



**West Chester University of Pennsylvania
Right to Know Policy
Effective April 2016**

Requests for public records from West Chester University of Pennsylvania of the State System of Higher Education under the Right-to-Know Law, as amended, 65 P.S. §§ 67.101 et seq., are subject to the following guidelines.

I. Requests—Overview

- A. Requests for information under the Right-to-Know Law must be submitted in writing to the designated Open Records Officer. A request may be delivered in person, by mail, by electronic mail, or by facsimile. Verbal or oral requests will not be accepted.
- B. Each request must include the name of the requester and the email or address to which the response will be delivered. The request should identify or describe the records sought with sufficient specificity to enable the University to ascertain which records are being requested. A Right-to-Know Request Form has been developed to assist the public in making a proper request. Follow this link to an interactive RTK request form http://www.wcupa.edu/INFORMATION/AFA/VPADMFIN/WCU_RTKReqForm.pdf or see Attachment A. When downloading the form, please allow for a slight delay while the form is loading. We suggest that you have the most current version of [Adobe Reader](#) installed on your computer.
- C. The Open Records 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 requestor. The University cannot insist that such a statement be provided, nor can it use the lack of such a statement as a reason for denying the request.

II. Submittal of Right-to-Know Requests

- A. All requests to West Chester University under the Right-to-Know Law must be submitted in writing to:

**Mr. Mark P. Mixner, Open Records Officer
Office of the Vice President for Administration and Finance
Philips Memorial Building, Room 202
West Chester University of Pennsylvania
West Chester, PA 19383
Fax: 610-738-0314
Email: righttokno@wcupa.edu**

Requests may be delivered via email, by facsimile, in person, or sent by regular mail to the address listed above.

- B. If a request is delivered to someone other than the Open Records Officer, it shall be forwarded to the Open Records Officer in a reasonable time. The five (5) business-day period for a response to the request begins once the designated Open Records Officer receives the request.
- C. The Open Records Officer will inform the requester of receipt of the request, including the date the request was deemed received within five (5) business days.

III. West Chester University's Duty to Provide a Prompt Response to a Right-to-Know Request

- A. Upon receipt of a written request, the 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 must not exceed five (5) business days from the date the written request is received by the Open Records Officer. If the University fails to respond within that time period, the request is deemed denied.
- B. The University may inform the requester of the need for additional time to comply with a specific request in accordance with provisions of the law. Such an extension may not exceed thirty (30) calendar days unless agreed to by the requestor. If the University fails to make a timely final response pursuant to the extension, the request is deemed denied.
- C. The Open Records Officer shall send written notice to the requestor within five (5) business days of the need for an extension. The notice shall include a statement notifying the requester that the request for access is being reviewed, the reason for the review, and a reasonable date when a response is expected to be provided.

IV. Processing Right-to-Know Requests

- A. Upon receiving a written Right-to-Know request, the Open Records Officer shall complete the following tasks:
 - 1. Date-stamp the request.
 - 2. Assign a tracking number to the request.
 - 3. Compute the day on which the five (5) business-day period will expire and make a notation of that date on the first page of the request.
 - 4. Inform the requester of receipt of the request.

5. Make an electronic or paper copy of the request, including all documents submitted with it and the envelope (if any) in which it came.
6. Create an official file for the retention of the original request.

B. For purposes of determining the five (5) business-day period:

1. A business day shall be any Monday, Tuesday, Wednesday, Thursday, or Friday, except those days when the offices of the University are closed for all or part of a day due to a state holiday; due to severe weather (such as a blizzard or ice storm); due to a natural or other disaster; or due to the request or direction of local, state, or federal law-enforcement agencies or officials.
2. 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 business day.
3. For purposes of determining the end of the five (5) business-day period, the day that a request is received (or deemed to be received) is not counted. The first day of the five (5) business-day period is the University's next business day.

V. Initial Review by the Open Records Officer

A. Upon receiving a Right-to-Know request, the Open Records Officer shall promptly review it. The purpose of this review is to determine the following:

1. Whether the request possesses an obvious defect that permits it to be rejected without further consideration. Such defects include the following.
 - a. The documents sought by the requester are not identified with sufficient particularity.
 - b. The identified records unquestionably fall outside of the Act's definition of "public records."
 - c. The identified records unquestionably fall within one of the Act's statutory exemptions under 65 P.S. §67.708 to the definition of "public records."
 - d. The Open Records Officer has personal knowledge that the identified records do not exist.
 - e. The Open Records Officer has personal knowledge that the identified records are not in the possession or control of the University.
2. Whether the request can be granted without further consideration. For example, if the Open Records Officer knows that the requested documents exist, are public records, and that they are immediately accessible, no further analysis is necessary.

3. Whether the request implicates a right protected by the Pennsylvania or United States Constitution, including, but not limited to, the constitutional right of privacy. If the Open Records Officer concludes that the request implicates such a right, he or she shall consult with counsel regarding the balancing of the requester's interest in access to the records versus the constitutionally-protected interests.
- B. In conducting this initial review, the Open Records Officer may contact (or attempt to contact) the requester in order to obtain clarification or additional information.
 - C. If the Open Records Officer determines that the request should be refused for any of the grounds set forth in V.A.1., above, he or she shall immediately draft a proposed denial response. This email/letter should set forth each and every ground that the Open Records Officer believes is a proper ground for refusal.

VI. Responses—In General

- A. The act of providing a requester with physical access to a document in the offices of the University is a “response” for purposes of the Right-to-Know Law.
- B. 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 medium other than that in which it is maintained.
- C. A requester may either view original records by making an appointment during regular business hours with the Open Records Officer, or may request written copies, which will be provided for fee as established by the Office of Open Records. <http://openrecords.state.pa.us> Fees can be waived at the discretion of the University's Open Records Officer.
- D. The 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 University does not currently do so.
- E. Permission for requesters to use their own photocopying or other equipment is at the discretion of the Open Records Officer.

VII. Responses

- A. Types of responses:
 1. The request is granted in its entirety.
 2. The request is refused in its entirety.
 3. The request is partially granted.

- B. Deemed denials: The failure to make a timely response is deemed a denial.
- C. Final responses granting requests: A written request for a record will be granted if the record requested is within the statutory definition of a public record.
- D. Final responses that deny requests, either in whole or in part:
 - 1. A written response that denies a request must list the entire specific reasons relied on for denying the request.
 - 2. If a request is denied all or in part, the written response must also contain a notice informing the requester of his or her right to file an appeal with the Office of Open Records. <http://openrecords.state.pa.us>
 - 3. Any final written response that sets forth a denial, whether in whole or in part, must contain the following:
 - a. The name, title, business address, business telephone number, and signature of the public official or employee on whose authority the denial is issued.
 - b. On a letter, the words “Mailing Date” followed by the date that is the mailing date for the response. For a response through email, the date the email was sent is record of the mailing date.
 - c. A statement of the procedure that the requester may follow in order to file an appeal contesting the denial.
 - 4. 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 exist:
 - a. The requester has not identified any of the requested records with sufficient specificity.
 - b. The record does not exist.
 - c. The requestor has not prepaid the costs of fulfilling the request, if the anticipated costs would exceed \$100.
 - d. The record in question falls within one or more of the Act’s statutory exceptions to the definition of “public record.” 65 P.S. §67.708.
 - e. The request is for student information is denied to entities and persons who are not associated with the University pursuant to FERPA and its regulations which serve to protect the privacy interest in a student’s education records, which are broadly defined as records containing information directly related to the student and maintained by the University. 20 U.S.C.A. §1232g(a)(4)(A)(i-ii); 34 C.F.R §99.3.

- f. The request constitutes a disruptive request pursuant to 65 P.S. §67.506(a) or the request is not able to be granted due to disaster or potential damage pursuant to 65 P.S. §67.506(b).

VIII. Redaction

- A. “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.
- B. 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 grant access to the information subject to access, but deny access to the information not subject to access.
- C. The Office of Chief Counsel, or designee, before delivery of the response will review any response that includes information that must be redacted.

IX. Appeals

- A. Guidelines for the right to file an appeal:
 - 1. An appeal to a denial must be filed with the Office of Open Records within fifteen (15) business days of the mailing date of the written denial.
<http://openrecords.state.pa.us>
 - 2. An appeal to a deemed denial must be filed with the Office of Open Records within fifteen (15) calendar days of the date the request is deemed denied.
<http://openrecords.state.pa.us>

X. Fees and Charges

All fees charged will be in accordance with the fee structure established by the Office of Open Records. <http://openrecords.state.pa.us>. At the discretion of the University’s Open Records Officer, the University may charge \$0.25 per page for photocopies. If estimated photocopy costs are expected to exceed \$100, the University may require a prepayment of fees.

Responsible Office:	WCU Administration and Finance – Open Records Officer
Original Issue Date	July 1, 2003
Last Revision Date:	<u>April 2016</u> – Amended to include electronic access and detail regarding student information.
	<u>January 1, 2010</u> – Amended the Fees and Charges section.
	<u>December 2008</u> – Implement provisions of Pennsylvania’s new Open Records law, effective January 1, 2009.



WEST CHESTER UNIVERSITY RIGHT-TO-KNOW REQUEST FORM

Submit electronic requests to righttokno@wcupa.edu

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Mr. Mark P. Mixner, Open Records Officer
Office of the Vice President for Administration and Finance
West Chester University of Pennsylvania
Philips Memorial Building, Room 202
West Chester, PA 19383
Fax: 610-738-0314

DATE REQUESTED:

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

NAME OF REQUESTOR: _____

STREET ADDRESS: _____

CITY/STATE/COUNTY (Required): _____

TELEPHONE (Optional): _____

RECORDS REQUESTED (*Provide as much specific detail as possible so the agency can identify the information.*)

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

OPEN RECORDS OFFICER:

DATE RECEIVED BY WEST CHESTER UNIVERSITY:

WEST CHESTER UNIVERSITY FIVE (5)-DAY RESPONSE DUE: