

Cumberland County Tax Collection Committee

Right-to-Know Law Request Policy

Effective March 22, 2010

I. Purpose

The purpose of this policy is to establish procedures to ensure the Tax Collection Committee (referred to herein as the "TCC") complies with the requirements of the Right-to-Know Law, 65 P.S. § 67.101 *et seq.*, which allows legal residents of the United States to inspect and obtain copies of "public records."

II. Definitions

For purposes of this policy, the terms set forth below have the following meanings:

"Business day" means a calendar day on which the Cumberland County offices are open for business.

"Financial Record" means any account, voucher, or contract dealing with the TCC's receipt or disbursement of funds, or the TCC's acquisition, use, or disposal of services, supplies, materials, equipment, or property; or the salary, or other payments, or expenses paid to an employee, delegate, or officer of the TCC, including the individual's name and title; or a financial audit report of the TCC excluding the underlying work papers.

"Public Record" means a record, including a financial record, that: (i) is not exempt from disclosure under Pennsylvania's Right-to-Know Act; (ii) is not exempt from disclosure under any other federal or state law, regulation, judicial order, or decree; and (iii) is not protected by a privilege.

"Record" means information, regardless of physical form or characteristics, that documents a transaction or activity of the TCC or another agency and that is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the TCC or another agency. The term "record" includes a document, paper, letter, map, book, tape, photograph, film, or sound recording, information stored or maintained electronically, and a data-processed or image-processed document.

"Requester" means any person who is a legal resident of the United States or an agency that requests access to a record under the Right-to-Know Law.

"Response" shall mean granting access to a record or written notice from the TCC granting, denying, or partially granting and partially denying access to a record.

III. Open Records Officer

The TCC will designate the individual who will be the Open Records Officer. The Open Records Officer is responsible for the following duties under this policy:

1. Receive, review, and respond to all written requests for access to records submitted to the TCC.
2. If appropriate, direct requests to other persons within the TCC or within another agency for a response.
3. Track the TCC's progress in responding to requests for access to records.
4. Issue interim and final responses to submitted requests.
5. Maintain a log of all record requests and of the TCC's responses.
6. Ensure appropriate TCC staff are trained to perform assigned job functions relative to requests for access to records.

After receiving a written request for access to a public record, the Open Records Officer shall take the following steps in order to track the status and final disposition of the TCC's response:

1. Note the date on which the written request was received by the TCC.
2. Compute the day on which the five (5) business day period for the TCC response will expire and make a notation of that date on the written request.
3. Maintain an electronic or paper copy of the written request, including all documents submitted with the request, at least until the request has been fulfilled.
4. If the written request is denied, in full or in part, maintain the written request for at least thirty (30) days or, if an appeal is filed to challenge the denial, until a final appellate determination is made.

IV. Requests for Access to Public Records

Any requester seeking access to or duplication of a public record from the TCC must submit a written request addressed to the Open Records Officer. All TCC employees, delegates, and officers must forward written requests for access to public records received by them to the Open Records Officer.

A requester must complete the Right-to-Know Request Form created by either the TCC or the Pennsylvania Office of Open Records when submitting a written request. Copies of the TCC form may be obtained by request.

The written request must identify or describe the public record sought with sufficient specificity to allow the Open Records Officer to determine which record is being requested, the medium in which the record is requested, and the name and address to which the TCC should send its response.

The TCC may grant verbal requests or written requests not made on a Right-to-Know Request Form in cases where access can be allowed immediately or granting such requests serves the convenience of the TCC. However, such requests shall not be considered an official request requiring a TCC response.

Any requester may submit a written request to the Open Records Officer on a prescribed Right-to-Know Request Form by regular mail, by facsimile, or by email as set forth in the attachment to this policy.

The Open Records Officer may not require a requester to explain the reason for a record request, or the intended use of the record being requested.

The TCC reserves the right to deny a requester access to a public record if the requester has repeatedly requested the same record, the record has already been provided to the requester, and the repeated requests are unreasonably burdensome on the TCC.

When in receipt of sufficient advance notice, the TCC shall cooperate with requesters with disabilities to make public records available in an appropriate format.

V. Requests for TCC Records in the Possession of Another Party

A record that is not in the possession of the TCC, but is in the possession of a party which the TCC has retained to perform responsibilities on behalf of the TCC, is a public record of the TCC when the record directly relates to the TCC's operations and is not otherwise exempt from public disclosure. A written request for a record in possession of a party retained by the TCC shall be submitted to the Open Records Officer.

The Open Records Officer shall process the request for such a record identically to all other record requests. The Open Records Officer may assess a duplication fee to make the record available to the requester, if the TCC duplicated the record in order to make it accessible for public inspection.

VI. TCC Response to Written Request

The Open Records Officer will respond to a written request within five (5) business days after receipt. During that period, the Open Records Officer will make a good faith effort to locate the requested record, determine if it is a public record, redact any confidential portions to allow for disclosure, and prepare an appropriate response.

A TCC response may take any of the following forms:

1. A decision that the requested record is a public record and allowing the requester to inspect and obtain a copy of the public record, in whole or in part. Alternatively, the requested record may be provided with the response.
2. A partial or total written denial explaining why the requested record, or a portion of the requested record, is not a public record.

3. A written decision explaining the requested record does not exist.
4. A written notice explaining the request is under review and that a final determination can be expected within thirty (30) calendar days from the date of the notice.

A denial of a request shall be in writing and shall include the following information:

1. A description of the requested record.
2. The specific reason for the denial, including a citation of supporting legal authority.
3. The name, title, address, telephone number, and signature of the Open Records Officer under whose authority the denial is issued.
4. The date of the response.
5. An explanation of the procedure to appeal the denial.

A written notice explaining a request is under review must set forth the reasons for the review and list a date when a final response can be expected; the listed date shall be within thirty (30) calendar days from the date of the written review notice. The TCC may review a request if any of the following applies:

1. The requested record requires redaction.
2. The request requires the TCC to retrieve records stored in a remote location.
3. The TCC cannot timely respond due to bona fide and specified staffing limitations.
4. Legal review is necessary to determine if the record is a public record.
5. The request does not comply with TCC policies regarding access to records.
6. The requester has failed to pay applicable fees.
7. The extent or nature of the request makes it impossible to respond within the required time period.

The Open Records Officer shall make a final determination regarding a written request within thirty (30) days from the date of written notice explaining a request is under review.

If the Open Records Officer does not provide the requester with a written response within the applicable time period (whether it be the initial five [5] day period, or the thirty [30] day review period), the written request is deemed denied and the requester may file an appeal within fifteen (15) business days of the expiration of the applicable time period, as provided by Section XI of this policy.

In addition, if the TCC produces a non-public record in response to a written request, the Open Records Officer shall notify the third-party that provided the record to the TCC, the person that is the subject of the record, and the requester.

In the event a requested record contains a third-party's trade secret or confidential proprietary information and the interested third-party filed the written statement required by the administrative regulations, the Open Records Officer shall notify the interested third-party of the request and will follow the other procedures in the administrative regulations for processing requests for third-party trade secret or confidential proprietary information in responding to the request.

The Open Records Officer may consult with the TCC solicitor before responding to a Right-to-Know Law request.

VII. Redacting Records to Allow for Public Access

If a requester seeks access to a record which contains both public and confidential information, the TCC shall grant access to the public information contained in that record and redact the confidential information that need not be disclosed under the Right-to-Know Law, if it is possible to redact the confidential information. The TCC may provide public information contained in a redacted record in a format of its choice that will allow for timely disclosure of public information, while simultaneously protecting against the release of confidential information. If the confidential information is a critical part of the record and cannot be separated, the TCC shall deny access to the entire record requested.

A person's social security number; driver's license number; personal financial information; home, cellular or personal telephone numbers; personal e-mail addresses; employee numbers and other confidential personal identification numbers; the name of a person's spouse or a person's marital status; a person's beneficiary or dependent information; and the home addresses of law enforcement officers and judges are generally not subject to public disclosure. The TCC will redact this information from a record that would otherwise be considered a public record.

Nothing in this Section shall prohibit the TCC from releasing the name, position, salary, actual compensation, or other payments made to any person. Nothing in this Section shall prohibit the TCC from disclosing any employment contracts with, employment-related contracts with, or the length of service of any person.

The Open Records Officer shall consult the TCC's administrative regulations under this policy when deciding what information may be redacted from a public record.

If the TCC redacts information from any record, this redaction constitutes a partial denial of the record request, and the Open Records Officer will provide the requester with a written response regarding the partial denial, as provided in Section VI of this policy.

VIII. Electronic Access to Public Records

The TCC will permit electronic access to a public record if the requester requests electronic access and the record exists in electronic form. The TCC is not required to permit use of any computer for purposes of electronic access.

If a requester makes a written request to access a public record in electronic form, and the public record exists in that medium, the TCC will provide access in one of the following formats:

1. On a computer disk containing the record.
2. In an e-mail containing an attachment or link to the record.
3. In a redacted copy of an electronically-stored record, if confidential information must be redacted from the record to permit access to the public information contained in the record.

IX. Inspection of Public Records

After determining that a record requested is a public record, the TCC will allow inspection and duplication. The TCC will provide access in a requested medium if the record exists in that medium. The TCC need not create documents, but will provide access to public records in their existing formats. The TCC shall not charge a fee if a requester only seeks to inspect a public record, except where conversion from electronic to paper form is required.

The inspection of a public record by a requester shall take place at a location and time designated by the Open Records Officer.

No public record shall be removed from the control or supervision of the TCC, with the exception of copies the TCC creates and delivers to a requester under the terms of this policy. In order to preserve the integrity of public records, the TCC will take reasonable steps to ensure a requester does not alter, deface, or otherwise damage public records. Such reasonable steps may include, but are not limited to: the prohibition of eating and drinking when inspecting public records; monitoring of a requester who is inspecting public records; and immediate termination of public records inspection if the TCC reasonably believes the requester's conduct would result in damage to the public records.

When inspecting records, a requester will comply with all TCC rules and procedures applicable to the public or reasonably established by the Open Records Officer. The TCC may ask a requester to cease inspection if the requester engages in conduct which materially disrupts the operations of the TCC, accesses, or attempts to access unauthorized areas or records systems, or threatens, harasses, or intimidates a TCC representative.

X. Duplication and Fees

If requested, a public record will be duplicated for the requester. Generally, a requester seeking a duplicate of a public record is required to appear in person at a location designated by the Open Records Officer. If the TCC decides it is appropriate to do so, it may mail or otherwise deliver duplicates of public records to a requester.

The TCC will charge fees consistent with the maximum charges established by any duly-promulgated regulations of the Pennsylvania Office of Open Records. The TCC will attach to this policy a schedule of fees, which may be revised from time to time.

If the Open Record Officer makes copies of a public record in response to a written request, and the requester fails to pick up the copies within sixty (60) days of the TCC notifying the requester that the copies are available, the copies may be discarded and the TCC may retain any fees already paid by the requester.

XI. Filing of Appeals

If a requester wishes to challenge the written or deemed denial of a written request for a record, the requester must file an appeal with the Pennsylvania Office of Open Records within fifteen (15) business days from the date of the written or deemed denial. The appeal shall: 1) be in writing; 2) state the reasons why the requester believes the requested record is a public record; and 3) address the TCC's stated reasons for delaying or denying the written request.

XII. Posting of Policy

The TCC shall post the following information at an area accessible to the public in the county offices as designated by the County Commissioners or a designee of the County Commissioners:

1. A copy of this policy with appendices (which includes contact information for the TCC's Open Records Officer and the Pennsylvania Office of Open Records), and the administrative regulations.
2. A copy of the TCC form that may be used to file a request.

Appendix 1 – Fee Schedule

The TCC will charge the following fees relating to public records:

1. Paper copy standard size – **25¢ per page.**
2. Electronic Copying – **25¢ per page** (provided a tangible copy of the record must be made to respond to the request).
3. Certified copy – **\$5 per certified copy.**
4. Mailing – actual mail cost.

The total sum owed shall be paid before the public record is given to the requester. If the duplication or transmission of a public record will cost one hundred dollars (\$100) or more, that fee must be paid in advance of the request being processed.

Fees are not mutually exclusive of one another. For example, if a record must be duplicated before being mailed, the TCC may charge a 25¢ duplication fee and the actual cost of mailing.

The TCC may waive fees in circumstances it deems appropriate.

Appendix 1A – Detailed Fee Explanation

The TCC is required to provide a public record in a requested medium only if the record exists in that medium. For example, if a request is made for an electronic copy of a paper record that is not held in electronic form, the TCC may provide an electronic copy, but is not required to do so. The TCC is not required to use a specific method of transmission. For example, if the TCC makes available for inspection and photocopying a record that is held only on paper, it is not required to then e-mail or fax a duplicate.

The TCC will charge the following fees relating to public records:

1. Paper copy standard size – **25¢ per page**. This fee applies anytime a record is copied to fulfill a request, including photocopying of a paper record or printing a copy of an electronic record. The TCC will charge a duplication fee for copies of redacted material it must make in order for a requester to view a public record.
2. Electronic copying – Electronic copies will normally be provided by e-mail attachment. There will be no fee unless the TCC must make a tangible copy of a record (either by photocopy or print) to fulfill the request. If the TCC must make a tangible copy, the fee is **25¢ per page**. [*Note:* If the TCC transmits an electronic copy using a more expensive medium such as computer disk, the TCC may only charge 25¢ per page if it was required to make a tangible copy to fulfill the request unless the requester asks for duplication in the more expensive medium, in which case the TCC may provide the copy in an electronic format of its choice (and charge the 25¢ per page only if a tangible copy was made) or may provide a copy in the more expensive medium and charge the actual cost.]
3. Certified copy – **\$5 per certified record** regardless of the number of pages, plus any applicable duplication fees. If a requester asks for certification of multiple records, a separate charge will be assessed for each record certified.
4. Mailed copy – If a request is made for mailing and the TCC chooses to mail the copy instead of requiring personal pickup, the requester will pay the actual cost of postal fees plus any applicable duplication fees. [*Note:* Mailing is not required.]
5. Facsimile transmission – If a request is made for facsimile transmission and the TCC chooses to fax the copy instead of requiring personal pickup, the requester will pay the actual cost of facsimile plus any applicable duplication and certification fees. [*Note:* Facsimile is not required.]
6. Duplication in special formats – If a request is made for duplication in a special format and the TCC chooses to comply, the fee will be the actual cost. Specialized formats include, but are not limited to, removable electronic storage devices, color copies, and non-standard sized documents. [*Note:* Duplication in special formats is not required.]

The TCC may waive fees in circumstances it deems appropriate. If the TCC receives a request for personal inspection of a record, but decides it is more convenient to mail, fax, or e-mail a copy of the record, the TCC may waive the fees associated with duplication and transmission.

Appendix 2 – Right-to-Know Law Contact Information

Contact Information for the TCC Open Records Officer

Name: Alan T. Vandrew

Title: Chief Fiscal Officer, Mechanicsburg Area School District

Mailing Address: 100 East Elmwood Avenue, Mechanicsburg, PA 17055

Facsimile Number: (717)-691-3228

E-mail Address: avandrew@mbsgd.org

Contact Information for Pennsylvania Office of Open Records

Address: Commonwealth of Pennsylvania
Office of Open Records
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225
717-346-9903

Email: openrecords@state.pa.us

Executive Director: Terry Mutchler

Deputy Director: Barry Fox

Chief Counsel: Leo L. Dunn

Appendix 3 – Request Submissions

Right-to-Know Law record requests may be submitted using any of the following delivery methods:

By regular mail: Sent to the attention of the Cumberland County Tax Collection Committee Open Records Officer at 100 East Elmwood Avenue, Mechanicsburg, PA 17055.

By facsimile: Sent to the attention of the Cumberland County Tax Collection Committee Open Records Officer at the following facsimile number: (717)-691-3228. A written request sent via facsimile will not be considered submitted until a complete, accessible, and legible copy of the facsimile is received by the Open Records Officer.

By e-mail: Sent to the attention of Cumberland County Tax Collection Committee Open Records Officer at avandrew@mbgsd.org. An e-mail will not be considered submitted until a complete, accessible, and legible copy of the e-mail is received by the Open Records Officer.

Cumberland County Tax Collection Committee

Exceptions to Public Records

Right-to-Know Law Administrative Regulations: Effective: March 22, 2010

These administrative regulations are adopted in order to guide the Tax Collection Committee (referred to herein as the "TCC") Open Records Officer in determining whether a requested record constitutes a public record that is subject to disclosure under the Right-to-Know Law, or whether certain information contained in a public record may be redacted before the record is made available for public inspection or duplication.

I. Definitions

For purpose of these administrative regulations the terms set forth below shall have the following meanings:

"Administrative proceedings" means a TCC proceeding where the outcome is required to be based on a record or documentation prescribed by law, or in which a statute or regulation is particularized in application to individuals. The term includes an appeal.

"Aggregated data" means a tabulation of data relating to broad classes, groups, or categories so that it is not possible to distinguish the properties of individuals within those classes, groups, or categories.

"Confidential proprietary information" means commercial or financial information received by the TCC (i) which is privileged or confidential; and (ii) if disclosed, would cause substantial harm to the competitive position of the person who submitted the information.

"Financial Record" means: (i) any account, voucher, or contract dealing with the TCC's receipt or disbursement of funds, or the TCC's acquisition, use, or disposal of services, supplies, materials, equipment, or property; or (ii) the salary, or other payments, or expenses paid to an officer or employee of the TCC, including the individual's name and title; or (iii) a financial audit report excluding the underlying work papers.

"Personal financial information" means an individual's personal credit, charge, or debit card information; bank account information; bank, credit, or financial statements; account or PIN numbers, and other information relating to an individual's personal finances.

"Privilege" means the attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege, and any other privilege recognized by a court interpreting Pennsylvania law.

"Social services" means cash assistance and other welfare benefits, medical, mental, and other health care services, drug and alcohol treatment, adoption services, vocational services and training, occupational training, educational services, counseling services, workers' compensation

services and unemployment compensation services, foster care services, services for the elderly, services for individuals with disabilities, and services for victims of crime and domestic violence.

“Trade secret” means information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique, or process that: (i) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable through proper means by other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. This term includes data processing software obtained by the TCC under a licensing agreement prohibiting disclosure.

II. Public Access to Records

TCC records are subject to disclosure under the Pennsylvania Right-to-Know Law unless the entire record, or certain information contained therein, is expressly exempted from disclosure by one of the exceptions set forth in the Right-to-Know Law, other state or federal law that prohibits public access, or evidentiary privilege.

Section III of these administrative regulations summarizes the general rules on records that are exempt from the public disclosure requirements of the Right-to-Know Law. *These general rules do not apply to financial records and aggregated data.*

Section IV of these administrative regulations summarizes the financial records and aggregated data that are exempt from the public disclosure requirements of the Right-to-Know Law.

The Open Records Officer is responsible for determining whether a record, in whole or in part, is a public record subject to disclosure. The Open Records Officer shall consult these administrative regulations and confer with the TCC solicitor as needed to determine whether disclosure of a record is required by law.

III. General Exception Rules – Excluding Financial Records and Aggregated Data

These administrative regulations organize the Right-to-Know Law public disclosure exceptions into the following sub-categories:

- Generally Applicable Exceptions
- Business/Financial Matters (not constituting “financial records”)
- Investigative Materials
- Employee Information
- Pre-Decisional Deliberations
- Privileged Communications with Professionals
- Real Estate
- Exceptions Generally not Applicable to the TCC

These sub-categories do not appear in the Right-to-Know Law, and are intended to serve only as an organizational guide for the Open Records Officer when determining if a record, in whole or in part, is exempt from disclosure.

Information or records falling within the exceptions set forth below do not need to be disclosed in order to comply with the Right-to-Know Law. In certain instances, a record may be available for public inspection after any exempted information is redacted. In other instances, an entire record may be exempt from disclosure.

The Open Records Officer shall review the exceptions set forth in Section IV of these administrative regulations when considering a request for financial records or aggregated data.

A. Generally Applicable Exceptions

1. *Physical Harm/Personal Security* – a record that, if disclosed, would be reasonably likely to result in a substantial and demonstrable risk of physical harm to, or the personal security of, ANY individual. **65 P.S. 67.708(b)(1)(ii).**
2. *Personal Identification, Financial, and Tax Information* – the following records pertaining to ANY individual:
 - a. A record containing an individual's social security number; driver's license number; home, cellular, or personal telephone numbers; personal e-mail addresses; confidential personal identification number(s); individual's spouse's name or marital status; or any information about an individual's beneficiaries or dependents. **65 P.S. § 67.708(b)(6)(i)(A)-(B).**
 - b. Personal financial information, which includes an individual's personal credit, charge, or debit card information; bank account information; bank, credit, or financial statements; account or PIN numbers, and other information relating to an individual's personal finances. **65 P.S. § 67.708(b)(6)(i)(A).**
 - c. Any tax or other information gained by the TCC, its agents or officials as a result of an audit, declaration, hearing, investigation, report, return, or verification, or any abstract or particular portions of such information. **53 Pa.C.S.A. § 8437.**
3. *Property and Resource Security* – a record which creates a reasonable likelihood of endangering the safety or the security of ANY building, utility, resource, infrastructure, facility, computer, or information storage system. Such records include, but are not limited to, computer files, software networks, building plans, and blueprints. **65 P.S. § 67.708(b)(3)(i)-(iii).**

4. *Computer Systems* – a record regarding computer hardware, software, and networks – including administrative and technical records – that, if disclosed, would be reasonably likely to jeopardize computer security of the TCC or ANY individual. 65 P.S. § 67.708(b)(4).
5. *Minors* – a record identifying the name, home address, or birth date of a child 17 years of age or younger. 65 P.S. § 67.708(b)(30).
6. *Law Enforcement Officers and Judges* – the home address of any law enforcement officer or judge. 65 P.S. § 67.708(b)(6)(i)(C).
7. *Correspondence with a General Assembly Member* – correspondence between ANY person and a member of the General Assembly and records accompanying the correspondence which would identify a person that requests assistance or constituent services. 65 P.S. § 67.708(b)(29). (Note: This exception does not apply to correspondence between a member of the General Assembly and a lobbyist.)
8. *Personal Notes/Working Papers* – notes and working papers prepared by or for a TCC employee or member of the TCC governing body used solely for that employee's or member's own personal use, including telephone message slips, routing slips, and other materials that do not have an official purpose. 65 P.S. § 67.708(b)(12).

B. Business/Financial Matters (not constituting "financial records")

1. *Insurance Communications* – a record or information relating to a communication between the TCC and its insurance carrier, administrative service organization or risk management office. This exception does not include insurance contracts or other financial records related to the provision of insurance coverage. 65 P.S. § 67.708(b)(27).
2. *Loss of State or Federal Funds* – records of information that would result in the loss of federal or state funds by the TCC, another agency, or Commonwealth if disclosed. 65 P.S. § 67.708(b)(1)(i).
3. *Pre-Award Bid Information* – a proposal relating to the TCC's 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; includes financial information of a bidder or offeror requested in an invitation to bid or request for proposals to demonstrate the bidder's or offeror's economic capability. 65 P.S. § 67.708(b)(26).
4. *Trade Secret/Confidential Proprietary Information* – a record that constitutes or reveals the TCC's a third-party's trade secret or confidential proprietary information. 65 P.S. § 67.708(b)(11).

(Important Note: Whenever a record submitted by a third-party to the TCC contains a trade secret or confidential proprietary information, the third-party must submit a written statement signed by an official representative in order for this exception to apply. If this exception applies, the Open Records Officer shall notify the third-party when a request is made to inspect the record as outlined in Section V of these regulations.) *65 P.S. § 67.707(b).*

5. *Work papers underlying any financial audit in the TCC's possession. 65 P.S. § 67.102; 65 P.S. § 67.708(b)(17)(v).*

C. Investigative Materials

1. *Non-Criminal Investigations* – a record relating to a non-criminal investigation done by the TCC, including but not limited to:
 - a. Complaints submitted to the TCC.
 - b. Investigative materials, notes, correspondence, and reports.
 - c. A record that includes the identity of a confidential source, including individuals subject to the Pennsylvania Whistleblower Law, *43 P.S. § 1421, et. seq.*
 - d. A record that includes information made confidential by law.
 - e. Work papers underlying an audit.
 - f. A record that, if disclosed, would do any of the following:
 - (i) Reveal the institution, progress, or result of a TCC investigation, except for the imposition of a fine or civil penalty, the suspension, modification, or revocation of a license, permit, registration, certification, or similar authorization issued by the TCC; or an executed settlement agreement.
 - (ii) Deprive a person of the right to an impartial adjudication.
 - (iii) Constitute an unwarranted invasion of privacy.
 - (iv) Hinder the TCC's ability to secure an administrative or civil sanction.
 - (v) Endanger the life or physical safety of an individual.

65 P.S. § 67.708(b)(17)(i)-(vi).

2. *Criminal Investigations* – a record relating to or resulting in a criminal investigation, including but not limited to:
 - a. Complaints of potential criminal conduct other than a private criminal complaint.
 - b. Investigative materials, notes, correspondence, videos, and reports.
 - c. 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.
 - d. A record that includes information made confidential by law or court order.
 - e. Victim information, including any information that would jeopardize the safety of the victim.
 - f. A record that, if disclosed, would do any of the following:
 - (i) Reveal the institution, progress, or result of a criminal investigation, except the filing of criminal charges.
 - (ii) Deprive a person of the right to a fair trial or an impartial adjudication.
 - (iii) Impair the ability to locate a defendant or codefendant.
 - (iv) Hinder an agency's ability to secure an arrest, prosecution, or conviction.
 - (v) Endanger the life or physical safety of an individual.

(Important Note: The exception for criminal investigation records does not apply to information contained in a police blotter as defined in *18 Pa. C.S. § 9102, 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), Accident prevention investigation.*)

65 P.S. § 67.708(b)(16)(i)-(vi).

D. Employee Information

1. *Employee Records (records generally found in a personnel file)* – the following records relating to a TCC employee:
 - a. Letter of reference or recommendation concerning the character or qualifications of an identifiable employee.

- b. Performance rating, review, or evaluation.
- c. The results of a civil service or similar test administered by a Commonwealth agency, legislative agency, or judicial agency. However, an employee's passing score on a test administered by a local agency may be disclosed.
- d. Employment application of an individual who is not hired.
- e. Workplace support services program information.
- f. Written criticism of an employee.
- g. Grievance material, including documents related to discrimination or sexual harassment.
- h. Information regarding discipline, demotion, or discharge contained in a personnel file, except information that applies to the final action that results in demotion or discharge.
- i. An employee's academic transcript.

67 P.S. §67.708(b)(7)(i) – (ix).

- 2. *Medical Information* – a record of a TCC employee's medical, psychiatric, 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 for persons with disabilities, including vocational rehabilitation; enrollment in workers' compensation and unemployment compensation; and related information that would disclose individually identifiable health information. *65 P.S. § 67.708(b)(5).*
- 3. *Physical Harm/Personal Security; Personal Identification, Financial, and Tax Information; Property and Resource Security; Computer Systems; Minors; Law Enforcement Officers and Judges; Correspondence with a General Assembly Member; Personal Notes/Working Papers* – any of the information listed in Section III, A of these administrative regulations.

(Important Note: Nothing in these Employee Information exceptions allows the TCC to withhold the name, position, salary, actual compensation, or other payments or expenses, employment contract, employment-related contracts, or agreement, or length of service of, or for, a TCC employee.) *65 P.S. § 67.708(b)(6)(ii).*

65 P.S. § 67.708(b)(7)(i)-(ix).

E. Pre-Decisional Deliberations

1. *Draft documents* – a draft of a bill, resolution, regulation, statement of policy, management directive, ordinance, or amendment prepared by or for the TCC. **65 P.S. § 67.708(b)(9).**
2. *Draft Minutes* – draft minutes of any TCC governing body meeting until the next regularly-scheduled governing body meeting. **65 P.S. § 67.708(b)(21)(i).**
3. *Executive Session Minutes* – minutes of a TCC governing body executive session or any record of discussions held in a TCC governing body executive session. **65 P.S. § 67.708(b)(21)(ii).**
4. *Internal, pre-decisional deliberations* – records reflecting the internal, pre-decisional deliberations by and/or between the TCC and/or any other agency, its governing body members and/or employees, or members, employees, or officials of another agency, including without limitation pre-decisional deliberations and strategy 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 pre-decisional deliberations or strategic planning. (**Important Note:** This exception does not apply to records presented to a quorum of the TCC for deliberation at a public meeting, applications for state funds, or results of public opinion surveys, polls, focus groups, or marketing research.) **65 P.S. § 67.708(b)(10)(i)-(iv).**

F. Privileged Communications with Professionals

1. *Attorney-Work Product* – a record reflecting TCC consultations with its solicitor or other professional advisors regarding information or strategy in connection with litigation or issues on which identifiable complaints are expected to be filed. **65 P.S. § 67.305(a)(2).**
2. *Attorney-Client Privilege* – a record reflecting confidential communications between the TCC and the TCC's solicitor or special counsel providing a legal opinion or discussing a particular legal matter. **65 P.S. § 67.305(a)(2).**

G. Real Estate

1. *Real Estate Appraisals* – real estate appraisals, engineering or feasibility estimates, environmental reviews, audits, or evaluations made for or by the TCC relative to the following:

- a. Leasing, acquiring, or disposing of real property or an interest in real property.
- b. Purchase of public supplies or equipment included in the real estate transaction.
- c. Construction projects.

(Important Note: This exception no longer applies once the decision is made to proceed with the lease, acquisition, or disposal of real property or an interest in real property, the purchase of public supplies or equipment included in the real estate transaction, or a construction project.)

65 P.S. § 67.708(b)(22)(i) – (ii).

H. Exceptions Generally Not Applicable to the TCC

The Right-to-Know Law includes a number of exceptions which, in the absence of extraordinary circumstances, will not apply to the TCC's operations. These exceptions allow the TCC to withhold records and information maintained for national defense, national security, and law enforcement purposes; classified military records; federal risk and threat assessment analyses or documents; antiterrorism and counterterrorism documents; records and information concerning undercover law enforcement activities; records and information concerning social services; records and information concerning labor relations, collective bargaining, and related arbitration proceedings; records and information that disclose the identity of potential and actual charitable donors to the TCC; unpublished academic notes, manuscripts, articles, and transcripts; emergency response and dispatcher records; DNA and RNA records; autopsy records; library records and archived and/or rare materials; and records which identify the location of an archaeological site or endangered or threatened animal or plant species if the location is not already known to the public. *65 P.S. §§ 67.708(b)(2); (3)(i)-(ii); (6)(ii)-(iii); (8)(i)-(ii); (13) - (14); (15)(i)-(ii); (18)(i)-(ii); (19) - (20); (23) - (25); (28)(i)-(ii).*

Although highly unlikely, if the Open Records Officer suspects that one of these exceptions applies to a records request, the Officer should contact the TCC solicitor for clarification.

IV. Financial Records and Aggregated Data Exempt from Public Disclosure

If the Open Records Officer receives a request for a "financial record" or "aggregated data," **ONLY** the exceptions set forth in this Section shall be considered when responding to the request.

The terms "financial records" and "aggregated data" are defined in Section I of these administrative regulations.

A. Exceptions and Redactions for Financial Records

Financial records falling within the exceptions set forth below do not need to be disclosed in order to comply with the Right-to-Know Law. In certain instances, a financial record may be available for public inspection after any exempted information is redacted. In other instances, an entire financial record may be exempt from disclosure.

1. *Physical Harm/Personal Security; Personal Identification, Financial, and Tax Information; Property and Resource Security; and Computer Systems* – any of the information listed in Section III, A (1) – (4) of these administrative regulations. *65 P.S. §§ 67.708(b)(1)(ii); (3)(i) – (iii); (4); (6)(i)(A) – (B); 53 Pa.C.S.A. § 8437.*
2. *Loss of State or Federal Funds* – records of information that would result in the loss of federal or state funds by the TCC, another agency, or Commonwealth if disclosed. *65 P.S. § 67.708(b)(1)(i).*
3. *Non-Criminal Investigations* – any of the records and documents relevant to non-criminal investigations which include, but are not limited to, the records and documents listed in Section III, C1 (a)-(f) of these administrative regulations. *65 P.S. § 67.708(b)(17)(i)-(vi).*
4. *Criminal Investigations* – any of the records and documents relevant to criminal investigations which include, but are not limited to, the records documents listed in Section III, C2 (a)-(f) of these regulations. *65 P.S. § 67.708(b)(16)(i)-(vi).*
5. *Medical Information* – any record listed in Section III, D2 of these administrative regulations. *65 P.S. § 67.708(b)(5).*
6. *Law Enforcement Officers and Judges* – the home address of any law enforcement officer or judge. *65 P.S. § 67.708(b)(6)(i)(C). 65 P.S. § 67.708(c).*

B. Exceptions and Redactions for Aggregated Data

Aggregated data falling within the exceptions set forth below do not need to be disclosed in order to comply with the Right-to-Know Law. In certain instances, a collection of aggregated data may be available for public inspection after any exempted information is redacted. In other instances, an entire collection of aggregated data may be exempt from disclosure.

1. *Physical Harm/Personal Security; Personal Identification, Personal Financial, and Tax Information; Property and Resource Security; and Computer Systems* – any of the information listed in Sections III,

A (1), (3), and (4) of these administrative regulations. *65 P.S. §§ 67.708(b)(1)(ii); (3)(i) – (iii); (4).*

2. *Medical Information* – includes the records and information listed in Section III, D2 and referenced in Section IV, A5 of these administrative regulations. *65 P.S. § 67.708(b)(5).*
3. *Loss of State or Federal Funds* – records of information that would result in the loss of federal or state funds by the TCC, another agency, or Commonwealth if disclosed. *65 P.S. § 67.708(b)(1)(i).*

65 P.S. § 67.708(d).

V. Trade Secrets or Confidential Proprietary Information of a Third-party

If the Open Records Officer reasonably believes that a requested record contains a trade secret or confidential proprietary information of a third-party, the following procedures shall be used when responding to the request:

1. The Open Records Officer shall determine if a representative of the third-party provided the TCC with a written statement notifying the TCC that the record contains a trade secret or confidential proprietary information at the time the record was submitted;
2. If such written statement was submitted, the Open Records Officer shall notify the third-party within five (5) business days of receiving the request;
3. The third-party shall have five (5) business days from receipt of the notification by the Open Records Officer to provide input on the release of the record;
4. The Open Records Officer shall grant or deny the request for the record, compliance with these administrative regulations, within ten (10) days after providing notice to the third-party; and
5. The Open Records Officer shall notify the third-party of the regarding the request for the record.

65 P.S. § 67.707(b).

VI. Transcript of Administrative Proceedings

If the Open Records Officer receives a request for a transcript of an administrative proceeding, as that term is defined in Section I of these administrative regulations, the following procedures shall be used in responding to the request:

1. The Open Records Officer shall determine if the transcript of the administrative proceeding is exempt from public disclosure:
 - a. As a general rule, a transcript from a proceeding adjudicating the rights of a taxpayer or a TCC employee will be exempt from public disclosure – and the disclosure of such transcripts shall not be made without consulting the TCC solicitor; and
 - b. Transcripts of certain types of hearings are subject to public disclosure.
2. If a transcript is subject to public disclosure, the TCC shall either make its own copy of the transcript available for public disclosure, or forward the request to the court stenographer who originally transcribed the proceedings for transcription of a duplicate transcript if the TCC does not have a copy of the transcript.

65 P.S. § 67.707(c)(1) – (2).