

UPPER DUBLIN TOWNSHIP
POLICY FOR IMPLEMENTING THE RIGHT-TO-KNOW LAW
REGULATING ACCESS TO PUBLIC RECORDS

The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, 65 P.S. §66.1 *et seq.*, as amended, to provide access to public records of Upper Dublin Township, to preserve the integrity of Upper Dublin Township's records, and to minimize the financial impact to the residents of Upper Dublin Township ("Township") regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

It is the policy of the Township to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of the Township designates the Township Secretary, Paul Leonard, as responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance with the following guidelines:

1. The Township Secretary may designate certain employee(s) to process public record requests.
2. The requester is responsible for minimizing, where possible, the financial impact on the Township regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.
3. All requests for public records of the Township under this policy shall be specific in identifying and describing each public record requested. In no case shall the Township be required to create a public record which does not exist or to compile, maintain, format or organize a public record in a manner in which the Township does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and on a form provided by the Township, as attached hereto entitled "Public Record Review/Duplication Request."
4. The Township Secretary shall make a good faith effort to determine whether each record requested is a public record.
5. The Township Secretary shall facilitate a reasonable response for the Township's public records. In no case is the Township expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Township's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.
6. The Township Secretary shall respond to the requester within five (5) business days from the date of receipt of the written request. If the Township does not respond within five (5) business days of receipt thereof, the request is deemed denied.

7. The response provided by the Township shall consist of (1) approval for access to the public record; (2) review of the request by the designated employee; or (3) denial of access to the record requested.

8. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of the Township. The Township Secretary shall cooperate fully with the requester, while also taking reasonable measures to protect the Township's public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

9. Fees for duplication of public records (which may be waived by the Township) shall be as follows:

- (a) Photocopying: 25 cents (\$0.25) per page.
- (b) Duplication of public records and/or tape records: actual cost to the Township of duplicating the public record.
- (c) Certified copies: \$1.00 per page.
- (d) Postage: actual cost to the Township of mailing the public record.

10. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the Township shall obtain fifty percent (50%) of the expected cost in advance of fulfilling the request to avoid unwarranted expense of the Township's resources.

11. If the request is being reviewed, the notice provided by the Township shall be in writing and include the reason for the review and the expected response date, which shall be within thirty (30) days of the notice of review. If the Township does not respond within thirty (30) days thereof, the request is deemed denied. Review of the request is limited to situations where:

- (a) The record requested contains information which is subject to access, as well as information which is not subject to access that must be redacted prior to a grant of access. The redacted information is considered a denial as to that information;
- (b) The record requires retrieval from a remote location;
- (c) A timely response cannot be accomplished due to staffing limitations;
- (d) A legal review is necessary to determine whether the record requested is a public record;
- (e) The requester has failed to comply with the Township's policy and procedure requirements; or

(f) The requester refuses to pay the applicable fees.

12. If access to the record requested is denied, the notice provided by the Township shall be in writing as indicated on the form attached hereto entitled "Denial of Request to Review and/or Duplicate Township Records".

13. If the request is denied or deemed denied, the requester may file exceptions with the Board of Commissioners within fifteen (15) business days of the mailing date of the Township's notice of denial, or within fifteen (15) days of a deemed denial. The exceptions must:

- (a) Indicate the date of the original request;
- (b) Identify and describe the record(s) requested;
- (c) State the grounds upon which the requester asserts the record(s) is a public record; and
- (d) Address any grounds stated by the Township in its notice of denial.

14. The Board of Commissioners shall review the exceptions and may conduct a hearing to assist in making a final determination. A final determination will be made within thirty (30) days of the mailing date of the exceptions, unless extended by the parties. If the denial is upheld, the decision shall contain a written explanation of the reason for denial and an explanation of the process for further appeal.

15. This policy shall be posted conspicuously at the Township building.

14-6-4

UPPER DUBLIN TOWNSHIP
PUBLIC RECORD REVIEW/DUPLICATION REQUEST

PLEASE PRINT LEGIBLY

Date of Request _____

Requester's Name _____

Requester's Address _____

Requester's Telephone _____

I request review duplication (check applicable boxes) of the following records. **Important:** You must identify or describe the records with sufficient specificity to enable the Township to determine which records are being requested. Use additional sheets if necessary.

I certify that I am a resident of the Commonwealth of Pennsylvania.

Signature of Requester

This request may be submitted in person, by mail or by facsimile to:

Upper Dublin Township
Township Secretary
801 Loch Alsh Avenue
Fort Washington, PA 19034
(215) 643-1600

14-6-5

[For Township Use Only]

Request No.: _____

Date Received: _____

Action Taken:

Approved Date of Approval: _____

Denied Date Notice Mailed: _____

Additional Review Date Notice Mailed: _____

UPPER DUBLIN TOWNSHIP
DENIAL OF REQUEST TO REVIEW AND/OR DUPLICATE

Date of Denial: _____

Requester's Name: _____

Requester's Address: _____

Re: Denial of Request to Review and/or Duplicate _____

Request No. _____

Date of Request: _____

Dear Mr./Mrs./Ms. _____:

Please be advised that your request to review/duplicate [**strike out inappropriate request**] the following records:

has been denied for the following reason(s):

This denial is based upon the following legal authority:

You have the right to appeal this decision. If you appeal, you must either:

1. Within fifteen (15) days of the notice of denial or deemed denial, file exceptions with the Board of Commissioners in accordance with the Township's policy.

If you file exceptions, the Board of Commissioners has thirty (30) days in which to respond to your exceptions, unless extended by the parties. The Board of Commissioners may decide to conduct a hearing within that time to assist in the making of the decision.

- OR -

2. Within thirty (30) days of the notice of denial, or within thirty (30) days of the Board of Commissioner's final decision (in the event that you have filed exceptions), file a petition for review in the Montgomery County Court of Common Pleas or bring an action in the local District Magistrate's office.

UPPER DUBLIN TOWNSHIP

Township Secretary

**RIGHT-TO-KNOW LAW
EXCEPTIONS TO DISCLOSURE OF A RECORD**

(b) Exceptions. — Except as provided in subsections (c) and (d), the following are exempt from access by a requester under this act:

- (1) **Threaten person security.** A record the disclosure of which:
 - (i) would result in the loss of Federal or State funds by an agency or the Commonwealth; or
 - (ii) would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual.

- (2) **Threaten public safety.** A record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.

- (3) **Threaten the security of property.** A record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system, which may include:
 - (i) documents or data relating to computer hardware, source files, software and system networks that could jeopardize computer security by exposing a vulnerability in preventing, protecting against, mitigating or responding to a terrorist act;
 - (ii) lists of infrastructure, resources and significant special events, including those defined by the Federal Government in the National Infrastructure Protections, which are deemed critical due to their nature and which result from risk analysis; threat assessments; consequences assessments; antiterrorism protective measures and plans; counterterrorism measures and plans; and security and response needs assessments; and
 - (iii) building plans or infrastructure records that expose or create vulnerability through disclosure of the location, configuration or security of critical systems, including public utility systems, structural elements, technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage and gas systems.

- (4) **Jeopardize computer security.** A record regarding computer hardware, software and networks, including administrative or technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.

(5) **Health Care Records.** A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

(6) **Personal information other than financially related employment matters.**

(i) The following personal identification information:

(A) A record containing all or part of a person's Social Security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal email addresses; employee number or other confidential personal identification number.

(B) A spouse's name; marital status, beneficiary or dependent information.

(C) The home address of a law enforcement officer or judge.

(ii) Nothing in this paragraph shall preclude the release of the name, position, salary, actual

compensation or other payments or expenses, employment contract, employment-related contract or agreement and length of service of a public official or an agency employee.

(iii) An agency may redact the name or other identifying information relating to an individual

performing an undercover or covert law enforcement activity from a record.

(7) **Hiring or disciplinary information.** 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) **Labor relations or collective bargaining information.**

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

(10) **Predecisional deliberations (except for documents submitted for action)**

(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.

(11) A record that constitutes or reveals a trade secret or confidential proprietary information.

(12) **Personal notes not having an official purpose.** Notes and working papers prepared by or for a public official or agency employee used solely for that official's or employee's own

personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.

(13) **Donors or prospective donors.** Records that would disclose the identity of an individual who lawfully makes a donation to an agency unless the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public official or employee of the agency, including lists of potential donors compiled by an agency to pursue donations, donor profile information or personal identifying information relating to a donor.

(14) Unpublished lecture notes, unpublished manuscripts, unpublished articles, creative works in progress, research-related material and scholarly correspondence of a community college or an institution of the State System of Higher Education or a faculty member, staff employee, guest speaker or student thereof.

(15)

(i) Academic transcripts

(ii) Examinations, examination questions, scoring keys or answers to examinations. This subparagraph shall include licensing and other examinations relating to the qualifications of an individual and to examinations given in primary and secondary schools and institutions of higher education.

(16) **Criminal investigation records (except police "blotter").** A record of an agency relating to or resulting in a criminal investigation, including:

(i) Complaints of potential criminal conduct other than a private criminal complaint.

(ii) Investigative materials, notes, correspondence, videos and reports.

(iii) A record that includes the identity of a confidential source or the identity of a suspect who has not

been charged with an offense to whom confidentiality has been promised.

(iv) A record that includes information made confidential by law or court order.

(v) Victim information, including any information that would jeopardize the safety of the victim.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

(B) Deprive a person of the right to a fair trial or an impartial adjudication.

(C) Impair the ability to locate a defendant or codefendant.

(D) Hinder an agency's ability to secure an arrest, prosecution or conviction.

(E) Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b) (relating to accident prevention investigations).

- (17) **Non-Criminal investigation records.** A record of an agency relating to a noncriminal investigation, including:
- (i) Complaints submitted to an agency.
 - (ii) Investigative materials, notes, correspondence and reports.
 - (iii) A record that includes the identity of a confidential source, including individuals subject to the act of December 12, 1986 (P.L.1559, No.169), known as the Whistleblower Law.
 - (iv) A record that includes information made confidential by law.
 - (v) Work papers underlying an audit.
 - (vi) A record that, if disclosed, would do any of the following:
 - (A) Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined to be confidential by a court.
 - (B) Deprive a person of the right to an impartial adjudication.
 - (C) Constitute an unwarranted invasion of privacy.
 - (D) Hinder an agency's ability to secure an administrative or civil sanction.
 - (E) Endanger the life or physical safety of an individual.
- (18) **911 Recordings other than time response logs.**
- (i) Records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings.
 - (ii) This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.
- (19) DNA and RNA records.
- (20) An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.
- (21) **Draft minutes.**
- (i) Draft minutes of any meeting of an agency until the next regularly scheduled meeting of the agency.
 - (ii) Minutes of an executive session and any record of discussions held in executive session.
- (22) **Appraisals and reports relating to real property acquisition or sale or to construction projects.**

(i) The contents of real estate appraisals, engineering or feasibility estimates, environmental reviews, audits or evaluations made for or by an agency relative to the following:

(A) The leasing, acquiring or disposing of real property or an interest in real property.

(B) The purchase of public supplies or equipment included in the real estate transaction.

(C) Construction projects.

(ii) This paragraph shall not apply once the decision is made to proceed with the lease, acquisition or disposal of real property or an interest in real property or the purchase of public supply or construction project.

(23) **Library circulation data.** Library and archive circulation and order records of an identifiable individual or groups of individuals.

(24) **Restricted gift library materials.** Library archived and museum materials, or valuable or rare book collections or documents contributed by gift, grant, bequest or devise, to the extent of any limitations imposed by the donor as a condition of the contribution.

(25) A record identifying the location of an archeological site or an endangered or threatened plant or animal species if not already known to the general public.

(26) **Bids and RFPs prior to award; bidder's financial data.** A proposal pertaining to agency procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offeror requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes and other records of agency proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).

(27) **Insurance or risk management communications, except contracts.** A record or information relating to a communication between an agency and its insurance carrier, administrative service organization or risk management office. This paragraph shall not apply to a contract with an insurance carrier, administrative service organization or risk management office or to financial records relating to the provision of insurance.

(28) **Information related to social service recipients (CDBG Records)** A record or information:

(i) identifying an individual who applies for or receives social services; or

(ii) relating to the following:

(A) the type of social services received by an individual;

(B) an individual's application to receive social services, including a record or information related to an agency decision to grant, deny, reduce or restrict

benefits, including a quasi-judicial decision of the agency and the identity of a caregiver or others who provide services to the individual; or
(C) eligibility to receive social services, including the individual's income, assets, physical or mental health, age, disability, family circumstances or record of abuse.

(29) Correspondence between a person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services. This paragraph shall not apply to correspondence between a member of the General Assembly and a principal or lobbyist under 65 Pa.C.S. Ch. 13A (relating to lobbyist disclosure).

(30) **Records pertaining to juveniles.** A record identifying the name, home address or date of birth of a child 17 years of age or younger.