules of Evidence and the Judicial Code provide steps that an agency must be followed in order to certify copies of its records. *See* Pa.R.E. Rule 902 (relating to evidence that is self-authenticating); 42 Pa.C.S. § 6103 (relating to proof of official records).

The following Certification Form is a sample of how agencies could comply with certification requirements under the Pennsylvania Rules of Evidence and the Judicial Code. However, agencies may wish to consult with counsel when responding to a RTKL request for certified records.

[Agency logo/letterhead]

Certification

Name of requester: [Name of requester]

Records requested: [Description of records requested]

I, [Name of Agency Open Records Officer], hereby declare under the penalty of perjury, pursuant to 18 Pa.C.S. § 4904, that the following statements are true and correct based upon my personal knowledge information and belief:

1. I serve as the Open Records Officer for [Agency] (“Agency”).
2. I am responsible for searching Agency files in response to requests filed with the agency pursuant to the Right-to-Know Law.
3. In my capacity as Open Records Officer, I am familiar with the records of the Agency.
4. Upon receipt of the request, I conducted a thorough examination of files in the possession, custody and control of the Agency for records responsive to the request underlying this appeal, specifically ... *[Provide additional details describing the search(es) conducted by the Agency and the records or types of records that were reviewed. If e-mails or other electronically stored records were searched, identify the location(s) searched (i.e., individual e-mail accounts, agency servers, deleted e-mail servers, service providers, etc.)]*
5. Additionally, I have inquired with relevant Agency personnel and, if applicable, relevant third-party contractors as to whether the requested records exist in their possession, specifically... *[Provide additional details identifying which third party was asked for records, whether the individual(s) or party(s) responded to the Agency’s inquiry and describe the content of their response(s). When applicable, provide additional information explaining why some or all of the records do not exist or why the agency does not possess the records.]*
6. After conducting a good faith search of the Agency’s files, I identified all records within the Agency’s possession, custody or control that are responsive to the request.
7. The responsive records are attached to this certification.

8. I certify that the attached documents are a complete and true copy of the original responsive records.

Signature: _____ Date: _____

[Name of open records officer]

Open Records Officer

[Agency]

*[Affix Agency
Officer's Seal]*

I certify, under seal, that the above signer has the Officer's official capacity to attest to the information set forth above, and the signature is genuine.

Signature: _____ Date: _____

[Name of public officer]

[Title of public officer]

[Agency]