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**Subject:** RTK Request 2101211122 Evers - Response - Denied - No Legislative Records

**Date:** Monday, January 25, 2021 at 7:48:36 AM Pacific Standard Time

**From:** RTKofficer

**To:** AO Records

EXTERNAL SENDER

Dear Mr. Evers,

I am responding to your recent RTK request which was received on Thursday January 21, 2021 in which you requested the following:

*Records reflecting any and all expenditures made and/or reimbursed by the Senate or any other state government entity in connection with Senator Doug Mastriano's trip and/or the bus ride Mastriano organized on or about January 6, 2021, to Washington, D.C., including, but not limited to, records of any reimbursements submitted by or on behalf of Mastriano. Responsive records would include, but are not limited to, hotel or other lodging invoices or receipts; legislature-issued charge card or travel card reports; receipts from airlines, rental car, charter buses, or other transportation companies; records reflecting the cost of government transportation; receipts or other records reflecting the cost of meals or refreshments; or records reflecting per diem payments. Please provide all responsive records from January 1, 2021, to January 13, 2021.*

In reviewing your request, the following sections of the Right-to-Know Law (RTKL), 65 P.S. § 67.101 et. seq., are relevant:

Section 303(a) of the RTKL provides that “[a] legislative agency shall provide legislative records in accordance with this act.” 65 P.S. § 67.303(a). Section 102 defines “legislative agency” to include the Senate. 65 P.S. § 67.102.

Section 305(b) provides that “A legislative record in the possession of a legislative agency. . . shall be presumed to be available in accordance with this act. The presumption shall not apply if: (1) the record is exempt under section 708; (2) the record is protected by a privilege; or (3) the record is exempt from disclosure under any other Federal or State law, regulation or judicial order or decree.” 65 P.S. § 67.305(b). Accordingly, if the record requested is not a “Legislative record” under the RTKL, it is not presumed to be available to the public.

Section 102 of the Act provides the following definition of “legislative record”. “Any of the following relating to a legislative agency or a standing committee, subcommittee or conference committee of a legislative agency:

- (1) A financial record.
- (2) A bill or resolution that has been introduced and amendments offered thereto in committee or in legislative session, including resolutions to adopt or amend the rules of a chamber.
- (3) Fiscal notes.
- (4) A co-sponsorship memorandum.
- (5) The journal of a chamber.

(6) *The minutes of, record of attendance of members at a public hearing or a public committee meeting and all recorded votes taken in a public committee meeting.*

(7) *The transcript of a public hearing when available.*

(8) *Executive nomination calendars.*

(9) *The rules of a chamber.*

(10) *A record of all recorded votes taken in a legislative session.*

(11) *Any administrative staff manuals or written policies.*

(12) *An audit report prepared pursuant to the act of June 30, 1970 (P.L.442, No.151) entitled, "An act implementing the provisions of Article VIII, section 10 of the Constitution of Pennsylvania, by designating the Commonwealth*

*officers who shall be charged with the function of auditing the financial transactions after the occurrence thereof of the Legislative and Judicial branches of the government of the Commonwealth, establishing a Legislative Audit Advisory Commission, and imposing certain powers and duties on such commission."*

(13) *Final or annual reports required by law to be submitted to the General Assembly.*

(14) *Legislative Budget and Finance Committee reports.*

(15) *Daily legislative session calendars and marked calendars.*

(16) *A record communicating to an agency the official appointment of a legislative appointee.*

(17) *A record communicating to the appointing authority the resignation of a legislative appointee.*

(18) *Proposed regulations, final-form regulations and final-omitted regulations submitted to a legislative agency.*

(19) *The results of public opinion surveys, polls, focus groups, marketing research or similar efforts designed to measure public opinion funded by a legislative agency." 65 P.S. § 67.102.*

Section 102 further provides for the definition of "financial record." *As any of the following: "(1) Any account, voucher or contract dealing with: (i) the receipt or disbursement of funds by an agency; or (ii) an agency's acquisition, use or disposal of services, supplies, materials, equipment or property. (2) The salary or other payments or expenses paid to an officer or employee of an agency, including the name and title of the officer or employee. (3) A financial audit report. The term does not include work papers underlying an audit."* 65 P.S. § 67.102.

Section 901 provides the general rule for responding to RTK requests.

*Section 901. General rule.*

*Upon receipt of a written request for access to a record, an agency shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether*

*the agency has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request. All applicable fees shall be paid in order to receive access to the record requested. The time for response shall not exceed five business days from the date the written request is received by the open-records officer for an agency. If the agency fails to send the response within five business days of receipt of the written request for access, the written request for access shall be deemed denied. 65 P.S. § 67.901.*

After a good faith effort to determine if any financial records exist and would be responsive to the request, the request is hereby denied as there are no financial records.

As the request has been denied for the reason stated above, the process for filing an appeal is provided for below.

In the future, to aid you in filing a request, please feel free to use the Senate RTKL request [form](#) which can be found on the Senate [RTKL website](#).

If you have any questions, please call Michael Sarfert of my staff.

Sincerely,

Donetta M. D’Innocenzo, Open Records Officer  
Senate of Pennsylvania  
Room 104 North Office Building | Harrisburg, PA 17120-3052  
Office: 717.787.7163 Fax: 717.783.4296

[RTKofficer@occ.pasen.gov](mailto:RTKofficer@occ.pasen.gov) | [www.pasen.gov](http://www.pasen.gov)

Link to Senate RTKL website - <http://www.pasen.gov/RTKL/index.cfm>

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RIGHT TO APPEAL

In accordance with Section 903 of the Right-to-Know Law, you are hereby notified of your rights to appeal a denial under Chapter 11 of the Act. 65 P.S. §67.903.

The Senate has appointed the Secretary of the Senate, to serve as Appeals Officer. 65 P.S. §67.503. The Appeals Officer can be contacted as follows:

Megan Martin  
Senate Appeals Officer  
Room 462, State Capitol Building  
Harrisburg, PA 17120-3053

Telephone: (717) 787-5920  
[RTKAppeals@os.pasen.gov](mailto:RTKAppeals@os.pasen.gov)

Please be sure to include your complete contact information with any appeal, a copy of the original request and this denial.

Chapter 11 of the law governs the appeals process and provides for the following:

1. An appeal must be filed with the Senate's Appeals Officer within 15 business days of the mailing date of this response.
2. An appeal shall state the grounds upon which the requester asserts that the record is a legislative record, which includes a financial record and shall address any grounds stated by the agency for delaying or denying the request. 65 P.S. §67.1101(a)(1). An appeal must also be filed in accordance with the provisions of Chapter 7 of Title 104 (Senate of Pennsylvania) of the Pennsylvania Code. <http://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/104/chapter7/chap7toc.html&d>
3. The Appeals Officer is required to make a final determination, in writing, within 30 days of receiving an appeal. Prior to making the final determination, the Appeals Officer may hold a hearing.

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**From:** AO Records <[records@americanoversight.org](mailto:records@americanoversight.org)>  
**Sent:** Thursday, January 21, 2021 10:53 AM  
**To:** RTKofficer <[RTKofficer@occ.pasen.gov](mailto:RTKofficer@occ.pasen.gov)>  
**Subject:** Open Records Request (PA-SEN-21-0109)

Dear Open Records Officer:

Please find attached a request for records under Pennsylvania's Right-to-Know Law.

Sincerely,

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Olivia Bravo  
Paralegal  
American Oversight  
[records@americanoversight.org](mailto:records@americanoversight.org)  
[www.americanoversight.org](http://www.americanoversight.org) | @weareoversight

ORR: PA-SEN-21-0109