

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 1**Session of  
2007

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EICHELBERGER, MARCH 29, 2007

AS AMENDED ON SECOND CONSIDERATION, NOVEMBER 19, 2007

## AN ACT

1 Providing for access to public information, for a designated  
2 open-records officer in each Commonwealth agency, local  
3 agency, judicial agency and legislative agency, for  
4 procedure, for appeal of agency determination, for judicial  
5 review and for an Open Records Clearinghouse; imposing  
6 penalties; providing for reporting by State-related  
7 institutions; requiring the posting of certain State contract  
8 information on the Internet; and making related repeals.

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

22 CHAPTER 1

23 PRELIMINARY PROVISIONS

24 Section 101. Short title.

25 This act shall be known and may be cited as the Right-to-Know  
26 Law.

27 Section 102. Definitions.

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

1 "ADMINISTRATIVE PROCEEDING." A PROCEEDING BY AN AGENCY THE  
2 OUTCOME OF WHICH IS REQUIRED TO BE BASED ON A RECORD OR  
3 DOCUMENTATION PRESCRIBED BY LAW OR IN WHICH A STATUTE OR  
4 REGULATION IS PARTICULARIZED IN APPLICATION TO INDIVIDUALS. THE  
5 TERM INCLUDES AN APPEAL.

6 "Agency." A Commonwealth agency, a local agency, a judicial  
7 agency or a legislative agency.

8 "Aggregated data." A tabulation of data which relate to  
9 broad classes, groups or categories so that it is not possible  
10 to distinguish the properties of individuals within those  
11 classes, groups or categories.

12 "Appeals officer." As follows:

13 (1) For a Commonwealth agency or a local agency, the  
14 appeals officer designated under section 503(a).

15 (2) For a judicial agency, the individual designated  
16 under section 503(b).

17 (3) For a legislative agency, the individual designated  
18 under section 503(c).

19 "Clearinghouse." The Open Records Clearinghouse established  
20 pursuant to the provisions of section 1310.

21 "Commonwealth agency." Any of the following:

22 (1) Any office, department, authority, board, multistate  
23 agency or commission of the executive branch; an independent  
24 agency; and a State-affiliated entity. The term includes:

25 (i) The Governor's Office.

26 (ii) The Office of Attorney General, the Department  
27 of the Auditor General and the Treasury Department.

28 (iii) A statutorily established organization which  
29 performs or is intended to perform an essential  
30 governmental function.

1           (2) The term does not include a judicial or legislative  
2 agency.

3           "Confidential proprietary information." Commercial or  
4 financial information received by an agency:

5           (1) which is privileged or confidential; and

6           (2) the disclosure of which would cause substantial harm  
7 to the competitive position of the person that submitted the  
8 information.

9           "Financial record." Includes:

10           (1) Any account, voucher or contract dealing with:

11           (i) the receipt or disbursement of funds by an  
12 agency; or

13           (ii) an agency's acquisition, use or disposal of  
14 services, supplies, materials, equipment or property.

15           (2) The salary or other payments or expenses paid to an  
16 officer or employee of an agency, including the name and  
17 title of the officer or employee.

18           (3) Results of a financial audit.

19           "Homeland security." Governmental actions designed to  
20 prevent, detect, respond to and recover from acts of terrorism,  
21 major disasters and other emergencies, whether natural or  
22 manmade. The term includes activities relating to the following:

23           (1) emergency preparedness and response, including  
24 preparedness and response activities by volunteer medical,  
25 police, emergency management, hazardous materials and fire  
26 personnel;

27           (2) intelligence activities;

28           (3) critical infrastructure protection;

29           (4) border security;

30           (5) ground, aviation and maritime transportation

1 security;

2 (6) biodefense;

3 (7) detection of nuclear and radiological materials; and

4 (8) research on next-generation securities technologies.

5 "Independent agency." Any board, commission or other agency  
6 or officer of the Commonwealth, that is not subject to the  
7 policy supervision and control of the Governor. The term does  
8 not include a legislative or judicial agency.

9 "Judicial agency." A court of the Commonwealth or any other  
10 entity or office of the unified judicial system.

11 "Legislative agency." Any of the following:

12 (1) The Senate.

13 (2) The House of Representatives.

14 (3) The Capitol Preservation Committee.

15 (4) The Center for Rural Pennsylvania.

16 (5) The Joint Legislative Air and Water Pollution  
17 Control and Conservation Committee.

18 (6) The Joint State Government Commission.

19 (7) The Legislative Budget and Finance Committee.

20 (8) The Legislative Data Processing Committee.

21 (9) The Independent Regulatory Review Commission.

22 (10) The Legislative Reference Bureau.

23 (11) The Local Government Commission.

24 (12) The Pennsylvania Commission on Sentencing.

25 "Legislative record." Includes the following information  
26 relating to a legislative agency or standing committee:

27 (1) A financial record.

28 (2) A bill or resolution that has been introduced and  
29 amendments offered thereto in committee or in legislative  
30 session, including resolutions to adopt or amend the rules of

1 a chamber.

2 (3) Fiscal notes.

3 (4) A cosponsorship memorandum.

4 (5) The journal of a chamber.

5 (6) The minutes of a public committee meeting.

6 (7) The transcript of a public hearing when available.

7 (8) The record of attendance of members at a committee  
8 meeting.

9 (9) The rules of a chamber.

10 (10) A record of all recorded votes taken in a committee  
11 meeting or legislative session.

12 (11) Any administrative staff manuals or written  
13 policies.

14 (12) An audit prepared pursuant to the act of June 30,  
15 1970 (P.L.442, No.151) entitled, "An act implementing the  
16 provisions of Article VIII, section 10 of the Constitution of  
17 Pennsylvania, by designating the Commonwealth officers who  
18 shall be charged with the function of auditing the financial  
19 transactions after the occurrence thereof of the Legislative  
20 and Judicial branches of the government of the Commonwealth,  
21 establishing a Legislative Audit Advisory Commission, and  
22 imposing certain powers and duties on such commission."

23 (13) Final or annual reports required by law to be  
24 submitted to the General Assembly.

25 (14) Legislative Budget and Finance Committee reports.

26 (15) Marked calendars.

27 "Local agency." Any of the following:

28 (1) Any political subdivision, intermediate unit,  
29 charter school or public trade or vocational school.

30 (2) Any local, intergovernmental, regional or municipal

1 agency, authority, council, board, commission or similar  
2 governmental entity.

3 "Personal financial information." An individual's personal  
4 credit, charge or debit card information; bank account  
5 information; bank, credit or financial statements; account or  
6 PIN numbers and other information relating to an individual's  
7 personal finances.

8 "Privilege." The attorney-work product doctrine, the  
9 attorney-client privilege, the doctor-patient privilege or other  
10 privilege recognized by a court interpreting the laws of this  
11 Commonwealth.

12 "Public record." A record of a Commonwealth or local agency  
13 that:

14 (1) is not exempt under section 708;

15 (2) is not exempt from being disclosed under any other  
16 Federal or State law or regulation or judicial order or  
17 decree; or

18 (3) is not protected by a privilege.

19 "Record." Information, regardless of physical form or  
20 characteristics, that documents a transaction or activity of an  
21 agency and that is created, received or retained pursuant to law  
22 or in connection with a transaction, business or activity of the  
23 agency. The term includes a document, paper, letter, map, book,  
24 tape, photograph, film or sound recording, information stored or  
25 maintained electronically and a data-processed or image-  
26 processed document. The term includes a financial record, a  
27 legislative record and a public record.

28 "Requester." A person that is a resident of the United  
29 States and requests a record pursuant to this act. The term  
30 includes a political subdivision.



1 "Response." Access to a record or an agency's written notice  
2 granting, denying or partially granting and partially denying  
3 access to a record.

4 "Social services." Cash assistance and other welfare  
5 benefits, medical, mental and other health care services, drug  
6 and alcohol treatment, adoption services, vocational and  
7 occupational training, education services, counseling services,  
8 workers' compensation services and unemployment compensation  
9 services, foster care services and services for victims of  
10 crimes.

11 "State-affiliated entity." A Commonwealth authority or  
12 Commonwealth entity. The term includes the Pennsylvania Higher  
13 Education Assistance Agency, the Pennsylvania Housing Finance  
14 Agency, the Pennsylvania Municipal Retirement Board, the State  
15 System of Higher Education, a community college, the  
16 Pennsylvania Turnpike Commission, the Pennsylvania Public  
17 Utility Commission, the Pennsylvania Infrastructure Investment  
18 Authority, the State Public School Building Authority, the  
19 Pennsylvania Interscholastic Athletic Association and the  
20 Pennsylvania Educational Facilities Authority. The term does not  
21 include a State-related institution.

22 "Terrorist act." A violent or life-threatening act that  
23 violates the criminal laws of the United States or any state and  
24 appears to be intended to:

- 25 (1) intimidate or coerce a civilian population;
- 26 (2) influence the policy of a government; or
- 27 (3) affect the conduct of a government by mass  
28 destruction, assassination or kidnapping.

29 "Trade secret." Information, including a formula, drawing,  
30 pattern, compilation, including a customer list, program,

1 device, method, technique or process that:

2 (1) derives independent economic value, actual or  
3 potential, from not being generally known to and not being  
4 readily ascertainable by proper means by other persons who  
5 can obtain economic value from its disclosure or use; and

6 (2) is the subject of efforts that are reasonable under  
7 the circumstances to maintain its secrecy.

8 The term includes data processing software obtained by an agency  
9 under a licensing agreement prohibiting disclosure.

10 CHAPTER 3  
11 REQUIREMENTS AND PROHIBITIONS

12 Section 301. Commonwealth agencies.

13 (a) Requirement.--A Commonwealth agency shall provide public  
14 records in accordance with this act.

15 (b) Prohibition.--A Commonwealth agency may not deny a  
16 requester access to a public record due to the intended use of  
17 the public record by the requester.

18 Section 302. Local agencies.

19 (a) Requirement.--A local agency shall provide public  
20 records in accordance with this act.

21 (b) Prohibition.--A local agency may not deny a requester  
22 access to a public record due to the intended use of the public  
23 record by the requester.

24 Section 303. Legislative agencies.

25 (a) Requirement.--A legislative agency shall provide  
26 legislative records in accordance with this act.

27 (b) Prohibition.--A legislative agency may not deny a  
28 requester access to a legislative record due to the intended use  
29 of the legislative record by the requester.

30 Section 304. Judicial agencies.

1 (a) Requirement.--A judicial agency shall provide financial  
2 records in accordance with this act.

3 (b) Prohibition.--A judicial agency may not deny a requester  
4 access to a financial record due to the intended use of the  
5 financial record by the requester.

6 Section 305. Presumption.

7 A record in the possession of a Commonwealth agency or local  
8 agency shall be presumed to be a public record unless:

9 (1) the record is exempt under section 708;

10 (2) the record is protected by a privilege; or

11 (3) the record is exempt from disclosure under any other  
12 Federal or State law or regulation or judicial order or  
13 decree.

14 Section 306. Nature of document.

15 Nothing in this act shall supersede or modify the public or  
16 confidential nature of a record or document established in  
17 Federal or State statute or law, regulation or judicial order or  
18 decree.

19 CHAPTER 5

20 ACCESS

21 Section 501. Scope of chapter.

22 This chapter applies to all agencies.

23 Section 502. Open-records officer.

24 (a) Establishment.--

25 (1) An agency shall designate an official or employee to  
26 act as the open-records officer.

27 (2) For a legislative agency other than the Senate or  
28 the House of Representatives, the open-records officer  
29 designated by the Legislative Reference Bureau shall serve as  
30 the open-records officer.

1 (b) Functions.--

2 (1) The open-records officer shall receive requests  
3 submitted to the agency under this act, direct requests to  
4 other appropriate persons within the agency OR TO APPROPRIATE ←  
5 PERSONS IN ANOTHER AGENCY, track the agency's progress in  
6 responding to requests and issue interim and final responses  
7 under this act.

8 (2) Upon receiving a request for a public record,  
9 legislative record or financial record, the open-records  
10 officer shall do all of the following:

11 (i) Note the date of receipt on the written request.

12 (ii) Compute the day on which the five-day period  
13 under section 901 will expire and make a notation of that  
14 date on the written request.

15 (iii) Maintain an electronic or paper copy of a  
16 written request, including all documents submitted with  
17 the request until the request has been fulfilled. If the  
18 request is denied, the written request shall be  
19 maintained for 30 days or, if an appeal is filed, until a  
20 final determination is issued under section 1101(b) or  
21 the appeal is deemed denied.

22 (iv) Create a file for the retention of the original  
23 request, a copy of the response, a record of written  
24 communications with the requester and a copy of other  
25 communications. THIS SUBPARAGRAPH SHALL ONLY APPLY TO ←  
26 COMMONWEALTH AGENCIES.

27 Section 503. Appeals officer.

28 (a) Commonwealth agencies and local agencies.--Except as  
29 provided in subsection (d), the clearinghouse established under  
30 section 1310 shall designate an appeals officer under section

1 1101(a)(2) for all:

2 (1) Commonwealth agencies; and

3 (2) local agencies.

4 (b) Judicial agencies.--A judicial agency shall designate an  
5 appeals officer to hear appeals under Chapter 11.

6 (c) Legislative agencies.--

7 (1) Except as set forth in paragraph (2), the  
8 Legislative Reference Bureau shall designate an appeals  
9 officer to hear appeals under Chapter 11 for all legislative  
10 agencies.

11 (2) Each of the following shall designate an appeals  
12 officer to hear appeals under Chapter 11:

13 (i) The Senate.

14 (ii) The House of Representatives.

15 (d) Law enforcement records and Statewide officials.--

16 (1) The Attorney General, State Treasurer and Auditor  
17 General shall each designate an appeals officer to hear  
18 appeals under Chapter 11.

19 (2) The district attorney of a county shall designate an  
20 appeals officer to hear appeals under Chapter 11 relating to  
21 access to criminal investigative records in possession of a  
22 local agency of that county. The appeals officer designated  
23 by the district attorney shall determine if the record  
24 requested is a criminal investigative record.

25 Section 504. Regulations and policies.

26 (a) Authority.--An agency may promulgate regulations, rules  
27 or policies necessary for the agency to implement this act. The  
28 clearinghouse may promulgate regulations relating to appeals  
29 involving a Commonwealth agency or local agency.

30 (b) Posting.--The following information shall be posted at

1 each agency and, if the agency maintains an Internet website, on  
2 the agency's Internet website:

3 (1) Contact information for the open-records officer.

4 (2) Contact information for the clearinghouse or other  
5 applicable appeals officer.

6 (3) A form which may be used to file a request.

7 (4) Rules, regulations, policies and procedures of the  
8 agency relating to this act.

9 Section 505. Uniform form.

10 (a) Commonwealth agencies.--The clearinghouse shall develop  
11 a uniform form which shall be accepted by all Commonwealth and  
12 local agencies in addition to any form used by the agency to  
13 file a request under this act. The uniform form shall be  
14 published in the Pennsylvania Bulletin and on the  
15 clearinghouse's Internet website.

16 (b) Judicial agencies.--A judicial agency may develop a form  
17 to request financial records or may use a form developed by the  
18 Administrative Office of Pennsylvania Courts or the  
19 clearinghouse.

20 (c) Legislative agencies.--A legislative agency may develop  
21 a form to request legislative records or may use the form  
22 developed by the clearinghouse.

23 Section 506. Requests.

24 (a) Disruptive requests.--

25 (1) An agency may deny a requester access to a record if  
26 the requester has made repeated requests for that same record  
27 which requests have placed an unreasonable burden on the  
28 agency.

29 (2) A denial under this subsection shall not restrict  
30 the ability to request a different record.

1 (b) Disaster or potential damage.--

2 (1) An agency may deny a requester access:

3 (i) when timely access is not possible due to fire,  
4 flood or other disaster; or

5 (ii) to historical, ancient or rare documents,  
6 records, archives and manuscripts when access may, in the  
7 professional judgment of the curator or custodian of  
8 records, cause physical damage or irreparable harm to the  
9 record.

10 (2) To the extent possible, the contents of a record  
11 under this subsection shall be made accessible to a requester  
12 even when the record is physically unavailable.

13 (c) Agency discretion.--An agency may exercise its  
14 discretion to make any otherwise exempt record accessible for  
15 inspection and copying under this chapter, if all of the  
16 following apply:

17 (1) Disclosure of the record is not prohibited under any  
18 of the following:

19 (i) Federal or State law or regulation.

20 (ii) Judicial order or decree.

21 (2) The record is not protected by a privilege.

22 (3) The agency head determines that the public interest  
23 favoring access outweighs any individual, agency or public  
24 interest that may favor restriction of access.

25 (d) Agency possession.--

26 (1) A public record that is not in the possession of an  
27 agency but is in the possession of a party with whom the  
28 agency has contracted to perform a governmental function for  
29 the agency, and which directly relates to the governmental  
30 function and is not exempt under section 305, shall be

1 considered a public record of the agency for purposes of this  
2 act.

3 (2) Nothing in this act shall be construed to require  
4 access to any other PUBLIC record of the party in possession ←  
5 of the record.

6 (3) A request for a PUBLIC record in possession of a ←  
7 party other than the agency shall be submitted to the open  
8 records officer of the agency. The open records officer shall  
9 assess the duplication fee established under section 1307(b)  
10 and remit the fee to the party in possession of the record if  
11 the party duplicated the record.

12 Section 507. Retention of records.

13 Nothing in this act shall be construed to modify, rescind or  
14 supersede any record retention disposition schedule of an agency  
15 established pursuant to law, regulation, policy or other  
16 directive.

17 CHAPTER 7

18 PROCEDURE

19 Section 701. Access to public records.

20 (a) General rule.--Unless otherwise provided by law, a  
21 public record, legislative record or financial record shall be  
22 accessible for inspection and duplication in accordance with  
23 this act. A record shall be provided to a requester in the  
24 medium requested if the public record exists in that medium;  
25 otherwise, it shall be provided in the medium in which it  
26 exists. Public records, legislative records or financial records  
27 shall be available for access during the regular business hours  
28 of an agency.

29 (b) Construction.--Nothing in this act shall be construed to  
30 require access to the computer of an agency or individual



1 employee of an agency.

2 Section 702. Requests.

3 Agencies may fulfill informal verbal, written or anonymous  
4 verbal or written requests for access to records under this act.  
5 In the event that the requester wishes to pursue the relief and  
6 remedies provided for in this act, the requester must initiate  
7 such relief with a written request.

8 Section 703. Written requests.

9 A written request for access to records may be submitted in  
10 person, by mail, by e-mail, by facsimile or, to the extent  
11 provided by agency rules, any other electronic means. A written  
12 request shall be addressed to the agency head or open-records  
13 officer designated in section 502. A written request should  
14 identify or describe the records sought with sufficient  
15 specificity to enable the agency to ascertain which records are  
16 being requested and shall include the name and address to which  
17 the agency should address its response. A written request need  
18 not include any explanation of the requester's reason for  
19 requesting or intended use of the records.

20 Section 704. Electronic access.

21 (a) General rule.--In addition to the requirements of  
22 section 701, an agency may make its records available through  
23 any publicly accessible electronic means.

24 (b) Response.--

25 (1) In addition to the requirements of section 701, an  
26 agency may respond to a request by notifying the requester  
27 that the record is available through publicly accessible  
28 electronic means or that the agency will provide access to  
29 inspect the record electronically.

30 (2) If the requester is unwilling or unable to use the

1 electronic access, the requester may submit a written request  
2 to the agency, within 30 days following receipt of the agency  
3 notification, to have the record converted to paper. The  
4 agency shall provide the record in printed form within five  
5 days of the receipt of the written request for conversion to  
6 paper.

7 Section 705. Creation of record.

8 When responding to a request for access, an agency shall not  
9 be required to create a record which does not currently exist or  
10 to compile, maintain, format or organize a record in a manner in  
11 which the agency does not currently compile, maintain, format or  
12 organize the record.

13 Section 706. Redaction.

14 If an agency determines that a public record, legislative  
15 record or financial record contains information which is subject  
16 to access as well as information which is not subject to access  
17 under section 305 or 708, the agency's response shall grant  
18 access to the information which is subject to access and deny  
19 access to the information which is not subject to access. If the  
20 information which is not subject to access is an integral part  
21 of the public record, legislative record or financial record and  
22 cannot be separated, the agency shall redact from the record the  
23 information which is not subject to access, and the response  
24 shall grant access to the information which is subject to  
25 access. The agency may not deny access to the record if the  
26 information which is not subject to access is able to be  
27 redacted. Information which an agency redacts in accordance with  
28 this subsection shall be deemed a denial under Chapter 9.

29 Section 707. Production of certain records.

30 (a) General rule.--If, in response to a request, an agency

1 produces a record that is not a public record, legislative  
2 record or financial record, the agency shall notify any third  
3 party that provided the record to the agency, the person that is  
4 the subject of the record and the requester.

5 (b) Requests for trade secrets.--An agency shall notify a  
6 third party of a request for a record if the third party  
7 provided the record and included a written statement signed by a  
8 representative of the third party that the record contains a  
9 trade secret or confidential proprietary information.

10 Notification shall be provided within five business days of  
11 receipt of the request for the record. The third party shall  
12 have five business days from receipt of notification from the  
13 agency to provide input on the release of the record. The agency  
14 shall deny the request for the record or release the record  
15 within ten business days of the provision of notice to the third  
16 party and shall notify the third party of the decision.

17 (C) TRANSCRIPTS.--

←

18 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), A TRANSCRIPT  
19 OF AN ADMINISTRATIVE PROCEEDING SHALL NOT BECOME A PUBLIC  
20 RECORD UNTIL THE FINAL ADJUDICATION.

21 (2) TRANSCRIPTS SHALL BE PROVIDED TO PARTIES AND THEIR  
22 ATTORNEYS PRIOR TO FINAL ADJUDICATION BY THE AGENCY  
23 STENOGRAPHER OR A COURT REPORTER, IN ACCORDANCE WITH AGENCY  
24 PROCEDURE OR AN APPLICABLE CONTRACT.

25 Section 708. Exceptions for public records.

26 (a) Burden of proof.--The burden of proving that a public  
27 record is exempt from public access shall be on the Commonwealth  
28 or local agency receiving a request by a preponderance of the  
29 evidence.

30 (b) Exceptions.--In the case of a public record, unless

1 disclosure is otherwise required by law, the following are  
2 exempt from access by a requester under this act:

3 (1) A record the disclosure of which:

4 (i) would result in the loss of Federal or State  
5 funds by an agency or the Commonwealth; or

6 (ii) would be reasonably likely to result in a  
7 substantial and demonstrable risk of physical harm to an  
8 individual.

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

16 (3) A record, the disclosure of which creates a  
17 reasonable likelihood of endangering the life, safety or the  
18 physical security of a building, public utility, resource,  
19 infrastructure, facility or information storage system, which  
20 may include:

21 (i) documents or data relating to computer hardware,  
22 source files, software and system networks that could  
23 jeopardize computer security by exposing a vulnerability  
24 in preventing, protecting against, mitigating or  
25 responding to a terrorist act;

26 (ii) lists of infrastructure, resources and  
27 significant special events, including those defined by  
28 the Federal Government in the National Infrastructure  
29 Protections, which are deemed critical due to their  
30 nature and which result from risk analysis; threat

1 assessments; consequences assessments; antiterrorism  
2 protective measures and plans; counterterrorism measures  
3 and plans; and security and response needs assessments;  
4 and

5 (iii) building plans or infrastructure records that  
6 expose or create vulnerability through disclosure of the  
7 location, configuration or security of critical systems,  
8 including public utility systems, structural elements,  
9 technology, communication, electrical, fire suppression,  
10 ventilation, water, wastewater, sewage and gas systems.

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

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

24 (6) (i) The following personal identification  
25 information:

26 (A) A record containing all or part of an  
27 individual's Social Security number; driver's license  
28 number; personal financial information of an  
29 individual; home, cellular or personal telephone  
30 number; personal e-mail address; employee number;

1 other personal identification number.

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

4 (ii) Nothing in this paragraph shall preclude the  
5 release of the name, position, salary, actual  
6 compensation or other payments or expenses, employment  
7 contract or agreement and length of service of a public  
8 official or an agency employee.

9 (iii) An agency may redact the name or other  
10 identifying information relating to an individual  
11 performing an undercover or covert law enforcement  
12 activity from a record.

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

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

21 (ii) A performance rating or review.

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

30 (iv) The employment application of an individual who

1 is not hired by the agency.

2 (v) Workplace support services program information.

3 (vi) Written criticisms of an employee.

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

6 (viii) (A) Information regarding discipline,  
7 demotion or discharge contained in a personnel file.

8 (B) This subparagraph shall not apply to the  
9 final action of an agency that results in demotion or  
10 discharge.

11 (8) (i) A record pertaining to strategy or negotiations  
12 relating to labor relations or collective bargaining or  
13 arbitration award.

14 (ii) This paragraph does not apply to any final or  
15 executed contract or agreement or arbitration award  
16 between the parties.

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

20 (10) (i) A record that reflects:

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

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

4 (ii) This paragraph applies to:

5 (A) The Governor's Office, the head of a  
6 Commonwealth agency and the staff of the Governor or  
7 agency.

8 (B) The chief executive officer or governing  
9 body of a local agency, or a member or staff of the  
10 local agency prior to the presentation of the  
11 decision, policy, proposal or course of action to a  
12 quorum of the governing body.

13 (iii) This paragraph does not apply to a written  
14 application or other document used to request  
15 Commonwealth funds.

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

18 (12) Notes and working papers prepared by or for a  
19 public official or agency employee used solely for that  
20 official's or employee's own personal use, including  
21 telephone message slips, routing slips and other materials  
22 that do not have an official purpose.

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



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

7           (15) Examination questions, scoring keys or answers to  
8 an examination.

9           (16) A record of an agency relating to or resulting in a  
10 criminal investigation, including:

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

13           (ii) Investigative materials, notes, correspondence  
14 and reports.

15           (iii) A record that includes the identity of a  
16 confidential source or the identity of a suspect who has  
17 not been charged with an offense to whom confidentiality  
18 has been promised.

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

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

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

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

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

30           (C) Impair the ability to locate a defendant or

1 codefendant.

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

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

6 (17) A record of an agency relating to a noncriminal  
7 investigation, including:

8 (i) Complaints submitted to an agency.

9 (ii) Investigative materials, notes, correspondence  
10 and reports.

11 (iii) A record that includes the identity of a  
12 confidential source, including individuals subject to the  
13 act of December 12, 1986 (P.L.1559, No.169), known as the  
14 Whistleblower Law.

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

17 (v) Work papers underlying an audit.

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

20 (A) Reveal the institution, progress or result  
21 of an agency investigation, except the imposition of  
22 a fine or civil penalty or the suspension,  
23 modification or revocation of a license, permit,  
24 registration, certification or similar authorization  
25 issued by an agency.

26 (B) Deprive a person of the right to an  
27 impartial adjudication.

28 (C) Constitute an unwarranted invasion of  
29 privacy.

30 (D) Hinder an agency's ability to secure an

1 administrative or civil sanction.

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

4 (18) 911 recordings.

5 (19) DNA records.

6 (20) An autopsy record of a coroner or medical examiner  
7 and any audiotape of a postmortem examination or autopsy, or  
8 a copy, reproduction or facsimile of a photograph, negative  
9 or print, including a photograph or videotape of the body or  
10 any portion of the body of a deceased person at the scene of  
11 death or in the course of a postmortem examination or autopsy  
12 taken or made by or caused to be taken or made by the coroner  
13 or medical examiner. This exception shall not limit the  
14 reporting of the name of the deceased individual, the cause  
15 of death and whether the death was caused by criminal  
16 activity or criminal negligence in accordance with section  
17 1251 of the act of August 9, 1955 (P.L.323, No.130), known as  
18 The County Code.

19 (21) Minutes of an executive session and any record of  
20 discussions held in executive session.

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

25 (A) The leasing, acquiring or disposing of real  
26 property.

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

29 (C) Construction projects.

30 (ii) This paragraph does not apply once the decision

1 is made to proceed with the lease, acquisition or  
2 disposal of real property or the purchase of public  
3 supply or construction project.

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

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

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

13 (26) A proposal pertaining to agency procurement or  
14 disposal of supplies, services or construction prior to the  
15 award of the contract or prior to the opening and rejection  
16 of all bids; financial information of a bidder or offeror  
17 requested in an invitation for bid or request for proposals  
18 to demonstrate the bidder's or offeror's economic capability;  
19 or the identity of members, notes and other records of agency  
20 proposal evaluation committees established under 62 Pa.C.S. §  
21 513 (relating to competitive sealed proposals).

22 (27) A record or information relating to a communication  
23 between an agency and its insurance carrier, administrative  
24 service organization or risk management office. This  
25 paragraph does not apply to a contract with an insurance  
26 carrier, administrative service organization or risk  
27 management office or to financial records relating to the  
28 provision of insurance.

29 (28) A record or information:

30 (i) identifying an individual who applies for or

1 receives social services; or

2 (ii) relating to the following:

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

5 (B) an individual's application to receive  
6 social services, including a record or information  
7 related to an agency decision to grant, deny, reduce  
8 or restrict benefits, including a quasi-judicial  
9 decision of the agency and the identity of a  
10 caregiver or others who provide services to the  
11 individual; or

12 (C) eligibility to receive social benefits,  
13 including the individual's income, assets, physical  
14 or mental health, age, disability, family  
15 circumstances or record of abuse.

16 (c) Financial records.--The exceptions set forth in  
17 subsection (b) shall not apply to financial records, except for  
18 financial records protected under subsection (b)(1), (2), (3) or  
19 (4), personal financial information or individual medical  
20 information under subsection (b)(5). An agency may redact that  
21 portion of a financial record which would disclose information  
22 protected by subsection (b)(6) or disclose the identity of a  
23 crime victim, confidential source or an individual performing an  
24 undercover or covert law enforcement activity under subsection  
25 (b)(16) or (17).

26 (d) Aggregated data.--The exceptions set forth in subsection  
27 (b) shall not apply to aggregated data, maintained or received  
28 by an agency, except for data protected under subsection (b)(1),  
29 (2), (3) or (4).

1 AGENCY RESPONSE

2 Section 901. General rule.

3 Upon receipt of a written request for access to a record, an  
4 agency shall make a good faith effort to determine if the record  
5 requested is a public record, legislative record or financial  
6 record and whether the agency has possession, custody or control  
7 of the identified record, and to respond as promptly as possible  
8 under the circumstances existing at the time of the request. The  
9 time for response shall not exceed five business days from the  
10 date the written request is received by the agency head or open-  
11 records officer for an agency. If the agency fails to send the  
12 response within five business days of receipt of the written  
13 request for access, the written request for access shall be  
14 deemed denied.

15 Section 902. Extension of time.

16 (a) Determination.--Upon receipt of a written request for  
17 access, the open-records officer for an agency shall determine  
18 if one of the following applies:

19 (1) the request for access requires redaction of a  
20 record in accordance with section 706;

21 (2) the request for access requires the retrieval of a  
22 record stored in a remote location;

23 (3) a timely response to the request for access cannot  
24 be accomplished due to bona fide and specified staffing  
25 limitations;

26 (4) a legal review is necessary to determine whether the  
27 record is a record subject to access under this act;

28 (5) the requester has not complied with the Commonwealth  
29 agency's policies regarding access to records;

30 (6) the requester refuses to pay applicable fees

1 authorized by this act; or

2 (7) the extent or nature of the request precludes a  
3 response within the required time period.

4 (b) Notice.--

5 (1) Upon a determination that one of the factors listed  
6 in subsection (a) applies, the open-records officer shall  
7 send written notice to the requester within five business  
8 days of receipt of the request for access under subsection  
9 (a).

10 (2) The notice shall include a statement notifying the  
11 requester that the request for access is being reviewed, the  
12 reason for the review and a reasonable date that a response  
13 is expected to be provided. If the date that a response is  
14 expected to be provided is in excess of 30 days, following  
15 the five business days allowed for in section 901, the  
16 request for access shall be deemed denied unless the  
17 requester has agreed in writing for an extension to the date  
18 specified in the notice.

19 (3) If the requester agrees to the extension, the  
20 request shall be deemed denied on the day following the date  
21 specified in the notice if the agency has not provided a  
22 response by that date.

23 Section 903. Denial.

24 If an agency's response is a denial of a written request for  
25 access, whether in whole or in part, a written response shall be  
26 issued and include:

27 (1) A description of the record requested.

28 (2) The specific reasons for the denial, including a  
29 citation of supporting legal authority.

30 (3) The typed or printed name, title, business address,

1 business telephone number and signature of the agency head or  
2 open-records officer on whose authority the denial is issued.

3 (4) Date of the response.

4 (5) The procedure to appeal the denial of access under  
5 this act.

6 Section 904. Certified copies.

7 If an agency's response grants a request for access, the  
8 agency shall, upon request, provide the requester with a  
9 certified copy of the record if the requester pays the  
10 applicable fees pursuant to section 1307.

11 CHAPTER 11

12 APPEAL OF AGENCY DETERMINATION

13 Section 1101. Filing of appeal.

14 (a) Authorization.--

15 (1) If a written request for access is denied or deemed  
16 denied, the requester may file an appeal with the  
17 clearinghouse or other appropriate appeals officer within 15  
18 business days of the mailing date of the agency's response or  
19 within 15 business days of a deemed denial. The appeal shall  
20 state the grounds upon which the requester asserts that the  
21 record is a public record, legislative record or financial  
22 record and shall address any grounds stated by the agency for  
23 delaying or denying the request.

24 (2) In the case of an appeal of a decision by a  
25 Commonwealth agency or local agency, the clearinghouse shall  
26 assign an appeals officer to review the denial.

27 (b) Determination.--

28 (1) Unless the requester agrees otherwise, the appeals  
29 officer shall make a final determination which shall be  
30 mailed to the requester and the agency within 30 days of



1 receipt of the appeal filed under subsection (a).

2 (2) If the appeals officer fails to issue a final  
3 determination within 30 days, the appeal is deemed denied.

4 (3) Prior to issuing a final determination, a hearing  
5 may be conducted. The determination by the appeals officer  
6 shall be a final order. The appeals officer shall provide a  
7 written explanation of the reason for the decision to the  
8 requester and the agency.

9 (c) Direct interest.--

10 (1) A person other than the agency or requester with a  
11 direct interest in the record subject to an appeal under this  
12 section may, within 15 calendar days following receipt of  
13 actual knowledge of the appeal but no later than the date the  
14 appeals officer issues an order, file a written request to  
15 provide information or appear before the appeals officer or  
16 to file information in support of the requester's or agency's  
17 position.

18 (2) The appeals officer may grant the request if:

19 (i) no hearing has been held;

20 (ii) the office has not yet issued its order; and

21 (iii) the appeals officer believes the information  
22 will be probative.

23 (3) Copies of the written request shall be sent to the  
24 agency and the requester.

25 Section 1102. Appeals officers.

26 (a) Scope.--This section applies to all agencies.

27 (b) Duties.--The appeals officer shall do all of the  
28 following:

29 (1) Set a schedule for the requester and the open-  
30 records officer to submit documents in support of their

1 positions.

2 (2) Review all information filed relating to the  
3 request. The appeals officer may hold a hearing. A decision  
4 to hold or not to hold a hearing is not appealable. The  
5 appeals officer may admit into evidence testimony, evidence  
6 and documents that the appeals officer believes to be  
7 reasonably probative and relevant to an issue in dispute. The  
8 appeals officer may limit the nature and extent of evidence  
9 found to be cumulative.

10 (3) Consult with agency counsel as appropriate.

11 (4) Issue a final determination on behalf of the agency.

12 (c) Procedures.--The clearinghouse, a judicial agency or a  
13 legislative agency may adopt procedures relating to appeals  
14 under this chapter.

15 (1) If an appeal is resolved without a hearing, 1 Pa.  
16 Code Pt. II (relating to general rules of administrative  
17 practice and procedure) does not apply except to the extent  
18 that the clearinghouse, legislative agency or judicial agency  
19 has adopted these chapters in its regulations or rules.

20 (2) If a hearing is held, 1 Pa. Code Pt. II shall apply  
21 unless the clearinghouse, the judicial agency or the  
22 legislative agency has adopted regulations or rules to the  
23 contrary.

24 (3) In the absence of a regulation or rule governing  
25 appeals under this chapter, the appeals officer shall rule on  
26 procedural matters on the basis of justice, fairness and the  
27 expeditious resolution of the dispute.

28 CHAPTER 13

29 JUDICIAL REVIEW

30 Section 1301. Commonwealth agencies, legislative agencies and

1                   judicial agencies.

2       (a) General rule.--Within 30 days of the mailing date of the  
3 final determination of the appeals officer relating to a  
4 decision of a Commonwealth agency, a legislative agency or a  
5 judicial agency issued under section 1103 or the date a request  
6 for access is deemed denied, a requester or the agency may file  
7 a petition for review or other document as might be required by  
8 rule of court with the Commonwealth Court. The decision of the  
9 court shall contain findings of fact and conclusions of law  
10 based upon the evidence as a whole. The decision shall clearly  
11 and concisely explain the rationale for the decision.

12       (b) Stay.--An appeal under this section shall stay the  
13 release of documents until a decision under subsection (a) is  
14 issued.

15 Section 1302. Local agencies.

16       (a) General rule.--Within 30 days of the mailing date of the  
17 final determination of the appeals officer relating to a  
18 decision of a local agency issued under section 1103 or of the  
19 date a request for access is deemed denied, a requester or local  
20 agency may file a petition for review or other document as  
21 required by rule of court with the court of common pleas for the  
22 county where the local agency is located. The decision of the  
23 court shall contain findings of fact and conclusions of law  
24 based upon the evidence as a whole. The decision shall clearly  
25 and concisely explain the rationale for the decision.

26       (b) Stay.--An appeal under this section shall stay the  
27 release of documents until a decision under subsection (a) is  
28 issued.

29 Section 1303. Notice and records.

30       (a) Notice.--An agency, the requester and the appeals

1 officer shall be served notice of actions commenced in  
2 accordance with section 1301 or 1302 and shall have an  
3 opportunity to respond in accordance with applicable court  
4 rules.

5 (b) Record on appeal.--The record before a court shall  
6 consist of the request, the agency's response, the appeal filed  
7 under section 1101, the hearing transcript, if any, and the  
8 final written determination of the appeals officer.

9 Section 1304. Court costs and attorney fees.

10 (a) Reversal of agency determination.--If a court reverses  
11 the final determination of the appeals officer or grants access  
12 after a request for access was deemed denied, the court may  
13 award reasonable attorney fees and costs of litigation or an  
14 appropriate portion thereof to a requester if the court finds  
15 either of the following:

16 (1) the agency receiving the original request willfully  
17 or with wanton disregard deprived the requester of access to  
18 a public record subject to access or otherwise acted in bad  
19 faith under the provisions of this act; or

20 (2) the exemptions, exclusions or defenses asserted by  
21 the agency in its final determination were not based on a  
22 reasonable interpretation of law.

23 (b) Sanctions for frivolous requests or appeals.--The court  
24 may award reasonable attorney fees and costs of litigation or an  
25 appropriate portion thereof to an agency or the requester if the  
26 court finds that the legal challenge under this chapter was  
27 frivolous.

28 (c) Other sanctions.--Nothing in this act shall prohibit a  
29 court from imposing penalties and costs in accordance with  
30 applicable rules of court.

1 Section 1305. Civil penalty.

2 (a) Denial of access.--A court may impose a civil penalty of  
3 not more than \$1,000 if an agency denied access to a public  
4 record in bad faith.

5 (b) Failure to comply with court order.--An agency or public  
6 official who does not promptly comply with a court order under  
7 this act is subject to a civil penalty of not more than \$500 per  
8 day until the public records are provided.

9 Section 1306. Immunity.

10 (a) General rule.--Except as provided in sections 1304 and  
11 1305 and other statutes governing the release of records, no  
12 agency, public official or public employee shall be liable for  
13 civil or criminal damages or penalties resulting from compliance  
14 or failure to comply with this act.

15 (b) Schedules.--No agency, public official or public  
16 employee shall be liable for civil or criminal damages or  
17 penalties under this act for complying with any written public  
18 record retention and disposition schedule.

19 Section 1307. Fee limitations.

20 (a) Postage.--Fees for postage may not exceed the actual  
21 cost of mailing.

22 (b) Duplication.--

23 (1) Fees for duplication by photocopying, printing from  
24 electronic media or microfilm, copying onto electronic media,  
25 transmission by facsimile or other electronic means and other  
26 means of duplication shall be established:

27 (i) by the clearinghouse, for Commonwealth agencies  
28 and local agencies;

29 (ii) by each judicial agency; and

30 (iii) by each legislative agency.

1 (2) The fees must be reasonable and based on prevailing  
2 fees for comparable duplication services provided by local  
3 business entities.

4 (3) Fees for local agencies may reflect regional price  
5 differences.

6 (4) FEES FOR COPYING COMPLEX AND EXTENSIVE DATA SETS, ←  
7 INCLUDING GEOGRAPHIC INFORMATION SYSTEMS AND INTEGRATED  
8 PROPERTY ASSESSMENT LISTS, MAY BE BASED ON CONSIDERATION OF  
9 THE REASONABLE MARKET VALUE OF THE SAME OR CLOSELY RELATED  
10 DATA SETS.

11 (c) Certification.--An agency may impose reasonable fees for  
12 official certification of copies if the certification is at the  
13 behest of the requester and for the purpose of legally verifying  
14 the public record.

15 (d) Conversion to paper.--If a record is only maintained  
16 electronically or in other nonpaper media, duplication fees  
17 shall be limited to the lesser of the fee for duplication on  
18 paper or the fee for duplication in the original media as  
19 provided by subsection (b) unless the requester specifically  
20 requests for the record to be duplicated in the more expensive  
21 medium.

22 (e) Enhanced electronic access.--If an agency offers  
23 enhanced electronic access to records in addition to making the  
24 records accessible for inspection and duplication by a requester  
25 as required by this act, the agency may establish user fees  
26 specifically for the provision of the enhanced electronic  
27 access, but only to the extent that the enhanced electronic  
28 access is in addition to making the records accessible for  
29 inspection and duplication by a requester as required by this  
30 act. The user fees for enhanced electronic access may be a flat

1 rate, a subscription fee for a period of time, a per-transaction  
2 fee, a fee based on the cumulative time of system access or any  
3 other reasonable method and any combination thereof. The user  
4 fees for enhanced electronic access must be reasonable, must be  
5 approved by the clearinghouse and may not be established with  
6 the intent or effect of excluding persons from access to records  
7 or duplicates thereof or of creating profit for the agency.

8 (f) Waiver of fees.--An agency may waive the fees for  
9 duplication of a record, including, but not limited to, when:

- 10 (1) the requester duplicates the record; or  
11 (2) the agency deems it is in the public interest to do  
12 so.

13 (g) Limitations.--Except as otherwise provided by statute,  
14 no other fees may be imposed unless the agency necessarily  
15 incurs costs for complying with the request, and such fees must  
16 be reasonable. No fee may be imposed for an agency's review of a  
17 record to determine whether the record is a public record,  
18 legislative record or financial record subject to access in  
19 accordance with this act.

20 (h) Prepayment.--Prior to granting a request for access in  
21 accordance with this act, an agency may require a requester to  
22 prepay an estimate of the fees authorized under this section if  
23 the fees required to fulfill the request are expected to exceed  
24 \$100.

25 Section 1308. Prohibition.

26 A policy, rule or regulation adopted under this act may not  
27 include any of the following:

- 28 (1) A limitation on the number of records which may be  
29 requested or made available for inspection or duplication.  
30 (2) A requirement to disclose the purpose or motive in

1 requesting access to records.

2 Section 1309. Practice and procedure.

3 The provisions of 2 Pa.C.S. (relating to administrative law  
4 and procedure) shall not apply to this act unless specifically  
5 adopted by rule or regulation.

6 Section 1310. Clearinghouse.

7 (a) Establishment.--There is hereby established in the  
8 Department of Community and Economic Development an Open Records  
9 Clearinghouse. The clearinghouse shall do all of the following:

10 (1) Provide information relating to the implementation  
11 and enforcement of this act.

12 (2) Issue advisory opinions to agencies and requesters.

13 (3) Provide annual training courses to agencies on this  
14 act and 65 Pa.C.S. Ch. 7 (relating to open meetings).

15 (4) Provide annual, regional training courses to local  
16 agencies.

17 (5) Review appeals of decisions by Commonwealth agencies  
18 or local agencies except as provided in section 503(d) filed  
19 under section 1101 and issue orders and opinions. The  
20 clearinghouse shall employ or contract with attorneys to  
21 serve as appeals officers to review appeals and, if  
22 necessary, to hold hearings on a regional basis under this  
23 act. Each appeals officer must comply with all of the  
24 following:

25 (i) Complete a training course provided by the  
26 clearinghouse prior to acting as an appeals officer.

27 (ii) If a hearing is necessary, hold hearings  
28 regionally as necessary to ensure access to the remedies  
29 provided by this act.

30 (iii) Comply with the procedures under section



1 1102(b).

2 (6) Establish an informal mediation program to resolve  
3 disputes under this act.

4 (7) Establish an Internet website with information  
5 relating to this act, including advisory opinions and  
6 decisions and the name and address of all open records  
7 officers in this Commonwealth.

8 (8) Conduct a biannual review of fees charged under this  
9 act.

10 (9) Annually report on its activities and findings to  
11 the Governor and the General Assembly. The report shall be  
12 posted and maintained on the Internet website established  
13 under paragraph (7).

14 (b) Executive director.--The Governor shall appoint an  
15 executive director of the clearinghouse who shall serve for a  
16 term of six years. Compensation shall be set by the Executive  
17 Board established under section 204 of the act of April 9, 1929  
18 (P.L.177, No.175), known as The Administrative Code of 1929. The  
19 executive director may serve no more than two terms.

20 (c) Limitation.--The executive director shall not seek  
21 election nor accept appointment to any political office during  
22 his tenure as executive director and for one year thereafter.

23 (d) Staffing.--The executive director shall appoint  
24 attorneys to act as appeals officers and additional clerical,  
25 technical and professional staff as may be appropriate and may  
26 contract for additional services as necessary for the  
27 performance of the executive director's function. The  
28 compensation of attorneys and other staff shall be set by the  
29 Executive Board.

30 (e) Duties.--The executive director shall ensure that the

1 duties of the clearinghouse are carried out and shall monitor  
2 cases appealed to the clearinghouse.

3 (f) Appropriation.--The appropriation for the clearinghouse  
4 shall be in a separate line item and shall be under the  
5 jurisdiction of the executive director.

6 CHAPTER 15

7 STATE-RELATED INSTITUTIONS

8 Section 1501. Definition.

9 As used in this chapter, "State-related institution" means  
10 any of the following:

- 11 (1) Temple University.
- 12 (2) The University of Pittsburgh.
- 13 (3) The Pennsylvania State University.
- 14 (4) Lincoln University.

15 Section 1502. Reporting.

16 No later than May 30 of each year, a State-related  
17 institution shall file with the Governor's Office, the General  
18 Assembly, the Auditor General and the State Library the  
19 information set forth in section 1503.

20 Section 1503. Contents of report.

21 The report required under section 1502 shall include the  
22 following:

- 23 (1) Except as provided in paragraph (4), all information  
24 required by Form 990 or an equivalent form, of the United  
25 States Department of the Treasury, Internal Revenue Service,  
26 entitled the Return of Organization Exempt From Income Tax,  
27 regardless of whether the State-related institution is  
28 required to file the form by the Federal Government.

- 29 (2) The salaries of all officers and directors of the  
30 State-related institution.

1 (3) The highest 25 salaries paid to employees of the  
2 institution that are not included under paragraph (2).

3 (4) The report shall not include information relating to  
4 individual donors.

5 Section 1504. Copies and posting.

6 A State-related institution shall maintain, for at least  
7 seven years, a copy of the report in the institution's library  
8 and shall provide free access to the report on the institution's  
9 Internet website.

10 CHAPTER 17

11 STATE CONTRACT INFORMATION

12 Section 1701. Submission and retention of contracts.

13 (a) General rule.--Whenever any Commonwealth agency,  
14 legislative agency or judicial agency shall enter into any  
15 contract involving any property, real, personal or mixed of any  
16 kind or description or any contract for personal services where  
17 the consideration involved in the contract is \$5,000 or more, a  
18 copy of the contract shall be furnished to the Treasury  
19 Department within ten days after the contract is executed on  
20 behalf of the Commonwealth agency, legislative agency or  
21 judicial agency or otherwise becomes an obligation of the  
22 Commonwealth agency, legislative agency or judicial agency. The  
23 provisions of this subsection shall not apply to contracts for  
24 services protected by a privilege. The following shall apply:

25 (1) Each Commonwealth agency, legislative agency and  
26 judicial agency shall submit contracts in a form and  
27 structure mutually agreed upon by the Commonwealth agency,  
28 legislative agency or judicial agency and the State  
29 Treasurer.

30 (2) The Treasury Department may require each

1 Commonwealth agency, legislative agency or judicial agency to  
2 provide a summary with each contract, which shall include the  
3 following:

- 4 (i) Date of execution.
- 5 (ii) Amount of the contract.
- 6 (iii) Beginning date of the contract.
- 7 (iv) End date of the contract, if applicable.
- 8 (v) Name of the agency entering into the contract.
- 9 (vi) All parties to the contract.
- 10 (vii) Subject matter of the contract.

11 Each agency shall create and maintain the data under this  
12 paragraph in an ASCII-delimited text format, spreadsheet  
13 format or other format provided by regulation.

14 (b) Retention.--Every contract filed pursuant to subsection  
15 (a) shall remain on file with the Treasury Department for a  
16 period of not less than four years after the end date of the  
17 contract.

18 (c) Accuracy.--Each Commonwealth agency, legislative agency  
19 and judicial agency is responsible for verifying the accuracy  
20 and completeness of the information that it submits to the State  
21 Treasurer.

22 Section 1702. Public availability of contracts.

23 (a) General rule.--The Treasury Department shall make each  
24 contract filed pursuant to section 1701 available for public  
25 inspection either by posting a copy of the contract on the  
26 Treasury Department's publicly accessible Internet website or by  
27 posting a contract summary on the department's publicly  
28 accessible Internet website.

29 (b) Posting.--The Treasury Department shall post the  
30 information received pursuant to this chapter in a way that

1 allows the public to search contracts or contract summaries by  
2 the categories enumerated in section 1701(a)(2).

3 (c) Request to review or receive copy of contract.--The  
4 Treasury Department shall maintain a page on its publicly  
5 accessible Internet website with instructions on how to request  
6 to review a contract and how to request a copy of a contract.  
7 Requests to review or receive a copy of a contract shall be  
8 allowed by letter, facsimile or e-mail. Additionally, both  
9 requests shall be honored within five days of the submission of  
10 the request and in the case of a request for a copy of a  
11 contract it shall be provided to the individual at cost. The  
12 Treasury Department may offer to provide a copy of the requested  
13 contract electronically to the requester at no cost.

14 CHAPTER 31

15 MISCELLANEOUS PROVISIONS

16 Section 3101. Applicability.

17 This act applies as follows:

18 (1) This act shall apply to requests filed after the  
19 effective date of this section.

20 (2) Chapter 15 shall apply to fiscal years beginning  
21 after June 30, 2008.

22 (3) Chapter 17 shall apply to contracts entered into or  
23 renewed after the effective date of this section.

24 (4) Section 3102(1)(ii)(B) shall apply to bids submitted  
25 on or after the effective date of this section.

26 Section 3102. Repeals.

27 Repeals are as follows:

28 (1) (i) General Assembly declares that the repeals  
29 under subparagraph (ii) are necessary to effectuate this  
30 act.

1           (ii) The following acts and parts of acts are  
2 repealed:

3           (A) The act of June 21, 1957 (P.L.390, No.212),  
4 referred to as the Right-to-Know Law.

5           (B) 62 Pa.C.S. § 106.

6           (2) (i) The General Assembly declares that the repeal  
7 under subparagraph (ii) is necessary to effectuate  
8 Chapter 17.

9           (ii) Section 1104 of the act of April 9, 1929  
10 (P.L.177, No.175), known as The Administrative Code of  
11 1929, is repealed.

12 Section 3103. Effective date.

13 This act shall take effect in 180 days.