Adopted 12/16/2024

BLAIR COUNTY CONSERVATION DISTRICT

OPEN RECORDS POLICY

pursuant to the
Right to Know Law
(Act 3 of 2008; 65 P.S. §67.101 *et seq.*)

INTRODUCTION:

This policy has been created to assist the public with requesting "public records" and the Blair County Conservation District Open Records Officer with complying with such requests. This policy in no way modifies, amends, rescinds or supersedes the record retention policy of the Blair County Conservation District (Local Agency) established pursuant to law, regulation, policy or other directive.

A. Consistent with statute. It is intended that this policy be consistent with the Right to Know Law, and therefore, anything contained in this policy appearing to be inconsistent or contrary to the Right to Know Law should be read so as to be consistent and in accordance with the Right to Know Law. (See 65 P.S. §§67.504(a); 67.1308)

B. Posting. This policy and the Resolution adopting this policy shall be posted prominently in the Local Agency's building along with the Fee Schedule Resolution; notice of the name, address and telephone number for the Open Records Officer; contact information for the Pennsylvania Office of Open Records; and copies of forms created by the Office of Open Records upon which to make a "public records" request. (See 65 P.S. §67.504(b))

C. Form of "public record"; availability. A "public record" shall be provided in the medium requested if the "public record" exists in that medium; otherwise, the "public record" will be produced in the medium in which it exists. When responding to a request for access, the Local Agency shall not be required to create a "public record" that does not currently exist or to compile, maintain, format or organize a "public record" in a manner in which the Local Agency does not currently compile, maintain, format or organize the "public record." "Public records" shall be available for access during normal business hours. Nothing in this policy shall be construed to require access to any computer either of the Local Agency or the employee of the Local Agency. (See 65 P.S. §§67.701; 67.705)

D. Response time period. The Local Agency will respond within five (5) business days; such response will be one of the following: (1) production of copies/permission to review; (2) a denial; or (3) a request for more time. Failure of the Local Agency to respond within five (5) business days shall be deemed a denial. (See 65 P.S. §67.901)

E. Fees. All applicable fees shall be paid in order to receive access to the "public record" requested as set forth hereinafter. (See 65 P.S. §67.901) Where copies of a "public record" are requested to be made by the Local Agency for the requestor and unless the estimated fees are anticipated to exceed $100.00, payment of the applicable fees shall be payable when the copies are available to be picked up by the requestor, or if to be mailed, prior to mailing of the copies.

Prior to granting a request for access, the Local Agency may require a requester to prepay an estimate of the fees authorized if the fees required to fulfill the request are expected to exceed $100.00. Except as otherwise provided by statute, no other fees may be imposed unless the Local Agency necessarily incurs costs for complying with the request, and such fees must be reasonable. No fee may be imposed for the Local Agency's review of a record to determine whether the record is a "public record" subject to access in accordance with this act.

(1) Postage. Fees for postage may not exceed the actual cost of mailing.

(2) Duplication. Fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, transmission by facsimile or other electronic means and other means of duplication shall be established and/or approved by the Office of Open Records. The fees must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities.

(3) Complex and extensive data sets, including geographic information systems and integrated property assessment lists. Fees for copying may be based on the reasonable market value of the same or closely related data sets; however, the preceding shall not apply to a request by an individual employed by or connected with a newspaper or magazine of general circulation, weekly publication, press association or radio or television station, for the purpose of obtaining information for publication or broadcast or a request by a nonprofit organization for the conduct of educational research. Nevertheless, such information shall still be subject to postage and duplication fees.

(4) Certification. An agency may impose reasonable fees for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.

(5) Conversion to paper. If a "public record" is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the "public record" to be duplicated in the more expensive medium.

(6) Enhanced electronic access. If the Local Agency offers enhanced electronic access to records in addition to making the records accessible for inspection and duplication by a requester as required by the Right to Know Law, the Local Agency may establish user fees specifically for the provision of the enhanced electronic access, but only to the extent that the enhanced electronic access is in addition to making the records accessible for inspection and duplication by a requester as required by the Right to Know Law. The user fees for enhanced electronic access may be a flat rate, a subscription fee for a period of time, a per-transaction fee, a fee based on the cumulative time of system access or any other reasonable method and any combination thereof. The user fees for enhanced electronic access must be reasonable, must be approved by the Office of Open Records and may not be established with the intent or effect of excluding persons from access to records or duplicates thereof or of creating profit for the Local Agency.

(See 65 P.S. §67.1307)

PUBLIC RECORDS OPEN FOR INSPECTION:

A record in the possession of the Local Agency shall be presumed to be a "public record" unless:

(1) the record is protected by a "privilege";
(2) the record is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree; or
(3) the record is EXEMPT under the Right to Know Law.

The burden of proving that a record of the Local Agency is exempt from public access shall be on the Local Agency receiving a request by a preponderance of the evidence. (See 65 P.S. §§67.305(a); 67.708(a))

REQUESTS:

Verbal requests for access to records may be answered by the Local Agency; however, if the requester wishes to pursue the relief and remedies provided for in the Right to Know Law, the request for access to records must be a written request. Anonymous requests will be denied by the Local Agency; a requestor must provide their name and contact information as part of their written request. (See 65 P.S. §67.702)

A written request for access to records may be submitted in person, by mail, by e-mail, or by facsimile. A written request containing the information set forth below must be addressed to the Local Agency Open Records Officer. Failure to submit a request for records to the Open Records Officer is not a valid Right to Know request. (See 65 P.S. §67.703)

A written request should identify or describe the records sought with sufficient specificity to enable the Local Agency to ascertain which records are being requested and shall include the name and address to which the Local Agency should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records unless otherwise required by law. (See 65 P.S. §67.703)

The Local Agency may make its records available through any publicly accessible electronic means. The Local Agency may respond to a request by notifying the requester that the record is available through publicly accessible electronic means or that the Local Agency will provide access to inspect the record electronically. However, if the requester is unwilling or unable to access the record electronically, the requester may, within 30 days following receipt of the agency notification, submit a written request to the Local Agency to have the record converted to paper. The Local Agency shall provide access to the record in printed form within five (5) days of the receipt of the written request for conversion to paper subject to all proper fees for duplication. (See 65 P.S. §67.704)

OPEN RECORDS OFFICER:

The Open Records Officer shall receive requests submitted to the Local Agency under the Right to Know Law, direct requests to other appropriate persons within the Local Agency or to appropriate persons in another agency, track the Local Agency's progress in responding to requests and issue interim and final responses.

Upon receiving a request for a "public record," the Open Records Officer shall do all of the following:

(1) Note the date of receipt on the written request.

(2) Compute the day on which the five-business day period will expire and make a notation of that date on the written request.

(3) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) of Act 3 (65 P.S. §67.1101(b)).

(See 65 P.S. §67.502(b))

THIRD-PARTY POSSESSION OF PUBLIC RECORDS:

A "public record" that is not in the possession of the Local Agency but is in the possession of a party with whom the Local Agency has contracted to perform a governmental function on behalf of the Local Agency, and which directly relates to the governmental function and is not exempt under the Right to Know Law, shall be considered a "public record" of the Local Agency. However, nothing shall be construed to require access to any other record of the party in possession of the "public record."

A request for a "public record" in possession of a party other than the Local Agency shall be submitted to the Open Records Officer of the Local Agency. Upon a determination that the record is subject to access under the Right to Know Law, the Open Records Officer shall assess the duplication fee established hereunder and upon

collection shall remit the fee to the party in possession of the "public record" if the party duplicated the "public record."

(See 65 P.S. §67.506(d))

REDACTION:

If the Local Agency determines that a "public record" contains information which is subject to access as well as information which is not subject to access, the Local Agency's response shall grant access to the information that is subject to access and deny access to the information that is not subject to access. If the information that is not subject to access is an integral part of the "public record" or "financial record" and cannot be separated, the Local Agency shall redact from the record the information that is not subject to access, and the response shall grant access to the information that is subject to access. The Local Agency may not deny access to the record if the information that is not subject to access is able to be redacted. Information which the Local Agency redacts in accordance with this subsection shall be deemed a denial. (See 65 P.S. §67.706)

RESPONSE TO REQUEST FOR EXTENSION OF TIME:

Upon receipt of a written request for access, the Open Records Officer for the Local Agency shall determine if one of the following applies:

(1) request requires redaction in accordance with Section 706 of the RTKL;
(2) the request for access requires the retrieval of a record stored in a remote location;
(3) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
(4) a legal review is necessary to determine whether the record is a record subject to access under the Right to Know Law;
(5) the requester has not complied with the agency's policies regarding access to records;
(6) the requester refuses to pay applicable fees authorized by the Right to know Law; or
(7) the extent or nature of the request precludes a response within the required time period.

Upon a determination that one of the factors listed above applies, the Open Records Officer shall send written notice to the requester within five (5) business days of receipt of the request for access. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, a reasonable date that a response is expected to be provided and an estimate of applicable fees owed when the record becomes available. If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days, the request for access shall be deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the Local Agency has not provided a response by that date.

(See 65 P.S. §67.902)

DENIAL OF REQUEST:

The Local Agency may not deny a requester access to a "public record" due to the intended use of the "public record" by the requester. Access may only be denied as provided for by law. (See 65 P.S. §67.302(b))

If the Local Agency's response is a denial of a written request for access, whether in whole or in part, the denial shall be issued in writing and shall include:

(1) A description of the record requested.
(2) The specific reasons for the denial, including a citation of supporting legal authority.
(3) The typed or printed name, title, business address, business telephone number and signature of the Open Records Officer on whose authority the denial is issued.
(4) Date of the response.
(5) The procedure to appeal the denial of access under this act.
(See 65 P.S. §67.903)

APPEAL OF DENIAL:

If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the mailing date of the Local Agency's response or within fifteen (15) business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a "public record" and shall address any grounds stated by the Local Agency for delaying or denying the request.

When an appeal is filed, the Office of Open Records shall assign an appeals officer to review the denial. Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the Local Agency within thirty (30) days of receipt of the appeal. If the appeals officer fails to issue a final determination within thirty (30) days, the appeal is deemed denied. Prior to issuing a final determination, a hearing may be conducted. The determination by the appeals officer shall be a final order. The appeals officer shall provide a written explanation of the reason for the decision to the requester and the Local Agency.

A person other than the Local Agency or requester with a direct interest in the record subject to an appeal, within fifteen (15) days following receipt of actual knowledge of the appeal but no later than the date the appeals officer issues an order, may file a written request to provide information or to appear before the appeals officer or to file information in support of the requester's or agency's position. Copies of the written request shall be sent to the agency and the requester. The appeals officer may grant a request if:

(i) no hearing has been held;
(ii) the appeals officer has not yet issued its order; and
(iii) the appeals officer believes the information will be probative.

(See 65 P.S. §67.1101)

JUDICIAL REVIEW:

Within thirty (30) days of the mailing date of the final determination of the appeals officer relating to a decision of the Local Agency or of the date a request for access is deemed denied, a requester or the Local Agency may file a petition for review or other document as required by rules of court with the Blair County Court of Common Pleas. A petition for review shall stay the release of documents until a decision is issued. (See 65 P.S. §67.1302)

MISCELLANEOUS ISSUES:

Disruptive requests.

The Local Agency may deny a requester access to a "public record" if the requester has made repeated requests for that same and/or similar record and the repeated requests have placed an unreasonable burden on the Local Agency. A denial hereunder shall not restrict the ability to request a different "public record." (See 65 P.S. §67.506(a))

Disaster.

The Local Agency may deny a requester access when timely access is not possible due to fire, flood or other disaster. To the extent possible, the contents of a "public record" shall be made accessible to a requester even when the record is physically unavailable. (See 65 P.S. §67.506(b))

Certified copies.

If the Local Agency's response grants a request for access, the Local Agency shall, upon request, provide the requester with a certified copy of the record if the requester pays the applicable fees. (See 65 P.S. §67.904)

Record discard.

If the Local Agency response to a requester states that copies of the requested records are available for delivery at the office of the Local Agency and the requester fails to retrieve the records within 60 days of the Local Agency's response, the Local Agency may dispose of any copies which have not been retrieved and retain any fees paid to date. (See 65 P.S. §67.905)

RESOLUTION 2024-1

WHEREAS, Pennsylvania enacted Act 3 of 2008 effective January 1, 2009, which is the Right to Know Law;

WHEREAS, in furtherance of the Blair County Conservation District's obligations to carry out the Right to Know Law a policy has been developed.

BE IT RESOLVED that the Open Records Policy attached hereto is hereby adopted effective immediately.

BLAIR COUNTY CONSERVATION DISTRICT

ATTEST:

Secretary

By: Chairman

DATE: 12/16/2024

RESOLUTION 2024-2

WHEREAS, the Blair County Conservation District has adopted an Open Records Policy pursuant to the Right to Know Law (Act 3 of 2008);

WHEREAS, the Policy requires the Blair County Conservation District to adopt a Fee Schedule Resolution and post the same for the public.

BE IT FURTHER RESOLVED that the Blair County Conservation District adopts the following schedule of fees with respect to public records requests:

Black & White Copies (first 1,000)	$0.25 per copy
Black & White Copies (beyond 1,000)	$0.20 per copy
Color Copies	$0.50 per copy
Specialized Documents	Up to actual cost
CD / DVD	Up to actual cost, not to exceed $1.00 per disc
Flash Drive	Up to actual cost
Facsimile	Up to actual cost
Other Media	Up to actual cost
Conversion to Paper	$0.25 per page
Postage	actual cost of USPS first-class postage
Certification	$5.00 per record

BLAIR COUNTY CONSERVATION DISTRICT

ATTEST:

Secretary

By: James E Biddle
Chairman

DATE: 12/16/2024

RESOLUTION 2024 - 3

WHEREAS, the Blair County Conservation District has adopted an Open Records Policy pursuant to the Right to Know Law (Act 3 of 2008);

WHEREAS, the Open Records Policy and Right to Know Law require the municipality to appoint an Open Records Officer;

BE IT RESOLVED that the Blair County Conservation District appoints the following person as the Local Agency Open Records Officer:

Name: Donna J. Fisher

Title: District Manager & Open Records Officer

Address: 1407 Blair Street
Hollidaysburg, PA 16648

Telephone: 814-696-0877, Ext. 5

Facsimile: 814-696-9981

Email: bcd@blairconservationdistrict.org

Alternate ORO: Bonnie L. Young, Administrative Coordinator

BLAIR COUNTY CONSERVATION DISTRICT

ATTEST:

Secretary

By: James E Biddle
Chairman

DATE: 12/16/2024