

December 8, 2016

Erik R. Steinheiser
P.O. Box 7008
Penndel, Pa 19047

Re: Advisory Opinion – can a requester file an anonymous request

Dear Mr. Steinheiser:

Thank you for writing to the Office of Open Records (“OOR”). As discussed, the OOR is treating your correspondence as a request for an Advisory Opinion in accordance with Section 1310(a)(2) of the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101-.3104.

The purpose of an Advisory Opinion is to provide written guidance to an agency or requester that may be relied upon in taking action. Please be advised, however, that the views expressed in Advisory Opinions are those of the OOR and are not binding. As such, they may be superseded by subsequent statute, final determination or court ruling.

In your correspondence, you asked the following:

I was wondering when I file a right to know request or appeal if I could use an alias (like you can use online) instead of my real name. I do not wish to file an anonymous request, but I do not wish to give my real name either, and would like to still have some appeal rights. For example instead of using a legal name like John Smith, can somebody use a name like they use online such as Pizzaman08 or Dentist89 just to name a few examples.

Black’s Law Dictionary defines “anonymous” as “Nameless; wanting a name or names.”¹ Merriam-Webster defines “anonymous” as “of unknown authorship or origin” and “not named or identified.”² Therefore, an anonymous request is one which does not identify the requester. By using a fictitious name, online handle, username or other alias to make a request, the requester is anonymous because he or she is not named or identified.

Section 702 of the RTKL states that “[a]gencies may fulfill ... anonymous verbal or written requests for access to records under this act.” 65 P.S. § 67.702.³ Therefore, an agency has the discretion to decide whether it will accept anonymous requests. *See Anonymous v. Monroe County*, OOR Dkt. AP 2011-0070, 2011 PA O.O.R.D. LEXIS 217. In other words, an agency may, in its discretion, choose not to fulfill an anonymous request. However, if an agency chooses to fulfill an anonymous written request, the agency may be ordered to provide records

¹ <http://thelawdictionary.org/anonymous/>

² <http://www.merriam-webster.com/dictionary/anonymous>

³ Section 702 also provides that denials of verbal requests cannot be appealed to the OOR: “If the requester wishes to pursue the relief and remedies provided for in this act, the request for access to records must be a written request.” 65 P.S. § 67.702.

by the OOR on appeal. *See John Doe v. County of Northampton*, OOR Dkt. AP 2013-1517, 2013 PA O.O.R.D. LEXIS 881. Because Section 702 provides that an agency's decision to fulfill anonymous requests remains entirely within an agency's discretion, the OOR cannot supplant an agency's exercise of its decision-making.

Thank you for your inquiry. The OOR will post this Advisory Opinion on the OOR's website: <http://openrecords.pa.gov>.

Respectfully,

A handwritten signature in black ink, appearing to read "Erik Arneson", written in a cursive style.

Erik Arneson
Executive Director