



Kutztown University Policy A&F-013

Right to Know Policy

A. Purpose

Pennsylvania residents may request public records from Kutztown University of Pennsylvania under the Right-to-Know Law, as amended, 65 P.S., sections 66.1 – 66.9.

B. Scope

This policy is applicable to all individuals submitting Right to Know Law Requests.

C. Definition(s)

D. Policy & Procedure(s)

The guidelines for submitting Right-to-Know requests are as follows:

a. Requests

- 1) Requests for information under the Right-to-Know Law must be submitted in writing to the designated right-to-know officer. A request may be delivered in person or via letter. Facsimile, electronic mail, and oral requests will not be accepted.
- 2) Kutztown University will not respond to anonymous requests for information.
- 3) In accordance with the Act, Kutztown University will provide a requester with access to a public record only if the requester is an individual. The act does not require an agency to respond to requests from corporations, even if the corporation was created under the laws of Pennsylvania.
- 4) Each request must include the name of the requester and the address to which the response will be delivered. The request should identify or describe the records sought with sufficient specificity to enable Kutztown University to ascertain which records are being requested.

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- 5) The right-to-know officer may ask the requester the reason for the request or the intended use of the records in order to help identify the records of actual relevance to the requester. Kutztown University cannot insist that such a statement be provided, nor can use the lack of such a statement as a reason for denying the request.
- b. Submittal of Right-to-Know Requests
- 1) All requests to Kutztown University under the Right-to-Know Law will be submitted in writing to:

Gerald L. Silberman
Vice President for Administration and Finance
305 Stratton Administration Center
P.O. Box 730
Kutztown, PA 19530

Requests may be delivered in person to the address listed above or sent by regular mail.
 - 2) If a request is delivered to someone other than the Right-to-Know officer, it shall be forwarded to the right-to-know officer in a reasonable time. The 5 business day period for a response to the request begins once the designated right-to-know officer receives the request.
 - 3) The Right-to-Know officer will inform the requester of receipt of the request, including the date the request was deemed received.
- c. Kutztown University 's Duty to Provide a Prompt Response to a Right-to-Know Request
- 1) Upon receipt of a written request, Kutztown University will make a good faith effort to determine if the requested record is a public record and to respond as promptly as possible under the circumstances existing at the time of the request. This time shall not exceed 5 business days from the date the written request is received by the right-to-know officer. If Kutztown University fails to respond within that time period, the request is deemed denied.
 - 2) Kutztown University may inform the requester of the need for additional time to comply with a specific request, in accordance with provisions of the Act. Such an extension may not exceed 30 calendar days. In such cases, if Kutztown University fails to make a timely final response, the request is deemed denied.

The right-to-know officer shall send written notice to the requester within 5 business days of the need for an extension. The notice shall include a statement

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notifying the requester that the request for access is being reviewed, the reason for the review and a reasonable date that a response is expected to be provided.

d. Processing of Right-to-Know Requests

- 1) Upon receiving a written Right-to-Know request, the right-to-know officer shall complete the following tasks:
 - a) Date-stamp the request.
 - b) Assign a tracking number to the request.
 - c) Compute the day on which the 5-business day period will expire and make a notation of that date on the first page of the request.
 - d) Inform the requestor of receipt of the request.
 - e) Make an electronic or paper copy of the request, including all documents submitted with it and the envelope (if any) in which it came.
 - f) Create an official file for the retention of the original request.
- 2) For purposes of determining the 5-business-day period:
 - a) A business day shall be any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of the agency are closed for all or part of a day due to a state holiday, due to a severe weather (such as a blizzard or ice storm); due to natural or other disaster; or due to the request or direction of local, state, or federal law enforcement agencies or officials.
 - b) Requests may be submitted during regular business hours, which are 8 a.m. to 4 p.m. Requests received after 4 p.m. will be deemed to have been received on the following day.
 - c) For purposes of determining the end of the 5-business-day period, the day that a request is received (or deemed to be received) is not counted: The first day of the 5-business-day period is the agency's next business day.

e. Initial Review by the Right-to-Know Official

- 1) Upon receiving a Right-to-Know request, the right-to-know official shall promptly review it. The purpose of this review is to determine the following:
 - a) Whether the request possesses an obvious defect that permits it to be rejected without further consideration. Such defects include the following:

1. The documents sought by the requester are not identified with sufficient particularity.
 2. The identified records unquestionably fall outside either of the two parts of the Act's general definition of "public records."
 3. The identified records unquestionably fall within one of the Act's statutory exemptions to the definition of "public records."
 4. The right-to-know official has personal knowledge that the identified records do not exist.
 5. The right-to-know official has personal knowledge that the identified records are not in the possession or control of the agency.
- b) Whether the request can be granted without further consideration. For example, if the right-to-know official is satisfied that the requester is a resident of Pennsylvania, and knows that the requested documents exist and are public records and that they are immediately accessible, no further analysis is necessary.
- c) Whether the request implicates a right protected by the Pennsylvania or U.S. Constitution, including but not limited to, the constitutional right of privacy. If the right-to-know official concludes that the request implicates such a right, he shall consult with counsel regarding the balancing of the requester's interest in access to the records versus the constitutionally protected interests.
- 2) In conducting this initial review, the right-to-know official may contact (or attempt to contact) the requester in order to obtain clarification or additional information.
 - 3) If the right-to-know official determines that the request should be refused for any of the grounds set forth in (1), above, he shall immediately draft a proposed refusal letter. This draft should set forth each and every ground that the right-to-know official believes is a proper ground for refusal.
- f. Responses, In General
- 1) The act of providing a requester with physical access to a document in the offices of the agency is a "response" for purposes of the Right-to-Know Law.
 - 2) A record will be provided, whenever available, in the medium requested by the requester (i.e., an electronic file if the information is already available in this form.) A record does not have to be converted to a media other than that in which it is maintained.

- 3) A requester may either view original records by making an appointment during regular business hours with the right-to-know official, or may request written copies, which will be provided for a nominal fee. (Fees are listed under section j.) The fee can be waived at the discretion of the right-to-know officer.
 - 4) Kutztown University will not create a public record that does not already exist, nor will it compile, maintain, format, or organize a public record in a manner in which the agency does not currently do so.
- g. Responses
- 1) Types of responses.
 - a) The request is granted in its entirety.
 - b) The request is refused in its entirety.
 - c) The request is partially granted.
 - 2) Deemed denials. The failure to make a timely response is deemed a denial.
 - 3) Final responses granting requests.
 - a) A written request for a record will be granted if the record requested is within the statutory definition of a “public record”.
 - 4) Final responses that deny requests, either in whole or in part.
 - a) A response that denies a request must list the entire specific reasons relied on for denying the request.
 - b) If a request is denied all or in part, the response must also contain a notice informing the requester of his or her right to file exceptions with the agency.
 - c) Any final response that sets for a denial, whether in whole or in part, must contain the following:
 1. The name, time, business address, business telephone number and signature of the public official or employee on whose authority the denial is issued.
 2. The words “Mailing Date” followed by the date that is the mailing date of the response.

3. A statement of the procedure that the requester may follow in order to file exceptions contesting the denial.
- d) Grounds for a denial. A written request for access to, or a copy of, a record may be denied if any of the following circumstances exists:
1. The requester has not identified any of the requested records with sufficient specificity.
 2. The record does not exist.
 3. The requester has not prepaid the costs of fulfilling the request, if the anticipated costs would exceed \$100.
 4. The record in question does not satisfy either prong of the Act's general definition of "public record."
 5. The record in question falls within one or more of the Act's statutory exceptions to the definition of "public record."
 - a. Disclosure of the institution, progress or results of an agency investigation.
 - b. Disclosure is prohibited, restricted or forbidden by statute, order or decree of court, or other law.
 - c. Disclosure would operate to the prejudice or impairment of a person's reputation.
 - d. Disclosure would operate to the prejudice or impairment of the security of one or more persons through the release of sensitive information.
 - e. Disclosure would result in the loss of federal funding.
- h. Redaction
- 1) Redaction means the eradication of a portion of a document while retaining the remainder. Redaction must be performed in such a way as to prevent the requester from having access to the redacted information.

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- 2) If it is determined that a public record contains information subject to access, as well as information not subject to access, the Right-to-Know Law requires that the response must grant access to the information subject to access, but deny access to the information not subject to access.

- 3) The Office of Chief Counsel before delivery of the response will review any response that includes information that must be redacted.

- i. Appeals
 - 1) Right to file exceptions.
 - a) Appeals to a denial must be filed within 15 business days of the mailing date of the written denial.
 - b) Appeals that are untimely filed may be dismissed for that reason.
 - a) Appeals must be submitted to the Pennsylvania Office of Open Records within the 15 days set forth in writing and must be correctly addressed and submitted to the right-to-know exceptions officer. Exceptions submitted to any other official, office, or address are defective and do not stop the running of the 15-day exceptions period.

Office of Open Records
 Commonwealth Keystone Building
 400 North Street, 4th Floor
 Harrisburg PA 17120-0225
 Or
Openrecords@pa.gov

j. Fees and charges

- 1) Photocopies. One “photocopy” is either a single-sided copy or one side of a double-sided copy.

Black & White Copies	\$0.25 each
Color Copies	\$0.35 each
Specialized Documents	Actual Cost

- 2) PC diskettes/CD’s \$3.00 each

- 3) Postage Actual Cost

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Other	Actual cost
4) Electronic files delivered via electronic mail	No charge

E. Effective

12-24-02

F. Amended Date

2-5-07, President's Cabinet
August 2012
March 2017

G. Approved by

President's Cabinet

H. Last Review

September 27, 2007
August 2009
August 2010
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