

ADMINISTRATIVE CODE OF 1929 - ACCESS TO PUBLIC RECORDS DURING  
DISASTER DECLARATION

Act of Jul. 27, 2020, P.L. 702, No. 77

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Session of 2020

No. 2020-77

HB 2463

AN ACT

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; providing for judicial administration; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," providing for access to public records during disaster declaration.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is amended by adding an article to read:

**ARTICLE XXVIII-H**

**ACCESS TO PUBLIC RECORDS DURING DISASTER DECLARATION**

**Section 2801-H. Definitions.**

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commonwealth agency." Any agency or commission of the executive branch under the policy, direction or supervision of the Governor.

"Disaster declaration." A declaration by the Governor of disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor).

"Office." The Office of Open Records established under section 1310 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

"Record." Information, regardless of physical form or characteristics, that documents a transaction or activity of a Commonwealth agency and is created, received or retained in accordance with the laws of this Commonwealth or in connection with a transaction, business or activity of the agency. The term 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.

"Request for records." A request made under the Right-to-Know Law for records held by a Commonwealth agency.

"Requester." An individual or entity making a request for records.

Section 2802-H. Request for records.

(a) Prohibition on Governor.--The Governor may not direct a Commonwealth agency to ignore requests for records or suspend the Commonwealth agency's process to answer a request for records during a disaster declaration.

(b) Prohibition on Commonwealth agencies.--A Commonwealth agency may not suspend the process by which a Commonwealth agency responds to a request for records during a disaster declaration, except as otherwise provided under section 902(a) of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. If an extension of time is determined to be necessary, the Commonwealth agency shall comply with section 902(b) of the Right-to-Know Law.

Section 2803-H. Guidelines for Commonwealth agencies.

No later than five days after the effective date of this section, the office shall publish guidelines for a Commonwealth agency specifying how the Commonwealth agency is required to respond to a request for records made during a disaster declaration when the Governor has ordered the Commonwealth agency to close the Commonwealth agency's physical location. A Commonwealth agency shall adhere to the guidelines published by the office under this section.

Section 2804-H. Failure to respond to requests for records.

(a) Petitions.--If a Commonwealth agency fails to respond to a request for records during a disaster declaration, a requester may bring a petition before the Commonwealth Court to compel the Commonwealth agency to respond to the request for records.

(b) Appeals.--If a Commonwealth agency denies a request for records after being ordered to respond by the Commonwealth Court under subsection (a), a requester may conduct the request for records in accordance with Chapter 11 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(c) Denials.--

(1) Except as provided under paragraph (2), a Commonwealth agency may only deny a request for records during a disaster declaration for reasons authorized under the Right-to-Know Law.

(2) A Commonwealth agency may not deny a request for records during a disaster declaration for a reason specified under section 506(b)(1)(i) of the Right-to-Know Law.

Section 2805-H. Public records under Right-to-Know Law.

Subject to section 708 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, the following information shall be considered a public record under the Right-to-Know Law during a disaster declaration:

(1) Data used by a Commonwealth agency for any rules, policies or actions taken by the Commonwealth agency in relation to a disaster declaration.

(2) The process by which a Commonwealth agency determines how the Commonwealth agency will collect the data used by the Commonwealth agency for any rules, policies or actions taken by the Commonwealth agency in relation to a disaster declaration.

(3) Any quantitative or predictive models based on the data collected by a Commonwealth agency which are then used

by the Commonwealth agency for any rules, policies or actions taken by the Commonwealth agency in relation to a disaster declaration.

**Section 2806-H. Applicability.**

This article shall apply as follows:

(1) For the duration of any disaster declaration or any renewal of a disaster declaration until the disaster declaration expires or is terminated by executive order, proclamation or operation of law.

(2) In addition to the provisions of paragraph (1), for the disaster declaration issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), all requests for records received by a Commonwealth agency since March 6, 2020, shall be treated as if the request for the record had been received by the agency on the effective date of this section.

Section 2. This act shall take effect immediately.

APPROVED--The 27th day of July, A.D. 2020.