

Pennsylvania Office of Open Records

About the Right-To-Know Law – FAQ

Prepared by Senate Intergovernmental Operations Committee staff for Public Hearing – 3/24/25

Source: <https://www.openrecords.pa.gov/RTKL/About.cfm>

10. Are emails (or itemized cell phone bills, or any other specific type of document) public record?

They can be.

The RTKL does not distinguish between various types of records (e.g., printed letters and memos, electronic databases, emails, itemized cell phone bills, etc.). Every record goes through the same two-part analysis to determine whether it is a public record and subject to release:

1. Is it a record? (In other words, does it document a transaction or activity of an agency?)
2. If so, is it a public record? (Or can it be withheld under the RTKL, another law or regulation, a privilege, or a court order?)

As a general rule, agencies must provide aggregated data and financial records.

15. What are some types of information that are not available?

The RTKL includes 30 exceptions agencies may use to withhold records. (Those are found in Section 708(b).) Sometimes, another law or regulation allows or requires an agency to withhold records. Certain privileges, such as attorney-client privilege, and court orders can also come into play.

Some of the records agencies may withhold under the 30 exceptions in the RTKL include:

- Social Security numbers
- Driver's license numbers
- Employee numbers
- Home, cellular or personal phone numbers
- Personal financial information
- Personal medical information
- Spouse's name, marital status, beneficiary or dependent information
- Home addresses of law enforcement and judges
- Identity of confidential informants
- Records that identify social service recipients, including welfare recipients
- A minor's name, home address, date of birth.
- Constituent requests to a member of the House or Senate
- Library circulation information
- Internal, predecisional deliberations
- DNA and RNA records

As a general rule, agencies must provide aggregated data and financial records.

Selected exceptions for withholding records under RTKL Section 708(b):

(7) The following records relating to an agency employee:

(i) A letter of reference or recommendation pertaining to the character or qualifications of an identifiable individual, unless it was prepared in relation to the appointment of an individual to fill a vacancy in an elected office or an appointed office requiring Senate confirmation.

(ii) A performance rating or review.

(iii) The result of a civil service or similar test administered by a Commonwealth agency, legislative agency or judicial agency. The result of a civil service or similar test administered by a local agency shall not be disclosed if restricted by a collective bargaining agreement. Only test scores of individuals who obtained a passing score on a test administered by a local agency may be disclosed.

(iv) The employment application of an individual who is not hired by the agency.

(v) Workplace support services program information.

(vi) Written criticisms of an employee.

(vii) Grievance material, including documents related to discrimination or sexual harassment.

(viii) Information regarding discipline, demotion or discharge contained in a personnel file. This subparagraph shall not apply to the final action of an agency that results in demotion or discharge.

(ix) An academic transcript.

(8) (i) A record pertaining to strategy or negotiations relating to labor relations or collective bargaining and related arbitration proceedings. This subparagraph shall not apply to a final or executed contract or agreement between the parties in a collective bargaining procedure.

(ii) In the case of the arbitration of a dispute or grievance under a collective bargaining agreement, an exhibit entered into evidence at an arbitration proceeding, a transcript of the arbitration or the opinion. This subparagraph shall not apply to the final award or order of the arbitrator in a dispute or grievance procedure.

(9) The draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by or for an agency.

(10) (i) A record that reflects:

(A) The internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.

(B) The strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.

(ii) Subparagraph (i)(A) shall apply to agencies subject to 65 Pa.C.S. Ch. 7 (relating to open meetings) in a manner consistent with 65 Pa.C.S. Ch. 7. A record which is not otherwise exempt from access under this act and which is presented to a quorum for deliberation in accordance with 65 Pa.C.S. Ch. 7 shall be a public record.

(iii) This paragraph shall not apply to a written or Internet application or other document that has been submitted to request Commonwealth funds.

(iv) This paragraph shall not apply to the results of public opinion surveys, polls, focus groups, marketing research or similar effort designed to measure public opinion.