



**COUNTY OF MERCER
RIGHT TO KNOW
Effective January 1, 2009
Resolution No. 2008-19**

The County of Mercer (County) wishes to preserve its integrity and by doing so will provide and/or supply any records requested from a legal resident of the United States, as long as the record does not violate the protected rights of others and any other documents that are protected by the government or the Right To Know Law.

The objective of the County is to have its records open for public review as stated in the Right to Know Law passed on February 14, 2008 and effective on January 1, 2009. This policy shall set forth the procedures for the public to request records as well as the procedures used by the Open Records Officer of the County in the process of distributing records.

Administration of this program, functions and responsibilities of the County are in compliance with all Federal, State, and local laws.

Part A. Policy

Section 1. Definitions

1. The term "County" shall mean the County Mercer, Mercer County, Pennsylvania.
2. The term "Requestor" shall mean a person who is a legal resident of the United States and requests a County record.
3. The term "Open Records Officer" shall be the Chief Clerk, and the Director of Elections shall assume the duties in the absence of the Chief Clerk.
4. The term "record" shall mean information, regardless of form, that documents a transaction or activity of the County.
5. The term "public record" shall mean any record that is not exempt under the provisions of Section 708 of the Right to Know Act, or any other federal or state law or judicial decree or is not protected by a privilege.
6. The term "response" shall mean access to a record or the County's written notice granting, denying or partially granting and partially denying access to a record.

7. The term “redaction” shall mean if the County determines that a public record contains information which is subject to access as well as information which is not subject to access, the County’s response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, the County shall redact from the public record the information which is not subject to access, and the response shall grant access to the information which is subject to access.
8. The term “Policy” shall mean Part A of this Right to Know Policy and Procedure, as adopted by the County Commissioners as may be amended.
9. The term “Procedures” shall mean Part B of the Right to Know Policy and Procedure, as may be revised from time to time by the County Commissioners.

Section 2. Policy Statement

The County is committed to ensuring that its policies and practices do not deny legal residents of the United States from requesting and obtaining records that are open to the public for review. The Open Records Officer shall make a good faith effort to determine if the record requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request but shall not exceed five business days from the date the request is received by the Open Records Officer. Therefore, if a Requestor requests a County record, the Open Records Officer will review the request and either provide the document requested or give a written reason why the document cannot be released.

Section 3. Purpose

This Policy is intended to:

- communicate the County’s position regarding all actions in connection with the Borough’s programs;
- protect the privacy of individuals accorded by law;
- establish a procedural guide for implementing such Policy; and
- comply with applicable federal, state and local laws.

Section 4. Authority

The requirements of this Policy are based upon the following statutes or regulations:

- Right To Know Law passed by the Pennsylvania State Legislature on February 14, 2008, and effective January 1, 2009.

Section 5. Amendment

1. Policy. The policy may be amended only by resolution of the County Commissioners.
2. Procedures. The Procedures may be amended by the County Commissioners.
3. Legal compliance. Any amendment to the Policy or Procedures shall be consistent with all applicable laws and regulations.

Part B.

Requesting A Record

1. The requestor must be a legal resident of the United States;
2. Public records shall be available for access during the regular business hours of the County;
3. The request must;
 - a. be submitted in person, by mail, by facsimile, or any other electronic means or orally over the telephone;
 - b. be addressed to the Open Records Officer;
 - c. identify and describe the records sought with sufficient specificity to enable the Open Records Officer to ascertain which records are being requested; and
 - d. shall include the name and address to which the Open Records Office should address its response.

Receiving and Responding to a Request

1. Upon the Open Records Officer receiving a written request, he/she will immediately date stamp the request and calculate the five business days for when a response is due and note that date on the request;
2. The request will be retained by the Open Records Officer until the request is fulfilled;
3. The Open Records Officer will respond to the Requestor within five business days by either:
 - a. producing the requested records;
 - b. denying the requested records in writing; or
 - c. explain, in writing, why the Open Records Officer needs additional time to provide the requested documents
4. If the request is granted, the public record will be provided to the Requestor in the medium requested if the public record exists in that medium.

Note: When responding to a request, the County shall not be required to create a public record which does not currently exist or to compile, maintain, format or organize a public record in a manner in which the County does not currently compile, maintain, format or organize the public record.

Exceptions To Producing Records Within Timeframe - Upon receipt of the request for access, the Open Records Officer determines that one of the following applies:

1. The information as requested must be reviewed by the County's Solicitor.
2. The request for access requires redaction of a public record.
3. The request for access requires the retrieval of a record stored in a remote location - off-site and must be retrieved.
4. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations.
5. The Requestor has not complied with the County's public records policy.
6. The Requestor has failed to pay the applicable fees for the reproduction of the documents.

Note: If any delay is going to be in excess of thirty (30) days to produce the requested documents, the Open Records Officer will request and get an approval of the extension from the requestor in writing, or if refused, shall be deemed a denial.

Fees - the following fees will be charged to the Requestor for the records:

1. Costs incurred in the duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electric means and other means of duplication shall be \$.25 per page;
2. Postage for the actual cost of mailing.

Note: If the estimated fees exceed \$100, the Requestor will be required to prepay.

Denial of Record - If the Open Records Officer's response is a denial of a request for access, whether in whole or in part, a written response shall be issued and include:

1. A description of the record requested;
2. The specific reasons for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the Open Records Officer determination that the record is not a public record shall be included;
3. The typed or printed name, title, business address, business telephone number and signature of the Open Records Officer;

4. Date of response; and

5. The procedure to appeal the denial of access under this policy.

Note: upon receipt of a request for access to a record, the Open Records Officer shall make a good faith effort to determine if the record requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request but shall not exceed the five business days from the date the request is received by the Open Records Officer for receiving such requests. If the Open Records Officer fails to send the response within five business days of receipt of the request for access, the request for access shall be deemed denied.

Part C. Appeal

Final Agency Determination

If a written request for access is denied or deemed denied, from the Open Records Officer, the Requestor may file for exceptions with fifteen (15) business days of the mailing date or within fifteen (15) days of a deemed denial. The letter from the Open Records Officer will have the name of the agency to appeal, which will be:

Commissioners Office
County of Mercer
Mercer County Courthouse
Mercer, Pa

Note: The Requestors exceptions shall state grounds upon which the Requestor asserts that the record is a public record and shall address any grounds stated by the Open Records Officer for delaying or denying the request.

Court of Common Pleas

If a final determination results in denial of the record, within thirty (30) days of the denial or mailing date of the final determination, the Requestor may petition the Court of Common Pleas for a review of the matter.

Resolution 2008-19 adopted this 18th Day of December at the Mercer County Board of Commissioner's meeting.

Mercer County Commissioners

Brian Beader

Kenneth R. Ammann

John N. Lechner

ATTEST:

Timothy M. Hofius
Chief Clerk