

## Agencies Can Refer Requesters to their Websites When Responding to Requests (Section 704(b))

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In a previous post, we discussed how the OOR in *Stooky v. Unionville-Chadds School District*, AP 2019-0484 (April 18, 2019) determined that a Requester could seek records under the RTKL even though she already possessed the records. That case is also important because the OOR explained that, under the RTKL, agencies are permitted to direct requesters to their website when responding to a RTKL request.

In *Stooky*, the Requester, in addition to seeking emails, sought “All video and audio recordings of School Board meetings, work sessions, and other public meetings” in which the District invited Requester to meet. In response, the District directed the Requester to its publicly available website for responsive records.

Section 704(b) of the RTKL permits an agency to respond to a request for records “by notifying the requester that the record is available through publicly accessible electronic means.” 65 P.S. § 67.704(b)(1). “If a requester is unwilling or unable to access the records electronically, the requester may, within 30 days following receipt of the agency notification, submit a written request the agency to have the record converted...” 65 P.S. § 67.704(b)(2). Once the Requester submits a written request to convert the record to paper, “[t]he agency shall provide access to the record in printed form within five days of the receipt of the written request for conversion to paper.” 65 P.S. § 67.704(b)(2).

If the requester does not timely request that the records be converted to paper, an agency has no further obligation under the RTKL relative to a requester’s access to the particular requested record(s). Importantly, the OOR held an appeal to the OOR is not “a written request to the agency to have the record converted,” such that it triggers an agency’s responsibility to take further action pursuant to Section 704(b)(2) of the RTKL.

Accordingly, the OOR concluded that the District’s response to this part of the Request was permissible under Section 704 of the RTKL.

This decision is a helpful reminder that, if records are publically available online, agencies may initially respond by simply providing a link to the website where the records are located. All Open Records Officers should be aware of this helpful option that can save time and money.

If you have any questions or comments, please do not hesitate to contact Chris Voltz or any of the other Municipal and School Attorneys at Tucker Arensberg, P.C.