

**MCCANDLESS TOWNSHIP SANITARY AUTHORITY
RIGHT-TO-KNOW POLICY FOR PUBLIC RECORDS**

I. Introduction

The McCandless Township Sanitary Authority ("Authority") is a body corporate and politic, duly organized in Township of McCandless by the Town Council, Pennsylvania, under the former Municipality Authorities Act of 1945, repealed by Act 2001, June 19, P.L. 287, No. 22, § 3, now known as the "Municipality Authorities Act," Act 2001, June 19, P.L. 287, No. 22, § 4, 53 Pa. C.S.A. § 5601 et seq. As such, the Authority is a local agency for purposes of the new Right-to-Know Law.

The prior Right-to-Know Law was substantially amended by the Open Records Law or Act 3 of 2008. The changes instituted by the Open Records Law are effective as of January 1, 2009. All references herein to the "Right-to-Know Law" refer to the law including those changes codified in the Open Records Law.

All local agencies shall provide public records in accordance with the Right-to-Know Law. Therefore, any record in the possession of the Authority shall be presumed to be a public record, except in the following circumstances:

- (a) The record is exempt under the Right-to-Know Law;
- (b) The record is protected by the attorney-work product doctrine, the attorney-client privilege, or other privilege recognized by a court interpreting the laws of the Commonwealth of Pennsylvania; or
- (c) The record is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree.

Records are broadly defined under the Right-to-Know Law. 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.

Requests for public records can be made by any person or who is a legal resident of the United

States, including resident aliens. Requests to the Authority can also be made by other local agencies, Commonwealth agencies (e.g., The Department of the Auditor General or the Treasury Department), judicial agencies (i.e., the courts), or legislative agencies (e.g., the Senate and House of Representatives).

II. Access and Procedure

The Right-to-Know Law does not require the Authority to respond to oral or anonymous requests. 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.

The Authority has designated Raymond Aufman, to act as the Open-Records Officer ("Officer"). The Officer's contact information is set forth below:

Raymond Aufman
McCandless Township Sanitary Authority
418 Arcadia Drive
Pittsburgh, PA 15237-5506
Telephone: (412) 366-2700
RaymondAufman@mtsaonline.org

Questions regarding this policy may be directed to the Officer at the telephone or e-mail address listed above.

In the absence of the Officer, the Authority has designated Anthony Giancola, to act as the Alternate Open-Records Officer ("Alternate Officer"). All duties of the Officer shall be the same for the Alternate Officer in the absence of the Officer. The Alternate Officer's contact information is set forth below:

Anthony Giancola
McCandless Township Sanitary Authority
418 Arcadia Drive
Pittsburgh, PA 15237-5506
Telephone: (412) 366-2700
AnthonyGiancola@mtsaonline.org

All written requests must be addressed to the Officer, and all such requests must be submitted in person, by mail, by e-mail or by facsimile. In the event that a written request for records is addressed to an Authority employee other than the Officer, the Authority employee is hereby directed

to promptly forward such requests to the Officer.

Written requests should identify or describe the record sought with sufficient specificity to enable the Authority to ascertain which records are being requested. Unless otherwise required by law, a written request need not include any explanation of the requester's reason for requesting the records or the intended use of such records. A form which may be used to file a request is posted on the Authority's internet website at <http://www.mtsaonline.org/>. The Authority shall assign a tracking number to each filed form so as to track the Authority's progress in responding to requests under the new Right-to-Know Law.

Prior to granting a request for access in accordance with the Right-to-Know Law, the Authority may require a requester to prepay an estimate of the fees authorized by law if the fees required to fulfill the request are expected to exceed \$100.00. The fees must be reasonable and based on prevailing fees for comparable duplication services provided by local business entities. The Right-to-Know Law provides that additional reasonable fees may be imposed if the Authority necessarily incurs costs for complying with a request. The Authority may establish such fees, depending upon the volume and complexity of the request. Additionally, if the requested information is from a third party and that third party requires any costs or fees for duplication, delivery and compilation of said records, the Authority shall pass along all third party costs to the requester. Except as otherwise provided by statute, no other fees may be imposed unless the agency necessarily incurs costs for complying with the request, and such fees must be reasonable.

A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists. In other words, the Authority shall not be required to create a record which does not currently exist or to otherwise compile, maintain, format or organize a record in a manner in which it does not currently compile, maintain, format or organize such record.

If the requestor seeks only access to the records, such access will be made available only during regular business hours of the Authority, and in the same time frame and under the same conditions as

noted for copies of records as noted herein. Such access to records shall be made available only at the offices of the Authority in an area designated by the Authority. The Authority's records shall not be available for removal from the Authority offices. The Officer shall cooperate fully with the requester while also taking reasonable measures to protect Authority public records from the possibility of theft and/or modification. The Officer may require the presence of a designated employee when the records are examined and inspected.

In no case is the Authority expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with the Authority's administrative responsibilities and consistent with the requirements of the Right-to-Know Law.

Upon receipt of a written request for a public record, the Officer shall do the following:

- (a) Note the date of the receipt on the written request;
- (b) Compute the day on which the five-day period (see discussion of response, below) will expire, and make a notation of that date on the written request; and
- (c) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

III. Authority's Response

Upon receipt of a written request for access to a record, the Authority shall make a good faith effort to determine if the record requested is a public record and whether the Authority has possession, custody or control of the identified record. When doing so, the Authority will respond as promptly as possible under the circumstances existing at the time of the request. Under the Right-to-Know Law, the Authority must send a response within five (5) business days of receipt of the written request for access, or else the written request shall be deemed denied. For purposes of this policy, a business day is any Monday, Tuesday, Wednesday, Thursday or Friday, except those days when the Authority's office is closed for all or part of a day due to a state holiday. The purposes of determining the end of the five (5) business day period, the day a request is received or deemed received, is not

counted. The first day of the five (5) business day period is the Authority's next business day. The response is due by the close of the fifth business day.

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

- (a) The request for access requires redaction of any portion of that record that is not a public record or is protected and shall not be disclosed pursuant to the Right-to-Know Law;
- (b) The request for access requires the retrieval of a record stored in a remote location;
- (c) A timely response to the request for access can not be accomplished due to bonified and specified staffing limitations;
- (d) A legal review is necessary to determine whether the record is a record subject to access under the Right-to-Know Law;
- (e) The requester has not complied with the Authority's policies regarding access to records;
- (f) The requester refuses to pay applicable fees authorized by the Authority and by the Right-to-Know Law; or
- (g) The extent or nature of the request precludes a response within the required time period of five (5) business days.

Upon a determination that one or more of the factors listed above applies, the 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 reasons 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. Information which the Authority redacts in accordance with the Right-to-Know Law shall be deemed a denial of that redacted portion of the response.

If the date that a response is expected to be provided is in excess of thirty (30) days, following the five (5) business days allowed for above, 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 Authority has not provided a response by that date.

For purposes of this policy, the "mailing date" shall be the date affixed to a: (1) response from the Officer to a request, which is to be the date the response is deposited in the U.S. mail; (2) final determination from the Officer, which is to be the date the final determination is deposited in the U.S. mail. The Officer shall send its written responses to requestors by one of the following, in its discretion: U.S. Mail via regular first class certified or other means; facsimile transmission; overnight or parcel delivery service; or courier delivery.

IV. Appeal of Authority's Determination

If a written request for access to a record is denied or deemed denied in whole or in part, the requester may file an appeal with the Office of Open Records within fifteen (15) business days of the mailing date of the Authority'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 Authority for delaying or denying the request.

Within 30 days of the mailing date of the final determination of the appeals officer, the requestor or Authority may file a petition for review or other documents as required by rule of court with the court of common pleas for Allegheny County. The decision of the court shall contain findings of fact and conclusions of law based upon the evidence as a whole. The decision shall clearly and concisely explain the rationale for the decision.

The Office of Open Records has established a internet website with information relating to the Right-to-Know Law, including information on fees, advisory opinions and decisions, plus the name and address of all Open-Records Officers in the Commonwealth of Pennsylvania. For information on the Office of Open Records, please go to <http://www.openrecords.state.pa.us>. (Please note: among

other matters, the Office of Open Records shall establish fees for duplication by photocopying, printing from electronic media or microfilm, copying onto electronic media, and other means of duplication.)

V. Retention of Records

By adoption of Resolution 393 of December 19, 1994, the Authority publicly declared its intention to follow the Municipal Records Act, 53 Pa. C.S.A. § 1381 et seq., with respect to the retention and disposition of public records. Nothing in the Right-to-Know Law shall be construed to modify, rescind or supercede the Authority's lawfully adopted record retention and disposition policy. Moreover, nothing in the Right-to-Know Law shall be construed to require access to any computer of the Authority, or that of an individual or employee of the Authority.

**MCCANDLESS TOWNSHIP SANITARY AUTHORITY
RIGHT-TO-KNOW LAW REQUEST**

MTSA Request Tracking No.

Date Stamp (Official Use Only)

Name of Requester

(Last)

(First)

(MI)

Mailing Address

(Street / P.O.)

(City)

(State)

(Zip Code)

Telephone Number

(Optional)

Fax Number

(Optional)

Please identify each of the documents that is subject to this request. You must identify these documents with sufficient specificity so we can ascertain whether we have these documents and how to locate them.

Please check one of the following:

- I am only requesting access to the documents identified above.
 I am only requesting a copy of the documents identified above.
 I am only requesting access to the documents identified above **and** a copy of these documents.

If you are requesting a copy of the documents identified above, please check one of the following:

- I want a paper copy of the documents.
 I want a computer readable copy of the documents.
 Other (please specify) _____

Signature _____

Date _____

**RETURN TO OPEN RECORDS OFFICER, MCCANDLESS TOWNSHIP SANITARY
AUTHORITY**