



**pennsylvania**  
OFFICE OF OPEN RECORDS

**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>HARLEY MONNINGER,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. AP 2016-1465</b>
	:	
<b>SHIPPENSBURG UNIVERSITY OF</b>	:	
<b>PENNSYLVANIA,</b>	:	
<b>Respondent</b>	:	

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* Upon review of the file, the appeal is dismissed as premature for the following reason:

On August 14, 2016, Harley Monninger (“Requester”) submitted two RTKL requests (“Requests”) to Senior Deputy Attorney General Jessica Davis, Esq., who is representing Shippensburg University of Pennsylvania (“University”) in a lawsuit between the parties. Attorney Davis subsequently forwarded the Requests to the University. Having received no response from the University, the Requester filed an appeal with the OOR on August 29, 2016, arguing that the Requests had been deemed denied.

On September 1, 2016, the University invoked a thirty-day extension of time to respond to the Requests, explaining that the Requests were received by the University’s Open Records Officer on August 25, 2016.

Section 901 of the RTKL states that “[t]he 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.” 65 P.S. § 67.901; *see also Commonwealth v. Donahue*, 98 A.3d 1223 (Pa. 2014). Within five business days of receiving a request, an agency may invoke a thirty-day extension of time to respond if one of several factors is present. *See* 65 P.S. § 67.902(b)(1). Here, the University invoked an extension of time within five business days of its Open Records Officer’s receipt of the Requests. Because the appeal was filed prior to the date that the University’s response was due, the appeal is **dismissed as premature**. The Requester is not precluded from filing an appeal of the University’s response to the Requests, pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties and the OOR must be served with notice of the appeal and have an opportunity to respond according to court rules as per Section 1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>1</sup> This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: September 20, 2016**

/s/ Kyle Applegate

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APPEALS OFFICER  
KYLE APPLGATE, ESQ.

Sent to: Heidi Clark (via e-mail only);  
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Harley Monninger (via e-mail only)

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<sup>1</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).