



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PENNSYLVANIA
17120

Right-to-Know Law Office
Room 306, North Office Building
401 North Street
Harrisburg, PA 17120-0500
Fax: 717-214-9899

Mailing Date: September 30, 2021

Austin Fast
NPR
1111 North Capitol Street NE
Washington, DC 20002

afast@npr.org

RE: Right-to-Know Law Request No. 2021-457

Dear Mr. Fast:

On September 23, 2021, the Department of State was forwarded your request for information pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101, et seq. (RTKL), wherein you requested: (1) electronic audio recording from the Pennsylvania State Board of Nursing meeting on March 15, 2021; and (2) electronic versions of the following public records pertaining to all applicants for RN and LPN licenses from January 1, 2019, until the date this request is processed: Name of applicant (first, middle, last); City of residence; State of residence; License type: RN or LPN; License duration: Temporary or permanent; Application type, e.g.: Initial licensure by examination, Initial licensure by reciprocity/endorsement, Renewal of license, Reactivation of license, Reinstatement of license, etc.; Date of initial application submission; Date when all required application documents received, if later than initial application date; License/application status as of date this request is processed (e.g., active, pending, denied, etc.); License issue date (if approved as of date this request is processed); License expiration date (if approved as of date this request is processed).

Your request is granted in part and denied in part.

- Your request is granted in part and enclosed are spreadsheets responsive to your request. There is no fee due to the Department's policy of not charging a fee if the file is sent electronically.
- Your request is denied because Department of State has determined that it does not have the records that you request in its possession, under its custody or its control. Pursuant to the Office of Open Records Final Decision in *Jenkins vs. Pennsylvania Department of State*, OOR Dkt. AP 2009-065, it should be noted that: "It is not a denial of access when an agency does not possess records and there is no legal obligation to obtain them (see, e.g. Section 67.506(d)(1))." An agency is not required "to create which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record."

The Department of State does not possess an audio recording from the State Board of Nursing's meeting on March 15, 2021. The Department has minutes from the meeting which can be found on the Department's website at:

<https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Nursing/Documents/Board%20Minutes/031521-State-Board-of-Nursing-Minutes-Final.pdf>.

Sargent's Court Reporting records the meetings but only retains the recordings until the minutes are made public. I have reached out to Sargent's to see if they still have the audio recording in their possession and will follow up to this letter once I receive a response. Also, the Department does not maintain data regarding the date when all required application documents are received, if later than initial application date.

You have a right to appeal this response in writing to Office of Open Records (OOR), 333 Market Street, 16th Floor, Harrisburg, PA 17126-0333. If you choose to file an appeal, you must do so within 15 business days of the mailing date of this response and send to the OOR:

- 1) this response;
- 2) your request; and
- 3) the reason why you think the agency is wrong in its response.

Also, the OOR has an appeal form available on the OOR website at:

<https://www.openrecords.pa.gov/Appeals/AppealForm.cfm>

Respectfully,

Rebecca A. Fuhrman
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Agency Open Records Officer
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Room 306, North Office Building
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