

OPEN RECORDS POLICY
SOUTHERN ALLEGHENIES PLANNING & DEVELOPMENT COMMISSION (SAP&DC)
Effective: January 1, 2009

Intent

This policy is intended to enable access to public records maintained by SAP&DC. All records of SAP&DC are public records unless there is a specific legal citation (a law or court decision) providing otherwise. When there is a question as to whether a particular record is public, the benefit of the doubt shall favor the requestor.

Statutory Basis

This policy is based on Act 3 of 2008, Pennsylvania's Right-to-Know law, commonly known as the "Open Records Law", which governs the rights of the public to inspect and obtain copies of public records. Most prominently, Act 3 of 2008 fundamentally changes the prior "Right-to-Know Law" by mandating a presumption of disclosure and shifting the burden of denial to government and other covered public entities.

Definition of a Public Record (from Act 3)

"Public records" are defined as any document that satisfies the general definition of "public record" as set forth in the Act and which does not fall within any of the exceptions set forth therein. Both the definition and exceptions may be amended from time to time and are interpreted by Commonwealth and federal courts.

"Public Records" do not include:

- 1) any report, communication, or other document, the publication of which would disclose the institution, progress or result of any investigation undertaken by SAP&DC in the performance of its official duties.
- 2) any record, document, material, exhibit, pleading, report, memorandum, or other paper, access to or the publication of which is prohibited, restricted, or forbidden by statute, law, or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security or which would result in a loss by the Commonwealth or any of its political subdivisions or commissions or state or municipal authorities of federal funds, excepting, however, the record of any conviction for any criminal act.

Access to Public Records

SAP&DC public records are open for inspection and duplication during normal office hours, 8 A.M. to 4:30 P.M., Monday through Friday, except for holidays, subject to the regulations set forth herein.

All requests are to be addressed to:

Deborah E. Shaffer
Right-To-Know Officer
SAP&DC
541 – 58th Street
Altoona, PA 16602

Or: sapdc@sapdc.org

SAP&DC shall post this information along with the Records Request Form, copy of this policy and a link to the Commonwealth of Pennsylvania Office of Open Records on its website: <http://www.sapdc.org/>

Request for Public Records

All attempts will be made to fulfill requests for public records in a timely manner.

Requests for public records may be oral or written. If the requester seeks to pursue the rights, relief or remedies under Act 3, the request for public records must be in writing and be addressed to the Right-to-Know Officer or other person designated by the Right-to-Know Officer at 541 – 58th Street, Altoona, PA 16602.

(1) Oral Requests

Written requests for meeting minutes and meeting agendas are not required. The Right-to-Know Officer may publish a list of other SAP&DC records which shall be accessible by oral request. In addition, the Right-to-Know Officer may authorize access to other public records requested orally on a case-by-case basis.

(2) Written Requests

Written requests for access to public records may be on a form provided by SAP&DC or in a letter addressed to the Right-to-Know Officer. Written requests may be delivered in person, carried by US Mail or other delivery service or sent by facsimile or email. The written request must identify or describe the records sought with sufficient specificity to enable SAP&DC to ascertain which records are being requested and shall include the name and address to which SAP&DC should address its response. The requester may include a telephone number or email address to facilitate clarification of requests, if necessary.

The requester's intended use of the record(s) is a private matter. No SAP&DC employee or representative shall request or require an explanation of the use of the record(s) requested.

SAP&DC's Response

Once a written request for public records has been received by the Right-to-Know Officer, SAP&DC shall respond to the request within five (5) business days in one of the following manners:

1. The requested records will be provided; or
2. The request will be denied. If a request is denied in whole or in part, the denial will be in writing and will contain a description of the records requested, the reasons for the denial, including citation of supporting legal authority, and the procedure to appeal the denial of access under Act 3; or if SAP&DC determines that:
 - i) the request requires redaction; or
 - ii) the request requires retrieval from a remote location; or
 - iii) the request requires legal review; or
 - iv) the requester has not complied with SAP&DC's policy; or a timely response cannot be made due to staffing limitations; or
 - v) the requester refuses to pay the applicable fees set forth by this policy

SAP&DC then will send written notice that the request is being reviewed, the reason for the review and reasonable date by which a response is expected to be provided.

SAP&DC is not required to create a public record to fulfill a request if no such document is currently in existence.

If a requester fails to pick up requested records that have been duplicated for the requester, SAP&DC may dispose of the copies after sixty (60) days and is not required to send reminder letters.

Redaction

SAP&DC will grant access to public records according to this Policy and will separate and exclude any records which are not public records or which are otherwise excluded or exempted from the definition of public records. If information subject to access is an integral part of a public record and cannot be separated, SAP&DC will redact from the public record the information not subject to access and the response shall include only the information which is subject to access.

Note: SAP&DC will provide identifiable and existing public records, but is not required to synthesize, compile, maintain, format or organize records in response to a request.

Exceptions

If a request for access is denied, the requester may file exceptions (appeals) as follows:

Informal Appeals

All requests for SAP&DC public records are to be directed to the Right-To-Know Officer. However, should a SAP&DC

employee not authorized to act on requests for public records deny a legitimate request for access, an appeal shall be made to the Right-to-Know Officer. This informal appeal can be made orally or in writing. The Right-to-Know Officer shall respond within five (5) working days.

Formal Filing of Exceptions

Appeals of decisions by the Right-to-Know Officer to deny access for records pursuant to a written request shall be filed with SAP&DC's Appeals Officer within fifteen (15) business days of the 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 agency for delaying or denying the request. The Appeals Officer shall respond to the appeal within not less than five (5) days nor more than thirty (30) days from the date the appeal is received. The Appeals officer shall make a "final determination" on an appeal, and if the denial of access is affirmed, a written explanation will be provided to the requester.

Within thirty (30) days of the mailing date of the final determination of the Appeals Officer, the Requester or SAP&DC may file a petition for review, or other document as required by rule of court with the Court of Common Pleas for Blair 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.

A petition for review under this section shall stay the release of documents until a decision is issued.

Forms

The Right-to-Know Officer is authorized and directed to establish and provide necessary forms for written requests and filing for exceptions.

Fees

No fees for the examination of public records on site will apply. Charges for duplication and delivery of public records are as follows:

Paper Copies

The first ten pages of paper copies shall be free of charge. Additional paper copies will be \$.10 per page. If mailing is requested, the actual cost of postage will be charged.

Electronic Copies

If records exist in electronic form, requests for electronic records will be accommodated. Electronic files up to 4 megabytes in size can be copied to a 3.5" diskette at the cost of \$1 per request or emailed as an attachment free of charge. Files can be formatted in Microsoft Word or Excel or as a PDF file. Larger files may be made available as FTP files. Requests for records in electronic form must indicate the format required.

To avoid the transmission of computer viruses, each separate request for records on a diskette will require a new diskette at the cost of \$1.

Records that do not exist in electronic format will not be created to satisfy a request.

Faxes

Fax copies will be available at the cost of \$.50 per page, plus any toll charges. This per page rate shall apply to all pages faxed, including one cover page. No document faxed shall be, in any part, free of charge.

Certification

If document certification is requested, an additional charge of \$2 per document will be added.

Prepayment

SAP&DC will require prepayment of fees if the total fees are estimated to exceed \$100.

Effective Date

The effective date of this policy is January 1, 2009.