



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
KAYLYN MITCHELL,	:	
Requester	:	
	:	
v.	:	Docket No: AP 2022-0554
	:	
QUAKERTOWN COMMUNITY SCHOOL	:	
DISTRICT,	:	
Respondent	:	

INTRODUCTION

Kaylyn Mitchell (“Requester”) submitted a request (“Request”) to the Quakertown Community School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking email correspondence regarding mask exceptions or exemptions. The Request was deemed denied and Requester appealed to the Office of Open Records (“OOR”). For the reasons set forth in this Final Determination, the appeal is **granted in part** and **denied in part**, and the District is required to take further action as directed.

FACTUAL BACKGROUND

On February 1, 2022,¹ the Request was filed, seeking “[a]ny email correspondence regarding mask exceptions or exemptions from 08/01/22 [sic] – [date of Request – February 1, 2022].” On February 8, 2022, the District contacted the Requester asking for an additional 90 days

¹ The Request was dated January 31, 2022 but was not received by the District until February 1, 2022.

to respond and notified the Requester that “[t]he number of emails within [the R]equest totaled 23,283.” The Requester did not respond and the District did not take a thirty-day extension to respond to the Request pursuant to 65 P.S. § 67.902.

As the Requester did not receive the District’s final response within five business days, on March 2, 2022, the Requester appealed to the OOR, claiming that the Request was deemed denied. *See* 65 P.S. § 67.901.² The OOR invited both parties to supplement the record and directed the District to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On March 22, 2022, the District emailed the OOR and the Requester, indicating that it “wishe[d] to provide Requester with any requested records to which she is entitled in this matter; however, the voluminous number of potentially responsive records that might be reviewed has rendered the School District unable to provide a timely response to this [RTK R]equest, despite its best efforts to do so.”

On April 11, 2022, after several email exchanges between the parties with regard to a production of records on a rolling basis, the Requester agreed to a rolling production schedule.³

On April 19, 2022, the District submitted the first scheduled production of records, and an affidavit supporting the redactions made to those records, as well as two exemption logs listing the redacted records. The responsive records were from August 2021 and related to Nancianne Edwards.

On July 11, 2022, the District submitted responsive records for October 2021, and on August 8, 2022, the District provided responsive records for November and December 2021, and January 2022.

² The Requester granted the OOR an additional time to issue a final determination. *See* 65 P.S. § 67.1101(b)(1).

³ The District initially identified 23,283 potentially responsive records.

On August 26, 2022, the Requester contacted the OOR indicating that she “only received redaction logs for the first installment” and is unable to “challenge any of the emails [as the Requester is not] able to see the logs.” On August 29, 2022, the District submitted the exemption logs for withheld responsive records from September 2021 through January 2022.⁴

On September 20, 2022, the OOR contacted the parties regarding the status of the appeal,⁵ and asked the Requester to “identify what issues remain outstanding for the OOR to adjudicate or, in the alternative, whether [the Requester would] be seeking to withdraw the above-captioned appeal.” On September 21, 2022, the Requester responded indicating that she was still reviewing the records and asked for an extension of time to challenge the redactions.⁶

On September 23, 2022, the District provided a 15 page exemption log identifying the subject matter and the reason for redaction.

On November 17, 2022, the OOR again contacted the parties, specifically asking the Requester for a status update. On November 22, 2022, the District asked that the “appeal be closed.” That same day, the Requester responded attaching an Excel spreadsheet addressing the Requester’s “outstanding concern with the documents provided [in the Excel spreadsheet].”

On November 23, 2022, the OOR provided the District an opportunity to respond and/or submit additional evidence addressing the remaining issues identified by the Requester in her excel spreadsheet.⁷ On November 28, 2022, the District sought to clarify what redactions the Requester was still challenging (i.e. whether the Requester was “only concerned with the records where a pre-decisional deliberations exemption was used or all records on the [E]xcel spreadsheet

⁴ The OOR notes that the District submitted three separate exemption logs. The “September Exemption log”, the “October Exemption Log”, and the “November to January Exemption Log Final.”

⁵ The case management schedule provided the Requester an opportunity to respond two weeks after the final production of records.

⁶ Said request for an extension of time to submit challenges to the redactions was granted. The Requester also agreed to an indefinite stay pending her submissions.

⁷ The Requester was also provided an opportunity to submit additional argument or evidence.

regardless of exemption used.”). On November 30, 2022, the Requester responded that she was challenging all records as identified on her [E]xcel spreadsheet.⁸

On December 9, 2022, the District submitted a position statement arguing that it properly redacted or withheld identifying information of a minor, 65 P.S. § 67.708(b)(30), information barred from disclosure under the Family Educational Rights and Privacy Act, (“FERPA”), 20 U.S.C. § 1232, personally identifiable medical information, 65 P.S. § 67.708(b)(5), written criticisms of an employee, 65 P.S. § 67.708(b)(7), the internal, predecisional deliberations of the District, 65 P.S. § 67.708(b)(10), and information exempt under the attorney-client privilege. In support of its argument, the District submitted the attestation of Attorney Jason Sam, Esq., an attorney for the law firm that is the District’s Solicitor.

On December 26, 2022, the Requester asked the OOR to “conduct [an] *in camera* review to verify the exemptions[.]” On January 4, 2023, the OOR ordered the District to produce unredacted copies of the 41 responsive records for the OOR’s *in camera* inspection.⁹ On January 20, 2023, the District submitted the records for *in camera* inspection along with an index log and the supplemental affidavit of Attorney Sam (“Sam Supplemental Affidavit”).¹⁰

On February 23, 2023, the OOR asked the Requester for a two-week extension to issue a final determination and to clarify what records have been provided during the pendency of this appeal. Again, on February 27, 2023, the OOR asked the Requester for a two-week extension and

⁸ The Excel spreadsheet indicates that the Requester is challenging 41 records.

⁹ The District provided the Requester with an additional four records. Accordingly, only 37 issues consisting of 579 pages remain outstanding for an *in camera* review.

¹⁰ On February 21, 2023, the District resubmitted the *in camera* records for the OOR’s review.

to clarify what issues remain outstanding for the OOR to adjudicate.¹¹ To date, the Requester has not responded.¹²

LEGAL ANALYSIS

The District is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the District is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

1. The appeal is moot in part

During the pendency of this appeal, the District provided thousands of records responsive to the Request. Accordingly, insofar as the Request seeks records that have been provided, the appeal is dismissed as moot as to those records. *See Kutztown Univ. of Pa. v. Bollinger*, 217 A.3d 931 (Pa. Commw. Ct. 2019) (holding that an appeal is properly dismissed as moot where no controversy remains).

2. The District has demonstrated that some records reflect internal, predecisional deliberations.

¹¹ Specifically, the OOR sought clarification regarding the Requester’s “RTK Exemptions” Excel spreadsheet of outstanding records that she is challenging as not being provided contained two “tabs”, a “Withheld” tab and an “Exemption log” tab. The District only provided records for an *in camera* inspection from the “Withheld” tab. As such, the OOR will confine its review to those records identified in the “Withheld” tab.

¹² On March 6, 2023, the Requester granted the OOR additional time to issue a final determination.

The District argues that certain emails are exempt from public access as the internal, predecisional deliberations of the District.¹³ Section 708(b)(10)(i)(A) exempts from public disclosure a record that reflects:

[t]he internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, ... or course of action or any research, memos or other documents used in the predecisional deliberations.

65 P.S. § 67.708(b)(10)(i)(A). To withhold a record under Section 708(b)(10)(i)(A), an agency must show: 1) the deliberations reflected are internal to the agency, including representatives; 2) the deliberations reflected are predecisional, i.e., before a decision on an action; and 3) the contents are deliberative in character, i.e., pertaining to a proposed action. *See Kaplin v. Lower Merion Twp.*, 19 A.3d 1209, 1214 (Pa. Commw. Ct. 2011).

To establish that records are deliberative, an agency must show that the information relates to the deliberation of a particular decision. *McGowan v. Pa. Dep't of Env'tl. Prot.*, 103 A.3d 374, 378-88 (Pa. Commw. Ct. 2014). The term "deliberation" is generally defined as "[t]he act of carefully considering issues and options before making a decision or taking some action..." BLACK'S LAW DICTIONARY 492 (9th ed. 2009); *see also Heintzelman v. Pa. Dep't of Cmty. & Econ. Dev.*, OOR Dkt. AP 2014-0061, 2014 PA O.O.R.D. LEXIS 254, *aff'd* No. 512 C.D. 2014, 2014 Pa. Commw. Unpub. LEXIS 644 (Pa. Commw. Ct. 2014).

To be deliberative in nature, a record must make recommendations or express opinions on legal or policy matters and cannot be purely factual in nature. *Kaplin*, 19 A.3d at 1214. Factual material contained in otherwise deliberative documents is required to be disclosed if it is severable

¹³ The District argues that several exemptions to the RTKL law apply; however, the two main exemptions are the internal, predecisional deliberations exemption and the attorney-client privilege. The records withheld under the other exemptions were also withheld under the internal, predecisional deliberation exemption.

from its context. *McGowan*, 103 A.3d at 382-83. However, factual material can still qualify as deliberative information if its “disclosure would so expose the deliberative process within an agency that it must be deemed excepted”; or in other words, when disclosure of the factual material “would be tantamount to the publication of the [agency’s] evaluation and analysis.” *Id.* at 387-88 (citing *Trentadue v. Integrity Communication*, 501 F.3d 1215, 1228-29 (10th Cir. 2007)).

In support of its argument that many of the responsive records are exempt under Section 708(b)(10) of the RTKL, Attorney Sam attests, in relevant part, as follows:

1. This exemption was used the most and the main justification for many records being totally exempt. Any record withheld under this exemption constitutes emails where only District agents are discussing a potential course of action. These courses of action can be classified into three categories.
 - a. First, emails between Administrators and Board Members deliberating the legality of the 504/IEP mask exemption policy and discussing changes or concerns related to the present policy. In these emails, board members share concerns over current pitfalls in the policy and their recommended changes to conform to legal requirements. Other District agents share their support for the Policy and discuss why changes are not necessary.
 - i. Record # 324 provides an example of this type of application. This record is representative of all the records identified in ¶ 23. It contains an email [ex]change between District Board Members and Administrators regarding the 504/IEP mask exemption process. Administrators and Board members share concerns regarding the legality, fairness, and effectiveness of the current process. Recommendations for potential revisions of the policy are provided and both positive and negative feedback is requested and provided. Overall the conversation is the board deliberating whether the policy should be changed and what official direction the District will be taking regarding the mask exemption process.
 - b. Second, emails between District agents discussing on how to respond to an email from a community member.
 - i. Record #347 and #348 provide an example of this type of application. This is an email thread between a teacher and principal where the teacher is requesting clarification to a mask exemption question prior to taking actions regarding specific exemption request. Teacher provides information about the specific case and

the teacher's plan of action. Teacher requests Principal[']s feedback and input prior to taking official action.

- c. Third, emails between District agents where they are discussing how to respond to the filed grievances by QCEA.
 - i. Record #302 provides an example of this type of application. This record is an email communication between the District's Human Resource Manager and Admisntrator[sic] where District's Solicitor's opinion regarding filed grievances is provided. Human Resources Manager then requests that Admisntrator [sic] provide input and feedback on how the District should reply to the grievance.

Under the RTKL, a sworn affidavit or statement made under the penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the District has acted in bad faith, "the averments in [the affidavit] should be accepted as true." *McGowan v. Pa. Dep't of Env'tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

A review of the District's evidence and the OOR's *in camera* inspection of the withheld records demonstrates that the District has met its burden, by a preponderance of the evidence, that some of the records, discussed below, are protected as records reflecting the internal, predecisional deliberations of the District. *See* 65 P.S. § 67.708(b)(10)(i)(A).

3. The District has demonstrated that some records are protected by the attorney client privilege and the attorney work-product doctrine.

The District argues that some emails are protected by the attorney-client privilege and the attorney work-product doctrine. The RTKL defines "privilege" as "[t]he attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth." 65 P.S. § 67.102. In order for the attorney-

client privilege to apply, an agency must demonstrate that: 1) the asserted holder of the privilege is or sought to become a client; 2) the person to whom the communication was made is a member of the bar of a court, or his subordinate; 3) the communication relates to a fact of which the attorney was informed by his client, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or assistance in a legal matter, and not for the purpose of committing a crime or tort; and 4) the privilege has been claimed and is not waived by the client. *See Nationwide Mut. Ins. Co. v. Fleming*, 924 A.2d 1259, 1263-64 (Pa. Super. Ct. 2007). “[A]fter an agency establishes the privilege was properly invoked under the first three prongs, the party challenging invocation of the privilege must prove waiver under the fourth prong.” *Office of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2014) (citing *Id.*). An agency may not rely on a bald assertion that the attorney-client privilege applies; instead, the agency must prove all four elements. *See Clement v. Berks County*, OOR Dkt. AP 2011-0110, 2011 PA O.O.R.D. LEXIS 139 (“Simply invoking the phrase ‘attorney-client privilege’ or ‘legal advice’ does not excuse the agency from the burden it must meet to withhold records”). The attorney-client privilege protects only those disclosures necessary to obtain informed legal advice, where the disclosure might not have occurred absent the privilege, and where the client’s goal is to obtain legal advice. *Joe v. Prison Health Services, Inc.*, 782 A.2d 24 (Pa. Commw. Ct. 2001).

The attorney work-product doctrine, on the other hand, prohibits disclosure “of the mental impressions of a party’s attorney or his or her conclusions, opinions, memoranda, notes or summaries, legal research or legal theories.” Pa.R.C.P. 4003.3. “The purpose of the work product doctrine is to protect the mental impressions and processes of an attorney acting on behalf of a client, regardless of whether the work product was prepared in anticipation of litigation.” *Bousamra v. Excelsa Health*, 210 A.3d 967, 976 (Pa. 2019) (internal citations omitted); *see also*

Heavens v. Pa. Dep't of Env't Prot., 65 A.3d 1069, 1077 (Pa. Commw. Ct. 2013) (“[U]nder the RTKL the work-product doctrine protects a record from the presumption that the record is accessible by the public if an agency sets forth facts demonstrating that the privilege has been properly invoked”). While the attorney-client privilege is waived by voluntary disclosure, *Bousamra*, 210 A.3d at 978 (internal citation omitted), the work-product doctrine is not primarily concerned with confidentiality, as it is designed to provide protection against adversarial parties. *Id.* at 979 (internal citations and quotation omitted).

In support of its argument that many of the responsive records are exempt under the attorney client privilege and the attorney work-product doctrine, Attorney Sam attests, in relevant part, as follows:

1. Any record redacted or withheld under this privilege constitute communications between District agents and its Solicitor regarding legal matters. The majority of these records are emails that seek legal advice from the Solicitor regarding the District’s mask exemption policy. Some records contain back and forth conversations regarding the advice given. The School District is the holder of this privilege and has never waived that privilege to my knowledge. All correspondence claiming this privilege were in-house communications exchanged solely between District agents and their attorneys or emails discussing the solicitor’s legal advice between District agents only. All solicitors or Attorneys involved in these communications are barred by the Supreme Court of Pennsylvania.
2. Any record that constitutes work product from legal counsel will also be withheld, such as but not limited to, drafts of forms for District use, flow charts, summaries, etc. Any record that was created by District Solicitors as a part of legal work has been deemed exempt under Attorney Work Product.
 - a. Record #89 provides an example of how this exemption was utilized when applied:
 - i. This record is an email chain between District Administrators and Board Members discussing the legality of the District’s 504/IEP process and mask exemption. More importantly, an administrator provides the rest of the board with the District Solicitors legal opinion regarding the issue and present’s direct quotations from the Solicitor. Then the Administrators discusses their recommendations

for the plan based on the Solicitor's legal opinion. Nobody other than District agents were copied on the email chain.

- b. Record #61 also provides another example of how this exemption was utilized when applied:
 - i. This record contains an email solely between a District Board Member to District Solicitor stating a potential legal issue the District may be reported for and requesting a time to speak. Although the portion of the email requesting a time to speak does not fall under the privilege, the portion identifying the issue and potential consequences are.
- c. Record #203 provides an example of how this exemption was utilized for attorney work product:
 - i. This record is a flow chart created by the District's attorney providing guidance on how to handle masking exemption requests based on a 504 plan. This record was only shared with District agents.
- d. Record #95 provides another example of how this exemption was utilized for attorney work product:
 - i. This record is an accompanying guide created by the District's attorney explaining how to use the 504 process flow chart and summarizing the process. This record was only shared with District agents.

A review of the District's evidence and the *in camera* records demonstrate that the District met its burden, by a preponderance of the evidence, that some of the records, discussed below, are protected by the attorney client privilege and the attorney-work product doctrine.

4. In-Camera Review

As noted above, the District identified over 23,283 potentially responsive records that required review. The District and the Requester agreed to a rolling production schedule and by August 8, 2022, the District had provided all responsive records to the Requester and withheld those that are exempt under the RTKL. By September 30, 2022, the District also provided an exemption log that corresponded with each production of records. On November 11, 2022, the Requester provided a list of 41 records listed on the exemption log that remain outstanding. After

further review by the District, only 37 records consisting of 579 pages remain outstanding for *in camera* review. The OOR has confined its *in camera* review to those 579 pages. The OOR has also reviewed the 15-page “In Camera Review Inspection Index” identifying the Bates Stamp number and associated RTKL exemption.

The majority of the withheld records relate to the internal, predecisional deliberations exemption and the attorney client privilege and/or the work-product doctrine and the District has met its burden that these records were properly withheld from disclosure. In its “In Camera Review Inspection Index,” the District included a corresponding Bates Stamp number that corresponds with the Requester’s Exemption Log,¹⁴ the date, time, and record type, the author of the record, the recipient of the record, the subject matter of the record, and the legal basis for withholding the record. The OOR’s *in camera* review confirms that the District properly withheld a majority of the records pursuant to the internal predecisional deliberations exemption and the attorney client privilege and/or the work-product doctrine.

However, a review of the withheld records also indicates that some of the records were not properly withheld and that the factual information in the responsive emails is not the sort that rises to the level of revealing the associated deliberations and/or privileged information. Some of the email chains themselves are simple recitations of facts which can be severed from exempt material. Thus, the District has not met its burden that the following records are exempt under the RTKL:¹⁵

- Bates Stamp QCSD00006-00007 (hereinafter “QCSD___”) – Email dated September 14, 2021 at 6:39 P.M. This email is not deliberative in nature and asks the recipient simply whether the individual is available to meet. Email dated September 14, 2021 at 6:32 P.M. The response is not subject to disclosure

¹⁴ For example, Bates Stamp QCDS00001 relates to the Requester’s identified records #9 on the Requester’s list (record number 95).

¹⁵ For brevity, the OOR will only list the first time a record appears in the records that were produced for *in camera* review and not reiterate every single instance that particular record appeared. For example, the OOR will not reiterate an email that occurs several times in an email chain. Additionally, the District is permitted to redact the emails on a particular record that were properly exempt. For example, if two emails are listed on a particular Bates Stamps number, only the specific email listed needs to be provided to the Requester.

as it merely indicates that a question was answered; however, the below email was properly withheld under the RTKL as a record relating to Section 708(b)(10) of the RTKL.

- QCSD00034 and QCSD 000036– Emails dated September 16, 2021 at 2:05 P.M. and September 15, 2021 at 1:55 P.M. The remaining emails listed on these records are subject to redaction and may be withheld.
- QCSD00058 – Email dated September 8, 2021 at 9:13 A.M. However, the names listed may be protected under identifiable information of a minor. 65 P.S. § 67.708(b)(30); District’s Inspection Index, 14.g.iii.
- QCDS00061 – Email dated September 14, 2021 at 4:07 P.M. The email contains no predecisional deliberations. The remaining emails listed on QCDS00061 were properly withheld.
- QCDS00073 – Email dated October 12, 2021 at 8:00 a.m. The email contains no predecisional deliberations.
- QCDS00075 – Emails dated January 11, 2022 at 12:30 P.M. and 12:45 P.M. Records contain no internal, predecisional deliberations.
- QCSD00102 and QCSD 00104– Emails dated September 9, 2021 at 1:21 P.M. and September 9, 2021 at 1:25 P.M. Records contains no predecisional deliberations.
- QCSD00107 – Email dated September 9, 2021 at 10:57 P.M. Email contains no predecisional deliberations. Remaining emails were properly withheld.
- QCSD00117 – Email dated September 14, 2021 at 4:17 P.M. Email contains no predecisional deliberations.
- QCSD00175-00176 – Email September 14, 2021 at 10:37 P.M. Email contains no predecisional deliberations.
- QCSD00192-00193 – Email dated September 15, 2021 at 10:30 A.M. Email contains no predecisional deliberations.
- QCSD00246 – Email dated September 15, 2021 at 4:52 P.M. Email contains no predecisional deliberations.
- QCSD00291 – Email dated September 17, 2023 at 10:31 A.M. Email contains no predecisional deliberations. Responses to this email, however, do contain predecisional deliberations and were properly withheld.

- QCSD00308 – Email dated September 18, 2021 at 11:20 A.M. Email contains no predecisional deliberations.
- QCSD00333 – Email dated September 14, 2021 at 10:32 P.M. Email contains no predecisional deliberations nor is the record protected by the attorney privilege.
- QCSD00336 – Emails dated October 13, 2021 at 5:51 A.M., 7:03 A.M. and 7:43 A.M. Emails contain no predecisional deliberations.
- QCSD00418 – Email dated September 15, 2021 at 9:23 A.M. Email is an emoji and reflects no predecisional deliberations.
- QCSD00560 – Email dated September 8, 2021 at 9:09 A.M. Email contains no internal, predecisional deliberations.
- QCSD00562 – Email dated September 16, 2021 at 2:06 P.M. Email contains no internal, predecisional deliberations.

The District failed to demonstrate, by a preponderance of the evidence that the above-outlined records are privileged or exempt under the RTKL. Thus, these records are subject to public access and must be provided to the Requester. *See* 65 P.S. § 67.708(a)(1).

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the District is required to provide withheld records, as set forth above, to the Requester within 30 days. 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 Bucks County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. 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.¹⁶ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

¹⁶ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: March 7, 2023

/s/ Lyle Hartranft
Lyle Hartranft, Esq.
Appeals Officer

Sent via email to: Kaylyn Mitchell; Terry Angelo, AORO; Sam Jason, Esq.; Matt Inlander