

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

CRAWFORD

County

For Prothonotary Use Only:

Docket No:

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION

A

Commencement of Action:

- ☐ Complaint ☐ Writ of Summons ☒ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:
PENNCREST SCHOOL DISTRICT

Lead Defendant's Name:
BETHANY RODGERS

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits
(check one) ☒ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Thomas W. King, III, Esq.

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute: Discrimination
☐ Employment Dispute: Other

☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☒ Statutory Appeal: Other
Appeal of Final Determination
of Office of Open Records
☐ Zoning Board
☐ Other:

SECTION

B

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA

PENNCREST SCHOOL DISTRICT,

Petitioner,

v.

BETHANY RODGERS,

Respondent.

A.D. No. 2023- _____

**PETITION FOR REVIEW OF OFFICE
OF OPEN RECORDS FINAL
DETERMINATION DATED APRIL 21,
2023**

Filed on Behalf of Petitioner:

Penncrest School District

Counsel of Record for this Party:

Thomas W. King, III

PA. ID. No. 21580

tking@dmkcg.com

Jordan P. Shuber

PA. ID. No. 317823

jshuber@dmkcg.com

DILLON, McCANDLESS, KING,

COULTER & GRAHAM L.L.P.

128 West Cunningham Street

Butler, PA 16001

Telephone: 724-283-2200

Facsimile: 724-283-2298

IN THE COURT OF COMMON PLEAS OF CRAWFORD COUNTY, PENNSYLVANIA

PENNCREST SCHOOL DISTRICT,

Petitioner,

v.

BETHANY RODGERS,

Respondent.

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: A.D. No. 2023-_____
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**PETITION FOR REVIEW OF OFFICE OF OPEN RECORDS FINAL
DETERMINATION DATED APRIL 21, 2023**

Petitioner, Penncrest School District, by and through its undersigned counsel, files the within Petition for Review of Office of Open Records Final Determination dated April 21, 2023, stating in support thereof as follows:

1. Petitioner, Penncrest School District is a public school district organized and existing in accordance with the laws of the Commonwealth of Pennsylvania, with administrative offices located at 18741 State Highway 198, Saegertown, Pennsylvania 16433.

2. Respondent Bethany Rodgers is an adult individual associated with USA Today Network, with an address of 1891 Loucks Road, York, Pennsylvania 17408.

3. This Court has jurisdiction over this Petition for Review as an appeal of a local agency of a Final Determination of the Office of Open Records pursuant to 65 P.S. § 67.1302.

4. As set forth by Section 1303(b) of the Right to Know Law, the Record on Appeal before this Court shall consist of the request, the agency's response, the appeal filed under Section 1101, the hearing transcript, if any, and the final written determination of the appeals officer. *See* 65 P.S. § 67.1303(b).

Factual Background

5. On January 27, 2023, Respondent Bethany Rodgers filed a Right to Know Request (“Request”) with Petitioner, Penncrest School District seeking “electronic copies of correspondence (emails or text messages) between Penncrest School District board members of Superintendent Glasspool and representatives of the Pennsylvania Family Institute (email domain @pafamily.org) or the Independence Law Center (email domain @indlawcenter.org), including but not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen and Kenneth Stracuzzi from Aug. 1, 2022, to Jan. 27, 2023.” A true and correct copy of Respondent’s January 27, 2023 Right to Know Request is attached hereto as Exhibit “A.”

6. On the same day, Petitioner sent Respondent an acknowledgement of Respondent’s Request and invoked a thirty (30) day extension pursuant to 65 P.S. § 67.902.

7. On January 30, 2023, after Petitioner conducted a search of records in its possession and control, Petitioner provided two (2) emails to Respondent which were responsive to her Request. True and correct copies of the documents provided to Respondent are attached hereto as Exhibit “B.”

8. On February 1, 2023, Respondent emailed Petitioner’s Open Records Officer, Christine Shields and inquired as to whether individual school board members searched their personal accounts for correspondence responsive to the request.

9. On February 3, 2023, Petitioner advised Respondent that Petitioner had provided all records in Petitioner’s possession and control relating to Respondent’s Request.

10. On February 8, 2023, Respondent appealed Penncrest School District's response to her Right to Know Request to the Office of Open Records alleging that the board members of the Penncrest School District Board of Directors were required to search their personal email accounts and personal electronic devices for records responsive to Respondent's request. A true and correct copy of Respondent's appeal to the Office of Open Records is attached hereto as Exhibit "C."

11. On April 21, 2023, the Office of Open Records issued its Final Determination, which is the subject matter of the within Petition for Review. A true and correct copy of the Office of Open Records Final Determination dated April 21, 2023 is attached hereto as Exhibit "D."

12. The Final Determination granted Respondent's appeal and required Petitioner to conduct a good faith search of its records, including inquiring with the District employees and official identified in the Request as to whether they possess responsive emails, including in their personal email accounts, and provide all responsive records to Respondent within thirty (30) days. *See* Ex. D.

Petitioner's Appeal of the Final Determination dated April 21, 2023

13. Paragraphs 1 through 12 are incorporated by reference as if set forth fully herein.

14. Pennsylvania's Right to Know Law defines a "record," as "[i]nformation, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency." 65 P.S. § 67.102.

15. In order for a record of a local agency to be subject to disclosure, the record must be a "public record" as defined under Pennsylvania's Right to Know Law. *See* 65 P.S. § 67.901.

16. Pennsylvania's Right to Know Law defines a "public record," as "[a] record, including a financial record, of a Commonwealth or local agency that: (1) is not exempt under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege." 65 P.S. § 67.102.

17. The Office of Open Records' Final Determination dated April 21, 2023 misapplies the law as it relates to the definition of a "public record," subject to disclosure under the Right to Know Law.

18. Specifically, the Final Determination incorrectly concludes that emails on an individual board member's personal email account are "public records," subject to disclosure. *See Ex. D.*

19. The Commonwealth Court of Pennsylvania has confronted the issue of whether emails from a local agency's board member constitute a public record under Pennsylvania's Right to Know Law in the case of *In re Silberstein*, 11 A.3d 629 (Pa. Commw. 2011), in which case the Commonwealth Court stated as follows:

a distinction must be made between transactions or activities of an agency which may be a "public record" under the RTKL and the emails or documents of an individual public office holder. As pointed out by the trial court, Commissioner Silberstein is not a governmental entity. He is an individual public official with no authority to act alone on behalf of the Township.

Consequently, emails and documents found on Commissioner Silberstein's personal computer would not fall within the definition of record as any record personally and individually created by Commissioner Silberstein would be a documentation of a transaction or activity of York Township, as the local agency, nor would the record have been created, received or retained pursuant to law or in connection with a transaction, business or activity of York Township, as a local agency, or were later ratified, adopted or confirmed by York Township, said requested records cannot be deemed "public records" within the meaning of the RTKL as the same are not "of the local agency."

In re Silberstein, 11 A.3d 629, 633 (Pa. Commw. 2011).

20. While the case of *In re Silberstein* remains good law in the Commonwealth of Pennsylvania and has not been overturned, several subsequent decisions of the Commonwealth Court of Pennsylvania have expanded the definition of “public records,” to include communications from an individual Board member’s personal email account *where the individual was acting in his or her official capacity* in sending such correspondence and *where the individual is discussing agency business*. See e.g., *Easton Area School Dist. v. Baxter*, 35 A.3d 1259, 1264 (Pa. Commw. 2012); *Barkeyville Borough v. Stearns*, 35 A.3d 91 (Pa. Commw. 2012).

21. However, the Office of Open Records erred by holding that the *Baxter* and *Stearns* cases apply to the present matter as the board member of Penncrest School District that was identified by Respondent in her appeal to the Office of Open Records was not acting in his official capacity in communicating with the Independence Law Center. See Ex. B.

22. As an initial matter, it is well settled under Pennsylvania law that, “[n]o single member of the board is the board itself. *School directors can act in an official capacity only when lawfully convened as a body.*” See *School. Dist. of Philadelphia v. Framlau Corp.*, 328 A.2d 866, 870 (Pa. Commw. 1974); citing *Butler v. School District of Borough of Leighton*, 24 A. 308 (Pa. 1892) (emphasis added); see also 24 P.S. § 5-508 (Majority vote required; recording).

23. Further, there are no facts in the record to support a finding that David Valesky was acting in his official capacity when communicating with Jeremy Samek of the Independence Law Center. See Ex. B.

24. Rather, Mr. Valesky sent the purported correspondence through a private email account for the purpose of establishing a private communication with the Independence Law Center.

25. Further, there is no indication in the record to support a finding that Mr. Valesky discussed agency business with the Independence Law Center.

26. As such, the Office of Open Records' Final Determination dated April 21, 2023 improperly granted Respondent's appeal and improperly ordered that Penncrest School District provide private emails of a member of the Penncrest School District Board of Directors which records are not "public records," subject to disclosure under Pennsylvania's Right to Know Law.

WHEREFORE, Petitioner Penncrest School District respectfully requests that this Honorable Court vacate the Office of Open Records' Final Determination dated April 21, 2023 in *Rodgers v. Penncrest School District*, OOP Docket No. AP 2023-0289, and provide such relief as it deems appropriate.

Respectfully Submitted,

**DILLON, MCCANDLESS, KING,
COULTER & GRAHAM, L.L.P.**

By: 

Thomas W. King, III

PA. ID. No. 21580

tking@dmkcg.com

Jordan P. Shuber

PA. ID. No. 317823

jshuber@dmkcg.com

Counsel for Petitioner



pennsylvania

OFFICE OF OPEN RECORDS

Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: Penncrest School District (Attn: AORO)

Date of Request: 1/27/23 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Bethany Rodgers Company (if applicable): USA Today Network

Mailing Address: 1891 Loucks Rd

City: York State: PA Zip: 17408 Email: brodgers@gannett.com

Telephone: 301-821-3026 Fax: _____

How do you prefer to be contacted if the agency has questions? ☒ Telephone ☐ Email ☐ U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.*

I am requesting electronic copies of correspondence (emails or text messages) between Penncrest School District board members or Superintendent Glasspool and representatives of the Pennsylvania Family Institute (email domain @pafamily.org) or the Independence Law Center (email domain @indlawcenter.org), including but not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen and Kenneth Stracuzzi from Aug. 1, 2022, to Jan. 27, 2023.

DO YOU WANT COPIES? ☒ Yes, electronic copies preferred if available
☐ Yes, printed copies preferred
☐ No, in-person inspection of records preferred (may request copies later)

Do you want certified copies? ☐ Yes (may be subject to additional costs) ☐ No
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.
Please notify me if fees associated with this request will be more than ☒ **\$100 (or)** ☐ \$ _____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$ _____

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: *In most cases, a completed RTKL request form is a public record.
 More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Nov. 27, 2018

EXHIBIT A

From

Valesky, David <DValesky@penncrest.org>

To

DeFrancesco, Luigi <defrancesco1@penncrest.org>

Subject

Court Ruling

Send Date (UTC)

1/23/2023 2:25:04 PM

[Download Original Item](#)

Court Ruling

Good morning Luigi. Here is a court ruling on a similar policy to ours.

I spoke to Independence Law Center and they forwarded me a lot of info. They are willing to help with future policy development.
Jeremy Samck- jsamck@indlawcenter.org

David Valesky

[Get Outlook for IOS](#)

Source

From ldefrank@zoominternet.net
To jsamek@indlawcenter.org
CC 'Glasspool, Timothy' <tglasspool@penncrest.org>
Subject Law case
Send Date (UTC) 1/24/2023 1:03:07 PM
Download Original Item

CAUTION: This email originated from outside of the organization! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

I am the current Board president of the PENNCREST School District. David Valesky gave me your email. He told me that your foundation might help us if needed. After the Board passed policies 123 and 109.2 the following occurred: A Board director resigned and our solicitor also resigned. At this time, we have no legal backup. The original complaint filed by Thomas Cagle was about asking documents from the District about conversation between Valesky and DeFrancesco. The district does not have any documents nor Valesky and DeFrancesco. Mr. Cagle tried to convince the court that Valesky's post on Facebook was part of an official discussion of the Board. The district appealed the lower court decision at the Commonwealth Court. Now Mr. Cagle, somehow, he tries to connect the passing of policy 109.2 to the original appeal. In my humble opinion the latest filing should be squashed but, at this time, we have no one to do it. I am aware that time is of the essence.

EXHIBIT B

If you can possibly help us please let me know. My cell phone is 814-573-0768 the district's superintendent cell is 814-795-1581

Sincerely,

Luigi DeFrancesco P.E.
Board President



From: no-reply@openrecordspennsylvania.com
To: brodgers@gannett.com
Subject: [External] PA Office of Open Records - Appeal Confirmation
Date: Wednesday, February 8, 2023 2:12:53 PM
Attachments: oor_logo_email.png

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).



pennsylvania
OFFICE OF OPEN RECORDS

You have filed an appeal of an agency's response to a request for records under the Right-to-Know Law.

Name:	Bethany Rodgers
Company:	Gannett
Address 1:	1891 Loucks Rd.
Address 2:	
City:	York
State:	Pennsylvania
Zip:	17408
Phone:	301-821-3026
Email:	brodgers@gannett.com
Email2:	
Agency (list):	Penncrest School District
Agency Address 1:	18741 State Highway 198
Agency Address 2:	Suite 101
Agency City:	Saegertown
Agency State:	Pennsylvania

Agency Zip:	16433
Agency Phone:	814-763-2323
Agency Email:	openrecords@penncrest.org
Records at Issue in this Appeal:	See attached.
Request Submitted to Agency Via:	e-mail
Request Date:	12/27/2022
Response Date:	
Deemed Denied:	Yes
Agency Open Records Officer:	Christine Shields
Attached a copy of my request for records:	Yes
Attached a copy of all responses from the Agency regarding my request:	Yes
Attached any letters or notices extending the Agency's time to respond to my request:	No
Agree to permit the OOR additional time to issue a final determination:	30 Days
Interested in resolving this issue through OOR mediation:	No
Attachments:	<ul style="list-style-type: none"> • Penncrest appeal.pdf • RTKRequestForm--11-27-18.pdf • DOC012723-01272023132440.pdf • DOC013023-01302023131308(2).pdf • Penncrest correspondence.pdf • Ullery Final Response 2-7-23.docx

I requested the listed records from the Agency named above. By submitting this form, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records

EXHIBIT C

are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.

333 Market Street, 16th Floor | Harrisburg, PA 17101-2234 | 717.346.9903 | F 717.425.5343 | openrecords.pa.gov

Bethany Rodgers
USA TODAY Network
1891 Loucks Road
York, PA 17408

Feb. 8, 2023

Dear Appeals Officer:

I am filing an appeal to my Right to Know Law request to the Penncrest School District initially made on Jan. 27, 2023. My request sought electronic copies of emails or records to the district Superintendent and the school board members from the Pennsylvania Family Institute, the Independence Law Center and a list of the two organization's known members.

Later that day, Superintendent Timothy Glasspool said the district would soon officially send a notice that the district was invoking a 30 day extension but would begin reviewing for documents immediately.

On Jan. 30, Penncrest Open Records Officer Christine Shields responded to my request with two documents. One was an email from Board Director David Valesky to Board Director President Luigi DeFrancesco on Jan. 23 and a second email from DeFrancesco to the law center's senior counsel, Jeremy Samek, on Jan. 24.

Valesky's letter said that the Independence Law Center had "forwarded me a lot of info."

It seems clear from this email that the center or Samek had other correspondence with Valesky electronically. It suggested to me that there should have been other documents relevant to my request despite the district saying these documents were the only items they found.

I emailed Shields on Feb. 1 asking for clarification as to why those records were not included and if something in my request limited the scope of what they searched for.

Shields responded that afternoon saying "Everything we had access to was sent to you."

On Feb. 2, I asked Shields if the school board members were asked to search their personal email accounts for records responsive to my request. I noted that DeFrancesco's email was sent from a personal account and not his official board member email address. This suggested that at least one board member is using their personal email to conduct business. If the board president is using their personal email, I do not think it is out of the realm of possibility that others have as well.

Shields sent the following response on Feb. 3: "We have sent you everything that we have pertaining to your original right to know request, if you would like to submit a second right to know request we will do the best we can to obtain any additional information requested."

Open Records Officers have broad latitude in interpreting a request, just as a requestor is given latitude in how they word their requests. While the Right to Know Law requires some specificity in a request, an agency has a responsibility to conduct an exhaustive search based on their interpretation of the Right to Know Law.

Here, the district was not limited by my request to only search the official email addresses of the board members and had one email that suggested the existence of other documents. While the district has not explicitly suggested what the wording of another Right to Know request should include, it is reasonable to assume the district is suggesting to file another request specifically asking that the district ask its board members to search their personal email accounts. This is a step that should have already been taken and one that at least one other school district has taken in another similar request.

The Right to Know request to Penncrest is one of approximately 35 requests I and another reporter, Chris Ullery, have sent to school districts across the state.

West Jefferson School District denied our request for similar records on Feb. 7, but included in its denial that it "conducted a search of email records and inquired with relevant District personnel and board members who confirmed that no emails or text messages responsive to your request exist."

I do not include this reference to suggest that one school district's actions set a precedent that another district is required to follow but to assert that it is not unreasonable to expect that the district would request a search of personal emails.

Penncrest's response did not indicate that board members were asked to search their private emails or if the members were asked to search and refused. More importantly, when asked directly for the answer to that question, the district has refused to say if the search was conducted.

For these reasons, I feel it is necessary for the Office of Open Records to compel the district to conduct a more exhaustive search for these records.

Thanks for your consideration,

Bethany



pennsylvania
OFFICE OF OPEN RECORDS

Standard Right-to-Know Law Request Form

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SUBMITTED TO AGENCY NAME: Penncrest School District (Attn: AORO)

Date of Request: 1/27/23 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Bethany Rodgers Company (if applicable): USA Today Network

Mailing Address: 1891 Loucks Rd

City: York State: PA Zip: 17408 Email: brodgers@gannett.com

Telephone: 301-821-3026 Fax: _____

How do you prefer to be contacted if the agency has questions? ☒ Telephone ☐ Email ☐ U.S. Mail

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I am requesting electronic copies of correspondence (emails or text messages) between Penncrest School District board members or Superintendent Glasspool and representatives of the ~~Pennsylvania Family Institute (email domain @pafamily.org) or the Independence Law Center (email domain @indlawcenter.org)~~, including but not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen and Kenneth Stracuzzi from Aug. 1, 2022, to Jan. 27, 2023.

DO YOU WANT COPIES? ☒ Yes, electronic copies preferred if available
☐ Yes, printed copies preferred
☐ No, in-person inspection of records preferred (*may request copies later*)

Do you want certified copies? ☐ Yes (*may be subject to additional costs*) ☐ No
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.
Please notify me if fees associated with this request will be more than ☒ **\$100 (or)** ☐ \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

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30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$_____

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: *In most cases, a completed RTKL request form is a public record.
More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Nov. 27, 2018

EXHIBIT C

Re: RTK request for correspondence**OpenRecords** <openrecords@penncrest.org>

Fri 2/3/2023 7:45 AM

To: Rodgers, Bethany <Brodgers@gannett.com>**Cc:** Glasspool, Timothy <tglasspool@penncrest.org>

Bethany,

We have sent you everything that we have pertaining to your original right to know request, if you would like to submit a second right to know request we will do the best we can to obtain any additional information requested.

Thank you,

Christine Shields
Open Records Officer
PENNCREST School District

From: "Rodgers, Bethany" <Brodgers@gannett.com>**Date:** Thursday, February 2, 2023 at 2:27 PM**To:** OpenRecords <openrecords@penncrest.org>**Subject:** Re: RTK request for correspondence

CAUTION: This email originated from outside of the organization! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

Can I ask if school board members searched their personal email accounts for correspondence responsive to the request? I noticed that in the second message, the board chair was using a personal email to conduct board business and wondered if that might be the case here, as well.

From: OpenRecords <openrecords@penncrest.org>**Sent:** Wednesday, February 1, 2023 1:00 PM**To:** Rodgers, Bethany <Brodgers@gannett.com>**Subject:** Re: RTK request for correspondence

Hi Bethany,

Everything that we had access to was sent to you.

Thank you,

Christine Shields
Open Records Officer
PENNCREST School District

From: "Rodgers, Bethany" <Brodgers@gannett.com>**Date:** Wednesday, February 1, 2023 at 10:56 AM**To:** OpenRecords <openrecords@penncrest.org>**Subject:** Re: RTK request for correspondence

CAUTION: This email originated from outside of the organization! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

Hi Christine,

One follow-up question: In the first email you gave me, David Valesky mentions that he's spoken to the Independence Law Center and "they forwarded me a lot of info." Why wasn't that correspondence from the Law Center wasn't included in the records you shared? I'm wondering if my request didn't cover that correspondence or if you weren't able to locate it.

Thanks!

From: OpenRecords <openrecords@penncrest.org>**Sent:** Monday, January 30, 2023 2:47 PM**To:** Rodgers, Bethany <Brodgers@gannett.com>**Subject:** Re: RTK request for correspondence

Ok perfect thank you

From: "Rodgers, Bethany" <Brodgers@gannett.com>**Date:** Monday, January 30, 2023 at 2:29 PM**To:** OpenRecords <openrecords@penncrest.org>**Subject:** Re: RTK request for correspondence

CAUTION: This email originated from outside of the organization! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

Yes, it came through! Thank you!

EXHIBIT C

2/8/23, 2:07 PM

Mail - Rodgers, Bethany - Outlook

From: OpenRecords <openrecords@penncrest.org>
Sent: Monday, January 30, 2023 1:54 PM
To: Rodgers, Bethany <Brodgers@gannett.com>
Subject: Re: RTK request for correspondence

I'm honestly not sure it says it was there but I'll resend it. Let me know if it works this time.

Thank you,

Christine Shields

From: "Rodgers, Bethany" <Brodgers@gannett.com>
Date: Monday, January 30, 2023 at 1:17 PM
To: OpenRecords <openrecords@penncrest.org>
Subject: Re: RTK request for correspondence

CAUTION: This email originated from outside of the organization! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

Hi Christine,

Sorry, but I'm not seeing your attachment on the email! Did you accidentally leave it off, or is the problem on my end?

Thanks so much!

Bethany

From: OpenRecords <openrecords@penncrest.org>
Sent: Monday, January 30, 2023 1:15 PM
To: Rodgers, Bethany <Brodgers@gannett.com>
Cc: Glasspool, Timothy <tglasspool@penncrest.org>
Subject: Re: RTK request for correspondence

Bethany,

I am attaching the documents that we were able to find. Please let me know if you have any further questions.

Thank you,

Christine Shields
Open Records Officer
PENNCREST School District

From: "Rodgers, Bethany" <Brodgers@gannett.com>
Date: Friday, January 27, 2023 at 1:35 PM
To: "Glasspool, Timothy" <tglasspool@penncrest.org>
Cc: OpenRecords <openrecords@penncrest.org>
Subject: Re: RTK request for correspondence

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Thank you!

From: Glasspool, Timothy <tglasspool@penncrest.org>
Sent: Friday, January 27, 2023 12:43 PM
To: Rodgers, Bethany <Brodgers@gannett.com>
Cc: OpenRecords <openrecords@penncrest.org>
Subject: Re: RTK request for correspondence

We will send the official 30 day request, but will begin the search immediately. I may have to get the Board members to sign affidavits for their text messages.

Dr. Timothy S. Glasspool
Superintendent
PENNCREST School District
p: (814) 337-1600
f: (814) 350-2973
a: 18741 State Highway 198, Saegertown, PA 16433-0808
w: penncrest.org
e: tglasspool@penncrest.org

On Jan 27, 2023, at 12:39 PM, Rodgers, Bethany <Brodgers@gannett.com> wrote:

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Hi there,

EXHIBIT C

<https://outlook.office.com/mail/deeplink?popoutv2=1&version=20230127001.10&view=print>

2/4

I've revised my request based on my conversation with Dr. Glasspool. Please let me know if you have any other questions. Again, copying the body of the request below for your convenience.

I am requesting electronic copies of correspondence (emails or text messages) between Penncrest School District board members or Superintendent Glasspool and representatives of the Pennsylvania Family Institute (email domain @pafamily.org) or the Independence Law Center (email domain @indlawcenter.org), including but not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen and Kenneth Stracuzzi from Aug. 1, 2022, to Jan. 27, 2023.

Best,

Bethany

From: Rodgers, Bethany <Brodgers@gannett.com>
Sent: Friday, January 27, 2023 11:52 AM
To: OpenRecords <openrecords@penncrest.org>
Cc: Glasspool, Timothy <tglasspool@penncrest.org>
Subject: Re: RTK request for correspondence

Thanks very much for your quick response. Are you able to speak by phone today about this request? I'm open to making adjustments and resubmitting but first would like to understand why you categorized this as overly broad.

From: OpenRecords <openrecords@penncrest.org>
Sent: Friday, January 27, 2023 11:41 AM
To: Rodgers, Bethany <Brodgers@gannett.com>
Cc: Glasspool, Timothy <tglasspool@penncrest.org>
Subject: Re: RTK request for correspondence

Ms. Rodgers,

Please see the attached document. Please let me know if you have any other questions or concerns.

Thank you,

Christine Shields
PENNCREST School District
Open Records Officer

From: "Rodgers, Bethany" <Brodgers@gannett.com>
Date: Thursday, January 26, 2023 at 11:50 AM
To: OpenRecords <openrecords@penncrest.org>
Cc: "Ullery, Christopher" <cullery@couriertimes.com>
Subject: RTK request for correspondence

CAUTION: This email originated from outside of the organization! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

Good morning,

I'm writing to request correspondence records under the Right to Know Law. I've attached the completed form to this email.

I'm also copying the body of the request below, since the lines on the form make it a little difficult to read.

Pursuant to the Pennsylvania Right to Know Law, I am requesting copies of the following public records: Correspondence (emails, text messages or letters) between Penncrest School District staff or school board members and representatives of the Pennsylvania Family Institute or the Independence Law Center, including but not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen and Kenneth Stracuzzi from Aug. 1, 2022, to Jan. 25, 2023.

Please let me know if you have any questions. Thanks!

Bethany

Bethany Rodgers

Pennsylvania state government reporter
301-821-3026 (c)
brodgers@gannett.com



<RTKRequestForm-11-27-18.pdf>

EXHIBIT C



PENNCREST

EMPOWERING LIFE-LONG LEARNERS

January 27, 2023

Bethany Rodgers
1891 Loucks Road
York, PA. 17408

RE: Right-to-Know Law Request

Dear Bethany Rodgers:

Thank you for writing to PENNCREST School District with your request for information pursuant to the Pennsylvania Right-to-Know Law ("RTKL"), 65 P.S. 67.101, *et. seq.* On January 27, 2023 you requested electronic copies of correspondence (emails or text messages) between Penncrest School District board members or Superintendent Glasspool and representatives of the Pennsylvania Family Institute (email domain @pafamily.org) or the Independence Law Center (email domain @indlawcenter.org), including but not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen and Kenneth Stracuzzi from Aug. 1, 2022, to Jan. 27, 2023.

Pursuant to Section 902(a) of the Right to Know Law, the OOR requires an additional 30 days to respond because (check all that apply):

- ☐ The request for access requires redaction of a record in accordance with Section 706 of the RTKL;
- ☐ The request for access requires the retrieval of a record stored in a remote location;
- ☐ A timely response to the request for access cannot be accomplished due to bona fide and specific staffing limitations;
- ☐ A legal review is necessary to determine whether the record is a record subject to access under the RTKL;
- ☐ The requester has not complied with the Agency's policies regarding access to records;
- ☐ The requester refuses to pay applicable fees authorized by the RTKL;
- ☒ The extent or nature of the request precludes a response within the required time period.

The Agency expects to respond to your request on or before February 27, 2023

Sincerely,

Christine Shields

Open Records Officer
PENNCREST School District

From Valesky, David <DValesky@penncrest.org>

To DeFrancesco, Luigi <defrancescol@penncrest.org>

Subject Court Ruling

Send Date (UTC) 1/23/2023 2:25:04 PM

[Download Original Item](#)

Court Ruling

Good morning Luigi. Here is a court ruling on a similar policy to ours.

I spoke to Independence Law Center and they forwarded me a lot of info. They are willing to help with future policy development.
Jeremy Samok- jsamok@indlawcenter.org

David Valesky

[Get Outlook for iOS](#)

Source

From ldefrank@zoocominternet.net
To jsamek@indlawcenter.org
CC 'Glasspool, Timothy' <tglasspool@penncrest.org>
Subject Law case
Send Date (UTC) 1/24/2023 1:03:07 PM
Download Original Item

CAUTION: This email originated from outside of the organization! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

I am the current Board president of the PENNCREST School District. David Valesky gave me your email. He told me that your foundation might help us if needed. After the Board passed policies 123 and 109.2 the following occurred: A Board director resigned and our solicitor also resigned. At this time, we have no legal backup. The original complaint filed by Thomas Cagle was about asking documents from the District about conversation between Valesky and DeFrancesco. The district does not have any documents nor Valesky and DeFrancesco. Mr. Cagle tried to convince the court that Valesky's post on Facebook was part of an official discussion of the Board. The district appealed the lower court decision at the Commonwealth Court. Now Mr. Cagle, somehow, he tries to connect the passing of policy 109.2 to the original appeal. In my humble opinion the latest filing should be squashed but, at this time, we have no one to do it. I am aware that time is of the essence.

If you can possibly help us please let me know. My cell phone is 814- 573-0768 the district's superintendent cell is 814-795-1581

Sincerely,

Luigi DeFrancesco P.E.
Board President

EXHIBIT C



ADMINISTRATION BUILDING
830 OLD CLAIRTON ROAD
JEFFERSON HILLS, PA 15025
PHONE: 412-655-8450
FAX: 412-655-9544
www.wjhsd.net

WEST ELIZABETH - JEFFERSON HILLS - PLEASANT HILLS

DR. JANET M. SARDON
Superintendent
DR. MATTHEW J. PATTERSON
Assistant Superintendent-Elementary Education

TRACY A. HARRIS
Director of Finance/Board Secretary

February 7, 2023

VIA EMAIL: cullery@couriertimes.com

Chris Ullery
Extremism and Social Justice Reporter
USA Today Network of Pennsylvania

RE: WEST JEFFERSON HILLS SCHOOL DISTRICT RIGHT-TO-KNOW REQUEST

Dear Mr. Ullery:

Please be advised that I received a Right-to-Know request from you on February 1, 2023, a copy of which is attached. This letter constitutes the final response to your request under the Right-to-Know Law ("RTKL"). 65 P.S. § 67.901.

Your request for, "electronic copies of emails or text messages between current and former West Jefferson Hills School District Board members or the Superintendent and representatives of the Pennsylvania Family Institute (email domain @pafamily.org) or the Independence Law Center (email domain @indlawcenter.org). Representatives of these groups include but are not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen, Kimberly Kern and Kenneth Stracuzzi. My request covers the period from Jan. 1, 2021, to Jan. 31, 2023" has been denied because the records do not exist. 65 P.S. §67.705. The School District conducted a search of email records and inquired with relevant District personnel and board members who confirmed that no emails or text messages responsive to your request exist.

You have a right to appeal any denial of information in writing to Liz Wagenseller, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120. If you choose to file an appeal you must do so within fifteen (15) business days of the date the final response was due to you, as outlined in Section 1101. Please note that a copy of your original Right-to-Know request and the School District's complete response must be included when filing an appeal. The law requires that you state the reasons why the record is a public record and address the reasons the School District denied your request.

Sincerely,

Tracy A. Harris
Director of Finance/Open Records Officer
West Jefferson Hills School District
830 Old Clairton Road
Jefferson Hills, PA 15025
412-655-8450
tharris@wjhsd.net



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**BETHANY RODGERS AND
USA TODAY NETWORK,
Requester**

v.

**PENNCREST SCHOOL DISTRICT,
Respondent**

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Docket No.: AP 2023-0289

FACTUAL BACKGROUND

On January 27, 2023, Bethany Rodgers and USA Today Network (collectively “Requester”) submitted a request (“Request”) to the Penncrest School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[E]lectronic copies of correspondence (emails or text messages) between Penncrest School District board members or Superintendent Glasspool and representatives of the Pennsylvania Family Institute (email domain @pafamily.org) or the Independence Law Center (email domain @indlawcenter.org), including but not limited to Michael Geer, Thomas Shaheen, Randall Wenger, Cheryl Allen, Jeremy Samek, Janice Martino-Gottshall, Kurt Weaver, Robert Albino, Ruth Wilson, Emily Kreps, Dan Bartkowiak, Alexis Sneller, Allison Rishel, Tina Brumagen, and Kenneth Stracuzzi from Aug. 1, 2022, to Jan. 27, 2023

On January 30, 2023, the District granted the Request, and provided the Requester with two responsive emails. On February 2, 2023, the Requester inquired with the District regarding whether additional responsive records exist and whether the personal email accounts of board

members were searched for responsive emails, and the District responded that all responsive records were provided.

On February 8, 2023, the Requester appealed to the Office of Open Records (“OOR”), challenging the District’s search for emails, asserting that additional records may exist, and arguing that the District failed to address whether it inquired with board members who use personal email addresses to conduct business if they possessed any records responsive to the Request.¹ 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 February 21, 2023, the District submitted an unsworn position statement, arguing that all responsive records in the District’s possession have been provided to the Requester, and that any records contained within the personal email accounts of board members are not records of the District pursuant to the RTKL. The District relies on *In re Siberstein*, 11 A.3d 629 (Pa. Commw. Ct. 2011), to support of its argument. On February 23, 2023, the Requester submitted a position, citing various case law to support her argument that the District is required to conduct a good faith search of its records which includes contacting District personnel to ascertain whether responsive records exist on private email accounts. In her submission, the Requester also asserts that the District’s position “is unreasonable and raises issues of bad faith.”

On April 3, 2023, the OOR sought additional information from the District, specifically asking the District to address *Barkeyville Borough v. Stearns*, 35 A.3d 91 (Pa. Commw. Ct. 2012) as it relates to the instant appeal. The OOR also reminded the District that any factual statements

¹ The Requester granted the OOR an extension to issue a final determination. See 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

must be supported by a testimonial affidavit. The OOR set a record closing date of April 11, 2023; however, the District failed to make an additional submission to the OOR as requested.

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)).

The District argues that it conducted a search and provided the Requester with the only responsive records that is possessed, and that any documents maintained in personal accounts would not be records of the District under the RTKL. In support of its position, the District cites to *In re Silberstein*, where the Commonwealth Court found that emails located on an individual township commissioner’s personal computer were not records of the agency. 11 A.3d 629, 633 (Pa. Commw. Ct. 2011). The Court held that since the township commissioner was an individual public official with no authority to act alone on behalf of the agency, his emails, contained on his personal computer, were not records of the agency, as they were not “produced with the authority of [the agency] ... or ... later ratified, adopted or confirmed by ... [the] township.” *Id.*

The Requester, on the other hand, argues that the emails that were provided in response to the Request indicated that a board member stated that the Independence Law Center had “forwarded [him] a lot of info.” The Requester provided a copy of the email with her appeal to

the OOR. The Requester further asserts that this statement suggests that there should be more records responsive to the Request than what was provided, and that because the records provided indicated that the School Board President was using a personal email account rather than an official District address, it is not out of the realm of possibility that other board members are also using personal email addresses.² In support of her position, the Requester cites to *Easton Area Sch. Dist. v. Baxter*, 35 A.3d 1259 (Pa. Commw. Ct. 2012), where the Commonwealth Court discussed its decision in *Silberstein*. The Commonwealth Court found that “applying the rationale of *Silberstein* to the present case and holding that an individual school member can only create a ‘record’ when he or she acts in tandem with the other school board members essentially defeats the purpose of the RTKL.” *Id.* at 1262. The Court further found that “[w]hile emails located on an agency-owned computer are not presumptively records of the agency simply by virtue of their location, emails that document the agency’s transactions or activities are records.” *Id.* at 1264.

Section 102 of the RTKL, 65 P.S. § 67.102, defines a record as “information...that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.” As discussed in *Baxter*, “[w]hile an individual school board member lacks the authority to take final action on behalf of the entire board, that individual acting in his or her official capacity, nonetheless, constitutes agency activity when discussing agency business.” *Baxter*, 35 A.3d at 1264 (citing *Barkeyville*, *supra*).

In *Barkeyville*, the Commonwealth Court distinguished the holding in *Silberstein*, stating that “*Silberstein* involved email correspondence between the township commissioner and

² The OOR’s review of the emails provided indicates that while the Board President used a Penncrest.org email address for one of the emails, he used a zoominternet.net email address for another email where he corresponded with the Independence Law Center.

members of the public. The case before us, on the other hand, involves emails between Council members concerning Borough business. This distinction is one recognized by the trial court as well as this Court in [*Mollick v. Twp. of Worcester*, 32 A.3d 859, 872-73].” *Barkeyville*, 35 A.3d at 97. The Court further found that the emails at issue in *Barkeyville*, consisted of “Council members ... acting in their official capacity as elected officials of the Borough while exchanging the emails in question.” *Id.*

Here, the District did not submit evidence regarding its search for records, but rather, relies on its argument that *Silberstein* does not require the District to inquire with school board members regarding whether they have used personal email accounts for District business and whether those personal email accounts contain records responsive to the Request. *See* 65 P.S. § 67.901 (in response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record”). However, the emails provided by the District to the Requester in response to her Request clearly indicate that, like in *Barkeyville*, the School Board President used a personal email account to correspond with the Independence Law Center. The individual identified himself as the District’s School Board President and within the email referred to District policies and events that occurred after the passing of such policies with regard to school board business (a board member and the solicitor resigning, a complaint being filed and subsequent court proceedings). The record in this matter indicates that the School Board President conducted District business using a personal email address, but there is no evidence that the District asked the School Board President or any other individual identified in the Request if they possessed responsive records.³ *See Pa. Office of Attorney General v. The Philadelphia Inquirer*, 127 A.3d 57 (Pa. Commw. Ct. 2015) (“What makes an email a ‘public

³ Another School Board member’s District address was copied on the email, which is presumably why the District was able to locate such record.

record,' then, is whether the information sought documents an agency transaction or activity, and the fact whether the information is sent to, stored on or received by a public or personal computer is irrelevant in determining whether the email is a 'public record.'"); *see also Baxter, supra; Barkeyville, supra*. Additionally, the District did not submit evidence regarding its search for records, and the Requester provided an email from one school board member indicating that he was forwarded "a lot of info" from the Independence Law Center. Therefore, the District has not proven that it has provided all responsive records within its possession, custody or control.⁴ *See Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the District is required to conduct a good faith search of its records, including inquiring with the District employees and officials identified in the Request as to whether they possess responsive emails, including in their personal email accounts, and provide all responsive records to the Requester within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to the Crawford 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 according to court rules 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.⁵ This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

⁴ While the Requester asserts that the District's position raises an issue of bad faith, based on the record before the OOR, the record does not support a finding of bad faith.

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

FINAL DETERMINATION ISSUED AND MAILED: April 21, 2023

/s/ Kathleen A. Higgins

KATHLEEN A. HIGGINS
DEPUTY CHIEF COUNSEL

Sent via portal to: Bethany Rodgers; Christine Shields; Thomas King, Esq.

VERIFICATION

I, Luigi DeFrancesco, President of the Penncrest School District Board of School Directors, hereby verify that the facts set forth in the foregoing document are true and correct to the best of my knowledge and belief. This verification is made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: May 17, 2023

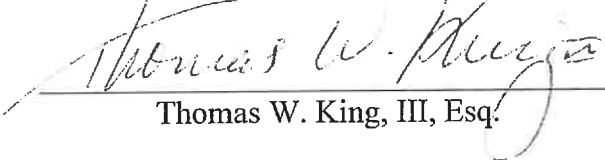
Luigi DeFrancesco
Luigi DeFrancesco

CERTIFICATE OF SERVICE

I, Thomas W. King, III, Esq., Attorney for Petitioner, certify that I served a true and correct copy of the foregoing Petition for Review by email and UPS Overnight on the 17th day of May, 2023 to:

Respondent Bethany Rodgers
1891 Loucks Road
York, Pennsylvania 17408
brodgers@gannett.com

Kathleen Higgins
Appeals Officer, Pennsylvania Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
kahiggins@pa.gov


Thomas W. King, III, Esq.

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Thomas W. King, III, Esquire

Signature:

Name:

Thomas W. King, III, Esquire

Attorney No.: 21580

(if applicable)