

**HEGINS-HUBLEY AUTHORITY
SCHUYLKILL COUNTY, PENNSYLVANIA**

**A RESOLUTION OF THE HEGINS-HUBLEY AUTHORITY
("AUTHORITY") ESTABLISHING A POLICY REGARDING REQUESTS
FOR PUBLIC RECORDS PURSUANT TO THE RIGHT-TO-KNOW LAW;
AND CONTAINING CLAUSES FOR SEVERABILITY, REPEAL AND
EFFECTIVE DATE.**

WHEREAS, the requests for public records and the copying thereof has been governed by the Right-to-Know Law, Act of June 21, 1957, P.L. 390, No. 212, as amended June 17, 1971, P.L. 190, No. 9; and

WHEREAS, the Right-to-Know Law has been subsequently amended by the Act of June 29, 2002, Act No. 2002-100, which requires, among other things, that each political subdivision and each municipal authority in Pennsylvania adopt a policy regarding requests for public records and the copying thereof; and

WHEREAS, the Authority desires to adopt a policy implementing the Right-to-Know Law.

NOW, THEREFORE, BE IT ADOPTED AND RESOLVED, by the Board of the Heginshubley Authority, and it is hereby **RESOLVED** as follows:

1. **Definitions.** The following terms when used in this Resolution shall have the meanings set forth in this section unless the context clearly indicates otherwise:

"Authority" shall mean the Heginshubley Authority, Schuylkill County, Pennsylvania.

"Business day" shall mean any day other than a Saturday, Sunday, holiday or other day when the Authority is not open for business.

"Person" shall mean an individual and any other legal entity determined by final order of a court having jurisdiction over the Authority to be a person under the Right-to-Know Law.

"Public Record" shall mean any account, voucher or contract dealing with the receipt or disbursement of funds by the Authority or the acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by the Authority fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of person: Provided, That the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the institution progress or result of an investigation undertaken by the Authority in the performance of official duties; it shall not include 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 the loss by the Authority of federal funds, excepting therefrom however the record of any conviction for any criminal act.

"Record" shall mean any document maintained by the Authority, in any form, whether public or not.

"Requester" shall mean a person who is a resident of the Commonwealth of Pennsylvania and requests a record pursuant to the Right-to-Know Law and this Resolution.

"Response" shall mean access to a record or the Authority's written notice granting, denying or partially granting and partially denying access to a record.

"Right-to-Know Law" shall mean the Act of June 21, 1957, P.L. 390, No. 9, as amended from time to time.

2. Procedure for Access to Public Records of the Board.

(a) **General Rule.** Unless otherwise provided by law, a public record of the Authority shall be accessible for inspection and duplication by a requester in accordance with this Resolution. A public record shall be provided to a requester in the medium requested if the public record exists in that medium; otherwise, it shall be provided in the medium in which it exists. Public records shall be available for access during the regular business hours of the Authority. Nothing in this Resolution shall provide for access to a record which is not a public record.

(b) **Verbal Requests.** The Authority may fulfill verbal requests for access to records and anonymous requests for access to records, but reserves the right to require that requests for records be in writing and to require the identification of the requester. In the event that the requester wishes to pursue the relief and remedies provided for in the Right-to-Know Law, the requester must initiate such relief with a written request.

(c) **Written Requests.** A written request for access to records may be received in person, by mail, by facsimile, or by email addressed to the Authority.

(d) **Addressing Requests.** Each written request should identify or describe the records sought with sufficient specificity to enable the Authority to ascertain which records are being requested and shall include the name and address to which the Authority should address its response. A written request need not include any explanation of the requester's reason for requesting or intended use of the records. Requests shall be addressed by the Authority as follows:

(i) **Creation of a Public Record.** When responding to a request for access, the Authority shall not 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 it does not currently compile, maintain, format or organize the public record.

(ii) **Conversion of an Electronic Record to Paper.** If a public record is only maintained electronically or in other non-paper media, the Authority shall, upon request, duplicate the public record on paper when responding to a request for access in accordance with this Resolution.

(e) **Access to Public Records.** The Authority may not deny a requester access to a public record due to the intended use of the public record by the requester.

3. **Redaction.** If the Authority determines that a public record contains information which is subject to access as well as information which is not subject to access, the Authority's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record and cannot be separated, the Authority shall redact from the public record the information which is subject to access, and the response shall grant access to information which is subject to access. The Authority may not deny access to the public record if the information which is not subject to access is able to be redacted. Information which the Authority redacts in accordance with this subsection shall be deemed a denial under Section 4(c) of this Resolution.

4. **The Authority's Response to Requests for Access.**

(a) **General Rule.** Upon receipt of a 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 to respond as promptly as possible under the circumstances existing at the time of the request, but shall not exceed five (5) business days from the date the written request is received by the Authority. If the Authority fails to send the response within five (5) business days of receipt of the written request for access, the written request for access shall be deemed denied.

(b) **Exception.** Upon receipt of a request for access, if the Authority determines that one of the following applies:

(i) the request for access requires redaction of a public record in accordance with Section 3;

(ii) the request for a access requires the retrieval of a record stored in a remote location;

(iii) a timely response to the request for access cannot be accompanied due to bona fide and specified staffing limitations;

(iv) a legal review is necessary to determine whether the record is a public record subject to access under the Right-to-Know Law and this Resolution;

(v) the requester has not complied with the Authority's policies regarding access to public records; or

(vi) the requester refuses to pay applicable fees;

then the Authority shall send written notice to the requester within five (5) business days of its receipt of the request 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. 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 in subsection (a), the request for access shall be deemed denied.

(c) **Denial.** If the Authority's response is a denial of a request for access, whether in whole or in part, a written response shall be issued and include:

(i) a description of the record requested;

(ii) the specific reason(s) for the denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the Authority's determination that the record is not a public record shall be included;

(iii) the typed or printed name, title, business address, business telephone number and signature of the public official or public employee making the response on behalf of the Authority at the time the denial is issued;

(iv) date of the response;

(v) the procedure to appeal the denial of access under this act;

(d) **Certified Copies.** If Authority's response grants a request for access, it shall, upon request, provide the requester with a certified copy of the public record if the requester pays the applicable fees pursuant to Section 7.

5. **Final Determination.**

(a) **Filing of Exceptions.** If a written request for access is denied or deemed denied, the requester may file exceptions with the Authority within fifteen (15) business days of the mailing date of the response or within fifteen (15) days of a deemed denial. The exceptions shall state 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.

(b) **Determination.** Unless the requester agrees otherwise, the Authority or its designee shall make a final determination regarding the exceptions within thirty (30) days of the mailing date of the exceptions. Prior to issuing the final determination regarding the exceptions, the Authority or its designee may in their sole discretion conduct a hearing. The determination shall be the final order of the Authority. If the Authority or its designee determine that the request was correctly denied, then the Authority or their designee shall provide a written explanation to the requester of the reason for the denial.

6. **Judicial Appeal.**

(a) **Appeal.** Within thirty (30) days of a denial by the Authority under Section 4(c) or of the mailing date of a final determination of the Authority affirming the denial of access under Section 5(b), a requester may file a petition for review or other document as might be required by rule of court with the Court of Common Pleas of Schuylkill County or bring an action in the local magisterial district having jurisdiction.

(b) **Notice.** The Authority shall be served notice of any court or other actions commenced, and shall have an opportunity to respond in accordance with applicable court rules.

(c) **Record on Appeal.** The record before a court shall consist of the request, the Authority's response, the requester's exceptions, if applicable, the hearing transcript, if any, and the Authority's final determination, if applicable.

7. **Fees.**

(a) **Postage.** The Authority hereby imposes a fee for postage equal to the actual prevailing cost of mailing.

(b) **Duplicating.** The Authority hereby impose fees for duplication of public records by photocopying equal to twenty-five cents (\$.25) per page, printing from electronic media equal to one dollar (\$1.00) per page or other means of duplication which fees do not exceed the prevailing fee for comparable duplication services provided by local business entities in the Schuylkill County area. All requests must be in writing.

(c) **Certification.** The Authority may impose a fee of ten (\$10.00) dollars for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.

(d) **Conversion of Paper.** If a public record is only maintained electronically or in other non-paper media the Authority may impose fees which shall be limited to one dollar (\$1.00) per page unless the requester specifically requests for the public record to be duplicated in the more expensive medium.

(e) **Waiver of Fees.** The Authority may waive the fees for duplication of a public record, including, but not limited to, when:

(i) the requester duplicates the public record; or

(ii) the Authority deem it is in the public interest to do so.

(f) **Other Fees/Limitations.** Except as otherwise provided by statute, no other fees may be imposed. A reasonable fee equal to the actual cost shall be imposed if the Authority out of necessity incur costs not otherwise described in this Resolution for complying with the request. However, the Authority recognize it may not impose a fee for it's review of a record to determine whether the record is a public record subject to access.

(g) **Prepayment.** Prior to granting a request for access in accordance with the Right-to-Know Law and this Resolution, a requester shall prepay an estimate of the fees authorized under this section if the fees required to fulfill the request are expected to exceed one hundred dollars (\$100.00).

8. **Confidentiality.** If the Authority receives a request for a record that is subject to a confidentiality agreement executed before December 26, 2002, the effective date of Act 2002-100, the law in effect at the time the agreement was executed, including judicial interpretation of the law, shall govern access to the record, even if the record is a public record, unless all parties to the confidentiality agreement agree in writing to be governed by the Right-to-Know Law, as amended by Act 2002-100.

9. **Posting.** A copy of this Resolution shall be conspicuously posted at the Authority's offices.

10. **Headings.** The headings of sections and parts thereof are for convenience only and shall not affect the construction hereof.

11. **Severability.** Should any section, paragraph or provision of this Resolution be declared by a court of competent jurisdiction to be invalid, such judgment shall not affect the validity of this Resolution as a whole or any part or provision thereof, other than the part so declared to be invalid or unconstitutional.

12. **Repealer.** This Resolution shall supersede and repeal all resolutions and parts thereof inconsistent or conflicting herewith.

13. **Effective Date.** This Resolution shall become effective upon adoption.

DULY RESOLVED, this 31st day of March, 2004, by the Hegin-Hubley Authority, Schuylkill County, Pennsylvania, in lawful session duly assembled.

**HEGINS-HUBLEY AUTHORITY
SCHUYLKILL COUNTY, PENNSYLVANIA**

ATTEST:

Harry W. Minnich
Secretary

By: J. Bowman
Chairman