

December 9, 2016



PNA LEGAL UPDATE

LEGAL AND LEGISLATIVE ISSUES AFFECTING THE NEWS INDUSTRY

A supplement to Headlines & Deadlines

Editorial Round Up

LNP (Lancaster)

Blanket cellphone ban at Lancaster County Courthouse ought to be refined

PennLive/The Patriot-News (Harrisburg)

Info fight can frustrate citizens

Reading Eagle

Battle for public records continues

Philly.com

Pa's next attorney general must avoid politics and run office without fear of favoritism

Butler Eagle

The dim light of our state Sunshine Law still flickers

Legislative Update

The House and Senate remain in recess until Jan. 3, 2017, the ceremonial swearing-in date for new legislators.

Legal Issues from Around the Commonwealth

Sunshine complaint filed against PSU Trustees

A Penn State alumnus has filed a private criminal complaint against the PSU Board of Trustees after the board decided not to contest a \$2.4 million Clery Act fine imposed by the federal Department of Education. The complaint alleges the board deliberated and voted at a non-public meeting. Read more from the [Centre Daily Times \(State College\)](#)

School district sued in RTKL dispute

The Johnstown School District has been sued by a resident over a dispute involving access to and inspection of child security clearances obtained by the school. Read more from [The Tribune-Democrat \(Johnstown\)](#)

Newspaper takes readers behind the scenes on RTKL quest

PennLive/The Patriot-News (Harrisburg) invites readers into their RTKL process when tracking down public records related to parking tickets in Harrisburg. Read more [here](#)

Advocates debate releasing names of police involved in shooting incidents

Legislators and advocates discuss the pros and cons of releasing the names of officers involved in use of force incidents like shootings where citizens are killed or injured. Read more from the [Reading Eagle](#)

Township releases agreement details

Upper Gwynedd Township approved a separation agreement with a former employee in

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Legal Hotline

Do you have a question for the Legal Hotline?

Contact 717-703-3080

Legal Update PDF

Visit the PNA website for a [printable PDF](#) of this week's Legal Update.

September, but did not release any details until this month, when a reporter filed a RTKL request for copies of the agreement. Read more from [North Penn Life \(Lansdale\)](#)

Beyond PA

News Media Alliance Applauds Legislation to Repeal Cross Ownership Rule

This week, bipartisan members of the House Energy and Commerce Committee introduced legislation to repeal the 41 year-old rule preventing cross ownership of newspapers and broadcast stations in the same market. In response, David Chavern, President and CEO of the News Media Alliance, stated, "We are pleased to see solid bipartisan support for commonsense legislation that reverses an outdated rule that does more harm than good. This Nixon-Administration rule has absurdly prevented investment in newspapers that have print, while digital-only properties have been free to invest (and be invested in) without restrictions." Read more [here](#)

From the Hotline

Q: A borough in our coverage area gave public notice of its proposed budget, and when I asked for a copy, borough officials refused and said the public isn't entitled to a copy. Borough officials said that I can look at a copy at the borough building during specific inspection times, but the hours are very limited. Can they do that?

A: No. A proposed budget is a public record, and copies must be provided. Moreover, the proposed budget must be available for public inspection during the agency's normal business hours.

[The Borough Code](#) governs the borough's budget adoption process. Specifically, 8 Pa.C.S. §§ 1307-1310 require boroughs to formulate, propose and adopt a budget before December 31 each year. As part of this process, [section 1308](#) requires the borough secretary to provide public notice informing citizens that the proposed budget is available for public inspection. This public notice must be published in a newspaper of general circulation at least 10 days before the budget is adopted in all boroughs where the proposed budget receipts exceed \$50,000, which is the vast majority of boroughs in the Commonwealth. The law also imposes criminal sanctions for failure or refusal to publicize the proposed budget in accordance with the law.

The Borough Code clearly makes proposed budgets public records, and as such, section 701 of the [Right to Know](#) Law requires the county to provide copies and permit public inspection of public records during the county's regular business hours.

The Borough Code and other local government codes like the Second Class Township Code ([section 3202](#)), Third Class City Code ([section 1809](#)), and County Code ([section 1782](#)) contain public access provisions that are intended to facilitate and encourage public participation in and understanding of the budget process. Refusing to provide copies of a proposed budget and limiting the right to inspect it creates significant barriers to access that directly conflict with the plain language and clear intent of these laws. Copies of proposed budgets must be provided upon request and made readily available for public inspection during the agency's regular business hours.

As always, this is not intended to be, nor should it be construed as, legal advice. Please contact your newspaper's private attorney or the PNA Legal Hotline at (717) 703-3080 with questions.

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