

The following Guidelines for In Camera Inspection of Records modify Section V(E) of the OOR's Procedural Guidelines, as set forth on pages 11-14 of that document.

Guidelines for In Camera Inspection of Records

I. *Submission of Records for In Camera Inspection:*

1. Under certain circumstances, an Appeals Officer may order an *in camera* inspection of the record(s) at issue in a Right-to-Know Law ("RTKL") appeal.
2. When an Appeals Officer determines *in camera* inspection of records is necessary, an extension of time to issue a Final Determination shall be sought from the Requester. An Order will follow directing the Agency or, if applicable, the Direct Interest Participant, to submit the records in accordance with the requirements set forth herein.
3. The Agency or, if applicable, the Direct Interest Participant, shall submit a copy of the records for *in camera* inspection, together with an *in camera* inspection index, consistent with the requirements of Section II below, by the date ordered.
 - a. The inspection index and records submitted for *in camera* inspection must be provided to the OOR by one of the following methods: e-mail, regular or certified mail, or hand-delivery. The OOR may also permit Agencies or Direct Interest Participants to provide records for *in camera* inspection through other electronic means at the OOR's discretion.
4. If submitted electronically, *in camera* records should be provided in Adobe PDF and submitted to **OORSecure@pa.gov**, the OOR's secure resource account for the submission of *in camera* records. If more than 100 pages are being submitted in hard copy, the *in camera* records must be submitted in Adobe PDF format on a compact disc or similar electronic medium.
5. The Appeals Officer will provide the Agency, or, if applicable, the Direct Interest Participant, a confirmation reflecting the date the records were received. The confirmation shall also certify that neither the records submitted for an *in camera* inspection, nor their contents, be disclosed to any unauthorized person, except as provided by court order or this section.
6. The Agency or, if applicable, the Direct Interest Participant, shall certify that the records submitted for an *in camera* inspection are true and correct and complete copies of the records at issue in the appeal. If a hearing is held, the Agency, or, if applicable, the Direct Interest Participant, shall make available for direct and cross-examination the official who issued the certification.

7. In the event a party providing records for *in camera* inspection fails to comply with the requirements set forth herein, the Appeals Officer may return the records, decline to inspect them or otherwise act upon the request for *in camera* inspection on the basis of justice, fairness and the expeditious resolution of the appeal.

II. *In Camera* Inspection Index:

1. When submitting records for *in camera* inspection, the Agency or, if applicable, the Direct Interest Participant, shall provide an electronic copy of an *in camera* inspection index, referencing each record, or each item within each record, claimed to be exempt and citing the applicable exemption(s).
 - a. Each record (or page of the record, if necessary) shall be Bates numbered and correspond to the number(s) listed on the inspection index.
 - b. The inspection index shall cite the applicable exemption(s) for each record (or page of the record, if necessary) and provide a description of the grounds(s) for each exemption. Where appropriate, the inspection index should also identify the individuals, by name and title, who sent or received the records subject *in camera* inspection.
2. The Agency or, if applicable, the Direct Interest Participant, shall provide a copy of the *in camera* inspection index and all other documents not submitted under seal (e.g., cover letter and redacted records previously provided to the Requester and submitted for the purposes of comparison) to all parties to the appeal.

III. *Storage and Use of In Camera* Records:

1. Records submitted for *in camera* inspection shall be stored in a secure OOR file. Only the Appeals Officer, the Executive Director, Deputy Director, Chief Counsel, and staff attorneys are authorized to inspect these records. All other documents submitted by the parties in the appeal, including documents accompanying the *in camera* records not filed under seal, will be included as part of the public appeal file.
2. The Appeals Officer may print copies of the *in camera* records for review and immediately destroy any such copies after the need for review has passed. Similarly, notes taken by the Appeals Officer, if any, will be destroyed upon the issuance of the Final Determination.
3. Any *in camera* records printed shall be secured in the same manner as records submitted to the OOR in hard copy form. The OOR will not otherwise permit records submitted for an *in camera* inspection to be printed or copied. Likewise, any persons authorized to inspect such records, with the exception of the assigned Appeals Officer, are prohibited from taking notes referring to specific information contained in the *in camera* records.

4. References to specific records submitted for *in camera* inspection, or the contents of such records, in the Final Determination will be made by the assigned reference numbers, as reflected on the inspection index or records themselves, or by reference to generic descriptions or characterizations set forth on the inspection index.
5. At public hearings, the Appeals Officer shall not allow any mention of the specific contents of records submitted for *in camera* inspection. However, identification of these records may be made by reference to the assigned Bates numbers endorsed on the records or by reference to generic descriptions or characterizations set forth on the inspection index.

IV. Disposal of In Camera Records:

1. Unless a Final Determination is appealed to a reviewing court, after six (6) months from the issuance of the Final Determination, the OOR shall destroy all records submitted for *in camera* inspection and notify the Agency and, if applicable, the Direct Interest Participant, of the destruction of the record(s).
2. Unless directed by court order, if a Final Determination is appealed to a reviewing court, the OOR will not include the records submitted for *in camera* inspection as part of the official record to be certified to the court. For cases appealed to a Court of Common Pleas or the Commonwealth Court, the OOR will file the *in camera* records with the Court, under seal, in a separate Supplemental Certified Record.
3. Until delivery of the certified record to the court, the OOR will continue to retain records submitted for *in camera* inspection in the OOR's secure file, separate and apart, from the remainder of the public record of an appeal.
4. Absent a subsequent appeal to a reviewing court, six (6) months following the issuance of a final court order in an appeal implicating records submitted for *in camera* inspection, the OOR shall destroy all *in camera* records and notify the Agency and, if applicable, the Direct Interest Participant, of the destruction.