

RESOLUTION
R-2008- 82

RESOLUTION ADOPTING THE SWATARA TOWNSHIP POLICY
FOR IMPLEMENTING THE AMENDED RIGHT TO KNOW LAW

WHEREAS the Right to Know Law of the Commonwealth of Pennsylvania (65 P.S. §66.1 et seq.), was amended in its entirety by Act 3 of 2008 to provide for examination and inspection of public records; for extracts, copies or photostats of public records; to provide for denial of access to public records, for redaction, for response to requests for access and for final agency determinations; and to further provide for appeals from denial of right, and further provided for court costs and attorney's fees for penalty and for immunity; and

WHEREAS, the Board of Commissioners of the Township of Swatara has fashioned and developed a policy for implementing the aforesaid amendment to the Right to Know Law which policy it now desires to adopt.

NOW THEREFORE BE IT RESOLVED AND IT IS HEREBY RESOLVED by the Board of Commissioners of Swatara Township that the "Swatara Township Policy for Implementing the Amended Right to Know Law", marked Exhibit "A", attached hereto and incorporated herein by reference is hereby adopted.

AND BE IT FURTHER RESOLVED that the proper officers, officials and

employees of the Township are directed to take such actions necessary to implement the policy according to its terms.

ADOPTED by the Board of Commissioners of Swatara Township on the 10th day of *December*, 2008.

ATTEST:

DM Rubonia
Secretary
(Seal)

[Signature]
President
Board of Commissioners of Swatara Township

SWATARA TOWNSHIP POLICY FOR IMPLEMENTING THE
AMENDED RIGHT-TO-KNOW LAW

Access to Public Records

The purpose of this policy is to assure compliance with the Pennsylvania Right-to-Know Law, Act 3 of 2008, as amended, to provide access to public records of SWATARA TOWNSHIP ("Swatara"), to preserve the integrity of Swatara's records, and to minimize the financial impact to the residents of Swatara regarding the resources utilized in the receipt and processing of public record requests and the retrieval and copying of public records.

It is the policy of Swatara to require the presence of a designated employee when public records are examined and inspected and to charge reasonable fees for duplication of public records of Swatara. The Board of Commissioners of Swatara designates the Township Administrator as the "Open Records Officer, ("ORO")" for the Township responsible for assuring compliance with the Pennsylvania Right-to-Know Law, in accordance following guidelines:

1. The ORO shall receive requests submitted to Swatara under the Right-to-Know Law, direct requests to other appropriate persons within the Township or to appropriate persons in another agency, track the Township's progress in responding to requests and issue interim and final responses under the Right-to-Know Law.
2. Upon receiving a request for a public record or financial record, the ORO shall do all of the following:
 - (i) Note the date of receipt on the written request.
 - (ii) Compute the day on which the five-day period (five business days from the date the written request is received by the open records officer) will expire and make a notation of that date on the written request.
 - (iii) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled. If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until a final determination is issued under section 1101(b) of the Right-to-Know Law or the appeal is deemed denied.

Exhibit "A"

3. All requests for public records of Swatara under this policy shall be specific in identifying and describing each public record requested. In no case shall Swatara be required to create a public record which does not currently exist or to compile, maintain, format or organize a public record in a manner in which Swatara does not currently compile, maintain, format or organize the public record. All requests for public records shall be submitted in writing and on a form provided by Swatara, as attached hereto entitled "Swatara Township Right-to-Know Law Request". Any employee of Swatara who shall receive a request for a public record shall immediately forward the request to the ORO.
4. The ORO shall make a good faith effort to determine whether each record requested is a public record or financial record and whether Swatara has possession, custody or control of the identified record. In addition, the ORO shall determine if one of the following applies:
 - (1) the request for access requires redaction of a record;
 - (2) the request for access requires the retrieval of a record stored in a remote location;
 - (3) a timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations;
 - (4) a legal review is necessary to determine whether the record is a record subject to access under this act;
 - (5) the requester has not complied with Swatara's policies regarding access to records;
 - (6) the requester refuses to pay applicable fees authorized by the Right-to-Know Law; or
 - (7) the extent or nature of the request precludes a response within the required time period.

If one of the above applies, the ORO shall:

- (a) Send written notice to the requester within five business days of receipt of the request for access under 1 through 7 above.

(b) The notice shall include a statement notifying the requestor that the request for access is being reviewed, the reason 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. If the date that a response is expected to be provided is in excess of 30 days, following the five business days allowed for in (a) 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.

(c) 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 agency has not provided a response by that date.

5. The "ORO" shall facilitate a reasonable response to a request for Swatara's public records. In no case is the ORO expected to provide extraordinary staff to respond to the request, but will respond in a manner consistent with Swatara's administrative responsibilities and consistent with the requirements of the Pennsylvania Right-to-Know Law.
6. The "ORO" shall respond to the requester within five (5) business days from the date of receipt of the written request. If the ORO does not respond within five (5) business days of receipt thereof, the request is deemed denied.
7. The response by the ORO shall:
 - (a) Grant the Request (see Right-to-Know Response Form- Granted Request)
 - (b) Deny the Request (see Right-to-Know Response Form- Denial)
 - (c) Grant the Request in part and deny the Request in part (see Right-to-Know Response Form- Granted in Part/Denied in Part)
 - (d) Give Notice pursuant to Paragraph 4b.
8. If access to the public record requested is approved, the public record shall be available for access during the regular business hours of Swatara. The ORO shall cooperate fully with the requester, while also taking reasonable

measures to protect Swatara's public records from the possibility of theft and/or modification. The presence of a designated employee is required when public records are examined and inspected.

9. The 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. Swatara may make its records available through any publicly accessible electronic means.

Swatara may respond to a request by notifying the requester that the record is available through publicly accessible electronic means or that Swatara will provide access to inspect the record electronically.

If the requester is unwilling or unable to access the record electronically, the requester may, within 30 days following receipt of the notification, submit a written request to Swatara to have the record converted to paper. Swatara shall provide access to the record in printed form within five days of receipt of the written request for conversion to paper.

10. Fees for duplication of public records shall be as follows:

- (a) Photocopying: 25cents (\$0.25) per page. (A "photocopy is either a single-sided copy or one side of a double-sided black and white copy of a standard 8.5" x 11" page).

- (b) Specialized documents: actual cost to Swatara of duplicating the public record. (A specialized document is, for example, but not limited to, blue prints, color copies, non-standard sized documents)

- (c) Certification of a record: \$1.00 per record. Please note that certification fees do not include notarization fees.

- (d) Facsimile/Microfiche/Other Media: actual cost to provide.

- (e) Postage: actual cost to Swatara of mailing the public record.

- (f) Police vehicle accident report: \$15.00 per report.

- (g) Conversion to Paper: If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the

lesser of the fee for duplication on paper or the fee for duplication in the original media unless the requester specifically requests for the record to be duplicated in the more expensive medium.

(h) Inspection of Redacted Records: If a requester wishes to inspect rather than receive a copy of a record and the record contains both public and non-public information, Swatara shall redact the non-public information. Swatara will not charge the requester for the redaction. However, Swatara will charge for the copies it must make of the redacted material in order for the requester to view the public record. The fee structure outlined above will apply. If, after inspecting the records, the requester chooses to obtain the copies, no additional fee will be charged.

The Board of Commissioners may in its discretion waive fees.

11. In the event the estimated cost of fulfilling a request submitted under this policy is expected to exceed \$100.00, the ORO shall estimate the expected cost in advance of fulfilling the request and require the requester to prepay the estimated amount; once the request is fulfilled and prepared for release the ORO shall obtain payment of any balance due prior to releasing the records.
11. If the request is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative, or other appeals officer designated under section 503(d) of the Right-to-Know Law within fifteen (15) business days of the mailing date of the ORO's notice of denial, or within fifteen (15) days of a deemed denial.
13. This policy shall be posted conspicuously at the Swatara Township Municipal Building, 599 Eisenhower Boulevard, Swatara Township, Dauphin County, Pennsylvania and on the Swatara website.
14. This policy shall take effect on January 1, 2009.