



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
DAVID OSBORNE and	:	
COMMONWEALTH FOUNDATION,	:	
Requester	:	
	:	
v.	:	Docket No: AP 2025-3008
	:	
PHILADELPHIA SCHOOL DISTRICT,	:	
Respondent	:	

FACTUAL BACKGROUND

On September 10, 2025, David Osborne and Commonwealth Foundation (collectively the “Requester”) submitted a request (“Request”) to the Philadelphia School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[Background information omitted]

1. Any document reflecting, for each year from 2010 to 2025, the total number of employees assigned to or placed in reassignment room(s).
2. Any document reflecting, for each year from 2010 to 2025, the total amount of salaries or other payments made to employees while assigned to or placed in reassignment room(s).
3. Any communications (including letters, notes, emails, text messages, electronic direct messages, or ephemeral messages) between employees in the District’s Employee & Labor Relations Office (including but not limited to Shelia Wallin, Tracie Gardner, and/or Girna Mendez-Adkins) and employees assigned to or placed in reassignment room(s) and including one or more of the following terms (singular or plural): "window," "clock," "read," "meal," "food," "left,"

explore," "explored," "party," "waste," "money," "lounge," "chairs," "sleep," "asleep," "sleeping," "slept," "charge," "yoga," "lunch," "date," "Halloween," "costume," "prison," "uniform," "jail," "culture," "electrical," "outlet," "extension," "cord," "remote," "lesson," "boss," "library," "language," "music," "National Board Certification," "Wannamaker," "dehumanizing," "dispiriting," "poorly," "negligence," "trash," "sick," "movie," "TV," "bedbug," "bug," "listening," "dollars," "romantic," or "romance," from January 1, 2020, to the present.

4. Any communications between employees in the District's Employee & Labor Relations Office (including those noted above)[,] any other individual or entity with an email address ending in @pft.org, @pfthw.org, and/or@workingeducators.org and including one or more of the terms (singular or plural) listed under Item 3, from January 1, 2020 to the present.

On October 17, 2025, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the District granted the Request in part, providing redacted records to Item 3, and denied the Request in part, redacting records responsive to Item 3 that relate to an individual's medical status, contain personal identification information, relate to an agency employee, are internal, predecisional deliberative records, and relate to a noncriminal criminal investigation, 65 P.S. §§ 67.708(b)(5), (b)(6)(i)(A), (b)(7), (b)(10)(i)(A), (b)(17). The District denied the remainder of the Request, arguing that Items 1 and 2 of the Request relate to a noncriminal investigation, 65 P.S. § 67.708(b)(17), and that Items 3 (to the extent records were not discovered as part of the District's search) and 4 are insufficiently specific, 65 P.S. § 67.703.¹

On October 20, 2025, the Requester filed an appeal with the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure.² The OOR invited both parties to supplement the record and directed the District to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

¹ As noted, despite arguing that Item 3 is insufficiently specific, the District conducted "a search for emails using the parameters provided in Item 3 of the Request except the terms "clock," "read," "date," "remote," and "sick" which are extremely broad terms."

² The Requester provided the OOR with additional time to issue a final determination in this matter. *See* 65 P.S. § 67.1101(b)(1).

On October 31, 2025, the District submitted a position statement,³ reiterating its grounds for denial of the Request. The District claims that it does not possess a single record fully responsive to Items 1 and 2, and the records identified as partially responsive to Items 1 and 2 are fully exempt pursuant to Section 708(b)(17) of the RTKL.”⁴ 65 P.S. § 67.708(b)(17). The District further asserts that Items 3 and 4 are insufficiently specific “to obligate the [] District to perform a search” and that it “acted within its discretion when it conducted a limited search for Item 3 and properly redacted records” pursuant to Sections 708(b)(5), (b)(6)(i)(A), (b)(7), (b)(10)(i)(A) and (b)(17). 65 P.S. §§ 67.708(b)(5), (b)(6)(i)(A), (b)(7), (b)(10)(i)(A), (b)(17). Finally, the District asked the OOR to conduct an *in camera* review of the records provided to the Requester. In support of its position, the District submitted the attestations made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, authored by Ameerah McBride (“McBride Attestation”), the District’s Deputy Chief of Employee & Labor Relations in the Office of Talent and Relations in the Office of Talent, and Sabriya Jubilee (“Jubilee Attestation”), the District’s Chief Equity Officer in the Office of Diversity, Equity and Inclusion. The District also submitted a Redaction Log (“Log”) for results of its discretionary search conducted for Item 3 of the Request.

On October 31, 2025, the Requester submitted a position statement, claiming that Items 1 and 2 are not exempt as noncriminal investigation materials, that Items 3 and 4 are sufficiently specific to apprise the District of the records sought, and that the District did not sustain its burden

³ The position statement and the contents thereof are incorporated into the McBride and Jubilee Attestations and verified therein. *See* McBride Attestation, ¶ 18; Jubilee Attestation, ¶ 10. The District’s Statement is authored by Kristina Helmers, Esq., the Assistant General Counsel for the District.

⁴ The District identified spreadsheets and reassignment letters possessed and maintained by the District’s Employee & Labor Relations office responsive to Item 1 and asks that the OOR conduct *in camera* review of the record partially responsive to Item 2.

of showing that responsive records must be redacted.

On November 6, 2025, the Requester granted the OOR's request to extend the issuance of the Final Determination in order to review the issues raised, including the request for an *in camera* review. On November 24, 2025,⁵ the Requester further agreed to extend the issuance of the Final Determination for *in camera* review. On November 26, 2025, the OOR ordered the District to submit the redacted records, pages 79-335 attached to the Requester's appeal, for *in camera* review and on December 1, 2025, ordered the record identified in Section II(B)(2) in the District's position statement for *in camera* review.

On January 5, 2026, the District notified the OOR that the Philadelphia Court of Common Pleas reached a decision,⁶ in the appeal related to the OOR's Final Determination in *Osborne v. Phil. Sch. Dist. (Osborne I)*, OOR Dkt. AP 2025-0521, 2025 PA O.O.R.D. LEXIS 762, and asked the OOR to reopen the record to allow the District to submit supplemental information. That same day, the OOR reopened and extended the submission period to January 20, 2026 and stayed the *in camera* order pending review of the parties' submissions.

On January 20, 2026, the District submitted a supplemental position statement, arguing that the "response to Items 1 and 2 of the Request are barred by the doctrine of collateral estoppel" and that the District properly responded to Items 3 and 4 of the Request and appropriately withheld and/or applied redactions to the responsive records. In support of its position, the District submitted the attestation made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, authored by Kristina Helmers, Esq. ("Helmerts Attestation"), Assistant

⁵ The OOR also asked the District whether the records identified/withheld/or redacted at OOR Dkt. 2025-0521 were the *same* records identified in the instant appeal. The District responded that it is the "same category" of records at issue and that, while the District's response to Item 4 of the Request were not identified in any prior response by the District, it concerns "the same general subject matter (reassignment room)[.]"

⁶ See *Osborne v. Phil. Sch. Dist.*, May Term 2025, No. 01303 (Pa. Phila. Ct. of Common Pleas).

General Counsel and an Open Records Officer for the District.

On January 20, 2026, the Requester submitted a supplemental position statement, arguing that the instant Request is different than the request in OOR Dkt. AP 2025-0521 and that the Philadelphia Court of Common Pleas' ruling does not preclude him from securing records responsive to this Request.

On February 19, 2026, in response to the OOR's request to extend the issuance of the Final Determination in order to reorder *in camera* review, the Requester agreed to extend the Final Determination deadline. On February 20, 2026, the OOR reordered *in camera* review of the redacted records, pages 79-335 attached to the Requester's appeal and the record identified in Section II(B)(2) in the District's position statement. On February 27, 2026, the District produced those records for inspection, along with an Inspection Index ("Inspection Index") and the attestation made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, authored by Sha Brown ("Brown Attestation"), Inspector General in the Office of the Inspector General for the District for Item 2.

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 not barred by collateral estoppel

The District argues that the instant Request is barred by the doctrine of collateral estoppel. The doctrine of collateral estoppel prevents a party from re-litigating an issue if: (1) the issue decided in the earlier case is identical to the issue presented in the latter case; (2) there was a final judgment on the merits; (3) the party against whom estoppel is asserted was a party to the prior case; and (4) the party against whom estoppel is asserted had a full and fair opportunity to litigate the issue in the prior case. *See Pa. Dep't of Corr. v. Maulsby*, 121 A.3d 585 (Pa. Commw. Ct. 2015) (applying collateral estoppel in the context of RTKL appeals).

In *Osborne I*, the request sought, in relevant part, “any document reflecting any or all of the following information for employees assigned to, placed in, or otherwise occupying the ‘reassignment rooms(s)’ from January 1, 2025 to the present: [information redacted for brevity]. If a spreadsheet in a manipulable electronic format is available, please provide in such format.” OOR Dkt. AP 2025-0521, 2025 PA O.O.R.D. LEXIS 762. While, in relevant part, the instant Request seeks “[a]ny document reflecting, for each year from 2010 to 2025, the total number of employees assigned to or placed in reassignment rooms(s)” and “[a]ny document reflecting, for each year from 2010 to 2025, the total amount of salaries or other payments made to employees while assigned to or placed in reassignment rooms(s).” Moreover, while the records may be similar in nature, they do not appear to be identical, as acknowledged by the District (“there may be an additional number of reassignment letters responsive to the [] Request that would not be responsive to the [p]rior [r]equest”). Therefore, to the extent the instant Request implicates

identical records to those at issue in *Osborne I*, the appeal of those records is barred by collateral estoppel; however, the appeal of the remaining records is proper.

2. The appeal is moot in part

During the pendency of the appeal, the District provided records responsive to the Request. *See* Index, ATT0010, ATT0031, ATT0060, ATT0195-ATT01965, ATT0197-AT0199, ATT0249-ATT0250, ATT0251-ATT0252, ATT0258-ATT0259, ATT0260-ATT0262. As such, the appeal is dismissed as moot as it relates to the records provided on appeal. *See Chester Water Auth. v. Pa. Dep't of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records and, thus, “the controversy has been mooted”).

3. The Request is insufficiently specific in part

The District argues that part of Item 3 and Item 4 of the Request are insufficiently specific due to a broad subject matter, broad scope and lengthy timeframe. Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep't of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015).

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify ‘a discrete group of documents, either by type ... or by recipient.’” *Id.* (quoting *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126 (citing *Carey, supra*). “The timeframe prong is, however, the most fluid

of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” *Id.*

The above factors are intended “to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested.... The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” *Pa. Dep’t of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Finally, we must analyze the entirety of a request, as it is possible that portions of a request are insufficiently specific, while other portions provide sufficient guidance. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting “the valid part of the request was included in a laundry list of requested materials”).

In support of the District’s position, the District’s position statement indicates, in relevant part, the following:

Here, the keywords provided for Items 3 and 4 of the Request fail to sufficiently identify a subject matter of discrete transaction or activity of the District

...

Here, Item[] 3 seeks communications for an over five year time period between employees in the Employee and Relations office and employees assigned to the reassignment room containing a large list of very broad keywords. [...] Item 4 of the Request seeks communications for an over five year time period between employees in the Employee and Labor Relations office and individuals with three separate email domains containing the same list of very broad keywords.

...

The fact that Items 3 and 4 of the Request lists the various ways than an agency generally communicates (letters, notes, emails, text messages, electronic direct messages, or ephemeral messages) does not narrow the document type – they are all, at heart, just general “communications.”

...

[...T]he Requester has failed to sufficiently narrow the [R]equest by senders/recipients to render Items 3 and 4 of the Request sufficiently specific, especially in light of the overbroad subject matters and scope of document sought.

Here, the time frame for Items 3 and 4 of the Request is over five (5) years. As such, it does not help narrow what documents Requester is seeking because Items 3 and 4 give no insight to how the over five (5) year time period might help inform which records are sought.

See District's position statement pp. 17, 18, 21, 22, 25.

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 [statement and attestations] 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)).

The Request identifies an overarching subject matter—reassignment rooms; a broad scope that includes any document or communication related thereto; and a finite, but lengthy timeframe—over five years. Item 3 provides potential sender/recipient email address domains, but as noted in the District Statement, the District's Employee and Labor Relations has 26 employees in its office; however, the District is unable to identify the number of individuals from the three specified email domains in Item 4. As noted above, the District asserts that it “acted within its discretion when it conducted a limited search for Item 3 [...]. Specifically, the [] District conducted a search for emails from January 1, 2020 through the date of the Request between employees in the [] District's Employee and Labor Relations office and employees assigned to or placed in reassignment room(s) containing one or more of the keywords provided by the Requester

except “clock,” “read,” “date,” “sick,” or “remote.” As a result of this search, the District provided the Requester with redacted records. *See* District’s position statement, Exhibit D. Based on the plain language and context of the Request, it was reasonable for the District to conduct a search for the keywords listed in Item 3 except “clock,” “read,” “date,” “sick,” or “remote” and the OOR finds this portion of Item 3 sufficiently specific.

Accordingly, based on the language of the Request and the evidence presented, Item 3, insofar as it sought records other than those located by the District, and Item 4 of the Request are insufficiently specific because their scope does not help to identify the records requested or the likely custodians of any documents, and any subject matters listed or timeframes do not sufficiently overcome that limitation. *See Gill v. Quaker Valley Sch. Dist.*, OOR Dkt. AP 2024-2926, 2024 PA O.O.R.D. LEXIS 2875 (where a request contains a broad subject matter, seeks any and all records and includes a lengthy timeframe of one year, the request was insufficiently specific); *see also Seiberling v. Philadelphia Sch. Dist.*, OOR Dkt. AP 2024-2184, 2024 PA O.O.R.D. LEXIS 2207 (where the request contains a broad subject matter, seeks all documents and includes a timeframe of six months, the request was insufficiently specific). However, nothing in this Final Determination prevents the Requester from filing a more specific RTKL request for the same information, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).⁷

4. The District is not required to compile the requested data in the manner sought

The District argues that it does not possess a single record that reflects the total number of employees assigned to or placed in reassignment room(s) from 2010 to 2025 as sought in Item 1

⁷ Because the District has demonstrated that Items 3, in part, and 4 are insufficiently specific, the OOR need not reach the District’s alternative grounds for denying access. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

of the Request, nor a single record that reflects the total amount of salaries or other payments to employees while assigned to or placed in reassignment room(s) from 2010 to 2025 sought in Item 2 of the Request.⁸ Under Section 705 of the RTKL, when responding to a request, “an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. § 67.705; *see also Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010) (holding that an agency cannot be made to create a record that does not exist). “An agency need only provide the information in the manner in which it currently exists.” *Commonwealth v. Cole*, 52 A.3d 541, 547 (Pa. Commw. Ct. 2012). An agency is not required to create a list or spreadsheet containing the requested information; however, “the information ... must simply be provided to request[e]rs in the same format that it would be available to agency personnel.” *Id.* at 549, n.12.

In *Ctr. for Investigative Reporting v. Pa. Dep’t of Health*, the request sought data related to reported cases of neonatal abstinence syndrome (“NAS”) for the years 2020 and 2021. No. 227 C.D. 2023, 2024 Pa. Commw. Unpub. LEXIS 298 (Pa. Commw. Ct. June 5, 2024). The Department of Health argued that responsive data could not be extracted from its database but, rather, a custom query report would need to be created, which was otherwise unavailable to the Department of Health’s employees, to compile and manipulate the data as requested. The Commonwealth Court determined that data could not be pulled directly from the agency’s database, and the data would have to be reconfigured to respond to the request. Therefore, the Court concluded that the act of creating and running a custom query through the Department of Health’s

⁸ As discussed below and reviewed *in camera*, the District identified a responsive record that was created pursuant to a noncriminal investigation conducted by the District.

database in order to pull and compile the responsive data would require the agency to create a new record that otherwise does not exist in violation of Section 705 of the RTKL. *Id.* at *27.

Here, in support of its position, the District provided the McBride Attestation, which states, in relevant part:

1. [...] After a thorough search I came to the good faith conclusion that the [] District does not possess a single record reflecting the total number of employees assigned to or placed in reassignment room(s) from 2010 to 2025 in response to Item 1 of the Request or a single record reflecting the total amount of salaries or other payments made to employees while assigned to or placed in reassignment room(s) from 2010 to 2025 in response to Item 2 of the Request because:
 - a. The [] District maintains spreadsheets for some but not all of the years in Item 1 of the Request and is not required to compile the information in response to [the Request].
 - b. The information that is in the [] District's possession regarding the reassignment room is not contained in a database capable of running a report to provide the information Requester seeks in Item 1 and Item 2 of the Request.
 - c. The information regarding salaries paid to individuals while in reassignment room(s) is not compiled by Employee & Labor Relations and lives within individual employee pay records.
 - d. The [] District would have to merge existing records into one document in order to possess a single record responsive to Item 1 and a single record responsive to Item 2 of the Request. This would necessitate the recompilation, reformatting and reorganization of the current records, and therefore, would constitute the creation of a new record under the RTKL.

Here, the District asserts that while it maintains some of the records with a portion of the information sought in Item 1 of the Request, that information is not contained in a database capable of running a report to provide that information. McBride Attestation, ¶1(a). The District would have to merge existing records into one document in order to possess a single responsive record to Item 1. *Id.* at ¶(4)(d). Similarly, although the District identified a record partially responsive to Item 2, the District does not possess a single record responsive to Item 2 of the Request. Thus, based upon the evidence presented, the District has proven that it is not required to create a record

which does not currently exist or to compile, maintain, format or organize a record in a manner in which the District does not currently compile, maintain, format or organize the record. 65 P.S. § 67.705; *see also Osborne*, No. 01303 (Pa. Phila. Ct. of Common Pleas) (holding that the District does not possess the requested documents and that, if they had to compile the information, it would result in the creation of a new document).

5. *In Camera* review

As noted above, the District identified one record that it withheld pursuant to Section 708(b)(17) of the RTKL because it was a document created pursuant to a District noncriminal investigation. 65 P.S. 67.708(b)(17). The District further identified records responsive to Item 3 of the Request and provided those records, in redacted form, to the Requester. *See* District's position statement, Exhibit D. The District asserts that it properly redacted information regarding an employee/individual's medical and/or disability status, personal identifying information, including email addresses not held out to the public, written criticisms received by the District against certain District employees, internal, predecisional deliberations, and redacting/withholding email attachments to those emails that relate to noncriminal investigations of employee misconduct. 65 P.S. §§ 67.708(b)(5), (b)(6)(i)(A), (b)(7), (b)(10)(i)(A), (b)(17).

In support, the District has submitted an Inspection Index, identifying a bates stamp number, the exemption, and a description of the redacted content for the record responsive to Item 2 and a bates stamp number, date/time of email, senders/recipients, exemption(s) and a description of redacted content for those records withheld/redacted responsive to Item 3. In addition, the District submitted the Helmers Attestation, verifying the records contained in the Inspection Index. The OOR has reviewed the records submitted for *in camera* review, the Inspection Index, the Helmers Attestation, and the Brown Attestation.

a. The District properly redacted individual medical information.

The District argues that it properly redacted personal medical information from the responsive records pursuant to Section 705(b) of the RTKL. Section 705(b) of the RTKL exempts from disclosure:

A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitee, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

65 P.S. § 67.708(b)(5). In support, the Helmers Attestation asserts that the District redacted “portions of emails that contain information regarding an employee/individual’s medical and/or disability status.” The OOR has held that an individual’s medical information is not subject to disclosure under the RTKL. *See Marquis v. Pa. Liquor Control Board*, OOR Dkt. AP 2025-2449, 2025 PA O.O.R.D. LEXIS 2567.

Here, after *in camera* review, most of the information redacted under Section 708(b)(5) of the RTKL relates to an individual’s medical, psychological, or psychiatric history, which is expressly exempt from disclosure under the RTKL. *See* 65 P.S. § 67.708(b)(5). Additionally, a review of the responsive records supports this assertion, and no evidence has been presented to counter the District’s attestation. However, redacted records SDP0054, SDP0069, and SDP0080 (email from Girna Mendez-Adkins only) do not reveal an individual’s medical history but simply asks what time is needed to be used for an absence from work. Accordingly, the District has established, by a preponderance of the evidence, that the redacted information is exempt from disclosure under 65 P.S. § 67.708(b)(5); however, the District must provide redacted records SDP0054, SDP0069 and SDP0080, in part.

b. The District may redact personal telephone numbers and email addresses that have not been held out to the public

The District redacted email addresses and phone number of District employees, which have not been affirmatively “held out to the public.” Helmers Attestation, ¶ 9(b). Section 708(b)(6) of the RTKL exempts from disclosure “home, cellular or personal telephone numbers [and] personal e-mail addresses” 65 P.S. § 67.708(b)(6)(i)(A). In *Office of the Lieutenant Governor v. Mohn*, 67 A.3d 123 (Pa. Commw. Ct. 2013), *abrogated in part on other grounds, Pa. State Educ. Ass’n v. Commonwealth*, 148 A.3d 142 (Pa. 2016), the Commonwealth Court held that secondary, agency-issued email addresses are personal identification information, and are, therefore, not subject to public disclosure. The Court opined that “[w]hile the secondary e-mail address in question is used to conduct agency business, it still falls within Section 708(b)(6)(i)(A) ... because, even though it is being used to transact public business, nonetheless, it is still personal to that person.” *Id.* at 133; *see also Off. of the Governor v. Raffle*, 65 A.3d 1105, *abrogated in part on other grounds, Pa. State Educ. Ass’n*, 148 A.3d 142 (pertaining to agency-issued telephone numbers). However, in *Pennsylvania State System of Higher Education v. The Fairness Center*, the Court found that email addresses “held out to the public as places where faculty and coaches could be contacted” are not personal identification information subject to the exemption. No. 1203 CD 2015, 2016 Pa. Commw. Unpub. LEXIS 245 (Pa. Commw. Ct. 2016). Accordingly, the redactions are appropriate, and the District was permitted to redact this personal identification information.

c. The District failed to establish that it appropriately withheld/redacted certain employment records

The District asserts that it redacted portions of email chains that “constitute[] written criticisms received by the [] District against certain [] District employees.” *See* SDP0012-

SDP0015, SDP0021, and SDP0027. Under Section 708(b)(7)(vi) of the RTKL, “written criticisms of an employee” are exempt from disclosure. 65 P.S. § 78.708(b)(7)(vi). A review of these records demonstrates SDP0012-SDP0015 is a communication containing criticisms from an individual of the public against specific District employees; and SDP0021 and SDP 0027 do not contain any written criticism.⁹ However, the OOR has distinguished “written criticisms of an employee” that originate from an individual within an agency from those that originate outside of the agency. *See Bhaya v. Central Bucks School District*, OOR Dkt. AP 2014-0319, 2014 PA O.O.R.D. LEXIS 372 (finding that a parent’s complaint to the school district did not qualify as a “written criticism of an employee” under Section 708(b)(7)(vi)); *see also McGraw v. City of Wilkes-Barre*, OOR Dkt. AP 2019-1909, 2019 PA O.O.R.D. LEXIS 1753. As such, we are unable to conclude that SDP0012-SDP0015, which contain a member of the public’s complaint, constitutes a “written criticism” as contemplated by Section 708(b)(7)(vi).¹⁰

The employee’s identity would also not be exempt from disclosure under Section 708(b)(7) of the RTKL. 65 P.S. § 67.708(b)(7). Section 708(b)(7) exempts from disclosure certain records relating to an agency employee but the name of an employee is not a record listed as exempt under Section 708(b)(7). *See Markind v. Sch. Dist. of Phila.*, OOR Dkt. AP 2017-1363, 2018 PA O.O.R.D. LEXIS 33 (finding that the school district’s redaction of an employee name from an email was not permissible under Section 708(b)(7)). Furthermore, Section 708(b)(6)(ii) of the RTKL expressly provides that the name of an agency employee is generally subject to public access. 65 P.S. 67.708(b)(6)(ii). Finally, no evidence was submitted connecting the names in an

⁹ SDP0021 and SDP0027 are identical records. However, as discussed below, they may be redacted as internal, predecisional deliberations of the District.

¹⁰ The District must provide those redacted records (i.e. the email from an individual of the public) on SDP0012-0016 but may redact information under Section 708(b)(6) of the RTKL. Additionally, the District argues that SDP0021 and SDP 0027 (identical records) relate to written criticisms of an employee; however, as discussed below, this email is exempt under Section 708(b)(10)(i)(A) of the RTKL.

email sent by a member of the public to an ongoing investigation conducted by the District nor is it apparent from *in camera* review that the names are connected to employees being assigned to or placed into reassignment rooms. As such, the District has failed to show that the name of the employee is exempt under Section 708(B)(7) of the RTKL. *See* 65 P.S. § 67.708(a)(1).

However, this does not end our inquiry as the names of the individual employees mentioned in the email may be protected by the constitutional right to privacy. The Pennsylvania Supreme Court has held that an individual possesses a constitutional right to privacy in certain types of personal information. *Pa. State Educ. Ass'n v. Commonwealth*, 148 A.3d 142 (Pa. 2016). When a request for records implicates personal information not expressly exempt from disclosure under the RTKL, the OOR must balance the individual's interest in informational privacy with the public's interest in disclosure and may release the personal information only when the public benefit outweighs the privacy interest. *Id.*; *see also Pennsylvania State Univ. v. State Employees' Retirement Bd.*, 935 A.2d 530 (Pa. 2007) (employing a balancing test with respect to home addresses sought under the former Right-to-Know Act). Here, because the disclosure of the teachers' names within the email, given the context of the Request and the fact that the verified statements were critical of the teachers, could be detrimental to the personal interests and reputation of those employees. Thus, we find that the names are sufficiently personal to the employees to warrant the balancing of public and private interests in the information.

While the OOR recognizes that there is a lesser privacy interest in names of government employees, the fact that the name of a government employee is considered public information under the RTKL does not automatically preclude the application of the constitutional right to privacy to the records. Here the Requester is not seeking a random name or general verification of the identities of individuals employed by the District. Rather, the Requester is seeking specific

information on teachers assigned to or placed into reassignment rooms. The District employees named in the email clearly have a significant interest in maintaining confidentiality of the criticisms received in those emails. Further, it is not unforeseeable that public disclosure of the teachers identified in the email could impact that teacher's ability to credibly perform his or her duties in the classroom. Moreover, such disclosure could potentially prejudice the named individual's ability to seek future employment, if not tarnish his or her professional reputation in the community.¹¹ Thus, the OOR is unable to conceive of any such interest supporting the disclosure of the identity of the employees named in SDP0012-SDP0015 that would outweigh the privacy interests at hand. Therefore, the District may redact the individual teacher names from SDP0012-SDP0015 before providing it to the Requester. *See Rittmeyer and the Tribune Review v. Highlands Sch. Dist.*, OOR Dkt. AP 2021-0458, 2021 PA O.O.R.D. LEXIS 771 (finding the names of schoolteachers included in a grievance memorandum to be protected from disclosure by the constitutional right to privacy where the requester failed to articulate any public benefit in releasing the information and it was reasonable to conclude that disclosure of the names would likely tarnish their professional reputations). Based on the *in camera* review and the record before the OOR, the redaction of the individual employee names from SDP0012-SDP0015 would seem to resolve those individual privacy concerns.

d. The District appropriately withheld/redacted certain noncriminal investigative material

The District asserts that records responsive to Item 1 (spreadsheets and reassignment letters),¹² Item 2 (record identified in Section II(B)(2) in the District's position statement and Item

¹¹ In addition to informational privacy, Article I, Section 1 of the Pennsylvania Constitution also establishes a right to reputation. Pa. Const. Art. I, § 1; *See R. v. Department of Public Welfare*, 535 Pa. 440, 636 A.2d 142, 149 (Pa. 1994) (discerning a fundamental right to reputation under the Pennsylvania Constitution).

¹² The OOR notes that records responsive to Item 1 were not submitted for *in camera* review; however, as discussed above, spreadsheets and reassignment letters were held to relate to noncriminal investigations in *Osborne I*.

3 (email communication) were properly withheld/redacted because the records relate to noncriminal investigations conducted as a result of allegations of employee misconduct. Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation,” including “[c]omplaints submitted to an agency,” “[i]nvestigative materials, notes, correspondence and reports” and “[a] record that, if disclosed, would ... [r]eveal the institution, progress or result of an agency investigation.” 65 P.S. §§ 67.708(b)(17)(i)-(ii); 65 P.S. § 67.708(b)(17)(vi)(A). In order for this exemption to apply, an agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe” was conducted regarding a noncriminal matter. *See Pa. Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination, or probe must be “conducted as part of an agency’s official duties.” *Id.* at 814; *see also Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920 (Pa. Commw. Ct. 2012). An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted fact-finding and investigative powers. *Pa. Dep’t of Pub. Welfare v. Chawaga*, 91 A.3d 257 (Pa. Commw. Ct. 2014). The OOR must also consider uncontradicted statements in the appeal filing when construing exemptions. *See Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016).

In support of its position, the McBride Attestation indicates, in relevant part, the following:

5. Employee & Labor Relations is responsible for conducting investigations into complaints of misconduct against employees of the [] District in accordance with federal, state and local laws and regulations, as well as Board of Education (“Board”) policies such as Policy 348 related to harassment and discrimination. *See e.g., Board Policies – Board of Education.*
6. When a complaint is made about an employee, Employee & Labor Relations undertakes a searching inquiry, a detailed examination, or an official probe within its official duties in accordance with its legislatively granted fact-finding and investigative powers. These investigations include (1) an initial evaluation of whether the allegations, if true, would violate Board policies and if so, the initiation of a formal investigation; (2) an assessment to determine whether the

- employee should be reassigned pending the outcome of the investigation; (3) the issuance of a reassignment letter if it is determined that an employee should be reassigned; (4) interviews of the complainant, employee accused of misconduct and any witnesses to the alleged misconduct; (5) review of any supporting evidence such as text messages, emails, videos, etc.; (6) the final determination of whether the employee's alleged misconduct violated Board policies; and (7) referral for disciplinary hearing, if necessary.
7. These steps are systematically completed when Employee & Labor Relations conducts an investigation into a complaint of employee misconduct.
 8. Employee & Labor Relations possesses spreadsheets that are partially responsive to Item 1 of the Request, which are used by Employee & Labor Relations to track the status of investigations into complaints of employee misconduct. These spreadsheets contain information including but not limited to: (1) the name and employee identification number of employees subject to an investigation of alleged employee misconduct, (2) the name of the assigned Employee & Labor Relations officer conducting the investigation; (3) date of reassignment of the employee subject to investigation, including a link to the reassignment letter issued to the employee; (4) the specific allegations of employee misconduct; (5) name of student(s) involved in the allegations, if applicable; (6) name of the union representative for the employee subject to investigation; (7) status of the investigation into the alleged employee misconduct; and (8) investigative notes completed by the assigned Employee & Labor Relations officer.
 9. These spreadsheets constitute investigative materials/notes expressly exempt from public access pursuant to Section 708(b)(17) of the RTKL, and the disclosure of these records would reveal the institution, progress or outcome of investigations into allegations of employee misconduct.
 10. As described in paragraph 6, the [] District also routinely issues a reassignment letter whenever an employee is reassigned pending an investigation into employee misconduct. These letters are likewise exempt from public access pursuant to Section 708(b)(17) of the RTKL because they constitute investigative correspondence and the disclosure of these records would reveal the institution, progress or outcome of investigations into allegations of employee misconduct.
- [...]
15. I am aware of the limited search conducted at the [] District's discretion related to Item 3 of the Request and have reviewed the records provided to the Requester.

16. With the exception of SDP0009 to SDP0028, I can confirm that these emails: (1) were sent between employees in Employee & Labor Relations and District employees in reassignment room(s); and (2) occurred during the course of various investigations into employee misconduct.
17. I have also reviewed the District's redaction log for the emails described in paragraph 16 and can confirm the description of the redacted content for each of these emails. Specifically, these emails include:
- a. Various correspondence between Employee & Labor Relations officers and District employees regarding the status of noncriminal investigations into allegations of employee misconduct such as emails (1) informing employees of the institution of an investigation by Employee & Labor Relations; (2) providing employees with reassignment letters and information regarding their reassignment; (3) providing investigative materials related to noncriminal investigations into alleged employee misconduct; (4) informing employees they are released from the reassignment room; and (5) providing employees with final investigative reports related to investigations into alleged employee misconduct.
 - b. Correspondence containing the name, email, and/or identifying information of a District [employee] that if disclosed [would] reveal that the employee is the subject of a District investigation of alleged employee misconduct.

The OOR has previously found that investigative reports detailing investigations into alleged misconduct of school district employees are exempt from disclosure under Section 708(b)(17) of the RTKL. *See Needelman v. Spring-Ford Area Sch. Dist.*, OOR Dkt. AP 2018-1814, 2018 PA O.O.R.D. LEXIS 1526; *see also Curtis v. Ambridge Area Sch. Dist.*, OOR Dkt. AP 2015-1444, 2015 PA O.O.R.D. 1262. The Pennsylvania Public School Code of 1949 ("Code"), which provides that school districts are authorized to "adopt and enforce reasonable rules and regulations as it may deem necessary, regarding the management of its school affairs and the conduct and deportment of all superintendents, teachers and other appointees or employes during the time they are engaged in their duties to the [D]istrict." 24 P.S. § 5-510. While not cited by the District, the Code also provides that schools "are vested as, bodies corporate, with all necessary powers to enable them to carry out the provisions of this act." 24 P.S. § 2-211. Further, as noted

by the District, the Philadelphia Home Rule Charter grants the District with broad powers to enable it to “administer, manage and operate” the District. *See Philadelphia Home Rule Charter § 12-300.*

Here, the Requester does not challenge the District’s authority to conduct a noncriminal investigation into employee misconduct or that investigations occurred-it is implicit that an investigation occurs if an employee is placed into a reassignment room. Further, the OOR has previously held that spreadsheets documenting the employee, position title, seniority, length of stay in the reassignment room, reason(s) for reassignment, and annual salary relate to a noncriminal investigation. *See Osborne I*, 2025 PA O.O.R.D. LEXIS 762. In addition, the Philadelphia Court of Common Pleas held that “the Requester asked for documents that relate only to people who have been reassigned due to a complaint against them, so Requester knows these documents relate to non-criminal investigations because the Request only asked for documents identifying people who have been reassigned.” *Osborne*, No. 01303. Thus, based on the evidence presented and the OOR’s *in camera* review, the District has demonstrated that it conducts noncriminal investigations as part of its legislatively granted authority, noncriminal investigations are conducted upon receipt of a complaint of alleged employee misconduct, and conducting a noncriminal investigation is within its authority. Therefore, the District has met its burden of proving that Item 1 (spreadsheets and reassignment letters), Item 2 (record identified in Section II(B)(2) in the District’s position statement) and Item 3 (email communications), in part, are exempt noncriminal investigative records. 65 P.S. § 67.708(a)(1).

However, not all email communications were properly redacted. Our review of the emails demonstrate that several of the emails involve one of the events precipitating the investigation described above, but they are not investigative in nature; rather, the emails were exchanged for the

administrative purpose of scheduling. The investigation itself is not mentioned, nor do the emails' purpose appear to be information-gathering for the benefit of that investigation, and therefore, the OOR cannot find that the District properly redacted those emails (i.e. scheduling emails) under Section 708(b)(17) of the RTKL.

For convenience, the OOR will list those emails that were redacted, in part, based on administrative scheduling purposes:¹³ SDP0003-SDP0005, SDP0006-SDP0008, SDP0009-SDP0016, SDP0017-SDP0018, SDP0023-SDP0024, SDP0172

e. The District demonstrating that certain records reflect internal, predecisional deliberations

The District redacted records identified as exempt under Section 708(b)(10)(i)(A) of the RTKL, which exempts from public disclosure a record that reflects:

The 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, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.

Id. For this exemption to apply, three elements must be satisfied: 1) “[t]he records must ... be ‘internal’ to a governmental agency”; 2) the deliberations reflected must be predecisional, *i.e.*, before a decision on an action; and 3) the contents must be deliberative in character, *i.e.*, pertaining to proposed action. *See Kaplin v. Lower Merion Twp.*, 19 A.3d 1209, 1214 (Pa. Commw. Ct. 2011). For purposes of this exemption, records that are exchanged with another agency are considered “internal” to the agency. *See Off. of the Governor v. Davis*, 122 A.3d 1185 (Pa. Commw. Ct. 2015).

¹³ To the extent the email discusses the investigation (*see, i.e.*, SDP0007), that portion of the email may be redacted. The OOR further notes that these email communications do not appear to be formal scheduling notices of an investigation.

To prove that a record is exempt under Section 708(b)(10)(i)(A), an agency must explain how the information withheld reflects or shows the deliberative process in which an agency engages during its decision-making. *See Twp. of Worcester v. Off. of Open Records*, 129 A.3d 44, 61 (Pa. Commw. Ct. 2016). “[N]ot every internal agency communication involving a decision to be made or a question to be answered is subject to the predecisional deliberative exemption. Rather, it is apparent that the exemption protects those communications which reflect that the agency is deliberating . . . a particular determination, ruling or policy.” *Shepherd v. Pa. Off. of the Governor*, No. 900 C.D. 2024, 2025 Pa. Commw. Unpub. LEXIS 277, No. 900 C.D. 2024 *26 (Pa. Commw. Ct., June 5, 2025) (citing *McGowan, supra*; *Office of General Counsel v. Bumsted*, 247 A.3d 71, 84 (Pa. Commw. Ct. 2021)).¹⁴ Moreover, purely factual material contained in otherwise deliberative documents is required to be disclosed if it is severable from its context. *See Pa. Pub. Util. Comm’n v. Nase*, 302 A.3d 264, 272 (Pa. Commw. Ct. 2023). However, factual material can still qualify as deliberative information when its disclosure “would be tantamount to the publication of the [agency’s] evaluation and analysis.” *McGowan*, 103 A.3d at 387 (quoting *Trentadue v. Integrity Communication*, 501 F.3d 1215, 1228-29 (10th Cir. 2007)). In *Nase*, the Commonwealth Court explained that:

[T]o establish a record is “deliberative in character,” and therefore exempt from disclosure under this exception, “an agency must submit evidence of specific facts showing how the information relates to deliberation of a particular decision. Only . . . **confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice** [are] protected as deliberative.” [*Smith ex rel. Smith Butz, LLC v. Pa. Dep’t of Env’t Prot.*, 161 A.3d 1049, 1067 (Pa. Cmwlth. 2017)] (citations and quotation marks omitted; emphasis added). Indeed, it should be expected that public officials and employees of a government agency deliberate in some form before making important decisions. Revealing the existence of a deliberative process may effectively disclose confidential communications, such as a “contemplated or proposed policy or course of action,” in certain circumstances, *see* 65 P.S. § 67.708(b)(10)(i)(A), but that will not always be the case.

¹⁴ An unpublished opinion of the Commonwealth Court may be cited for its persuasive value. 210 Pa. Code § 69.414.

302 A.3d 264, 272-73 (Pa. Commw. Ct. 2022) (emphasis in original). In so holding, the Court rejected the argument that records which merely refer to, mention or schedule a decision are deliberative in character – instead, the records must contain the actual, confidential deliberations in question. *Id.*

In support, the District submitted the Helmers Attestation, which states, in relevant part:

As identified in the [] District’s Inspection Index, the [] District asserts Section 708(b)(10)(i)(A) of the RTKL, as a basis for the redacting portions of SDP0009 through SDP0028 that were communications solely between [] District employees that encompasses (1) scheduling meeting(s) to discuss complaints against employee(s) prior to the meeting(s) occurring; (2) discussion of [] District’s potential response to complaints against employee(s) prior to the issuance of any response.

Helmers Attestation, ¶9(d). As contemplated by the *Shepherd* Court and the *Nase* Court, those redactions containing “scheduling meeting(s) to discuss complaints against employee(s) prior to the meeting(s) occurring” are not reflective of a particularized deliberative process and do not reflect that the District was carrying out *deliberations* of law or policymaking. Accordingly, those records must be provided to the Requester in unredacted form. *See* SDP0003-SDP0005, SDP0006-SDP0008, SDP0009-SDP0016, SDP0017-SDP0018, SDP0023-SDP0024.

However, the remaining portions of SDP0009-0028 that contain internal, predecisional deliberations (i.e. SDP0021, SDP0025-SDP0027) were properly redacted under Section 708(b)(10)(i)(A) of the RTKL. These redacted records are “internal” to the District because the senders and recipients are all District employees. *See* Inspection Index, p. 5, fns. 3-4. Further, the material is deliberative in character and contains discussions on how to proceed with District policy. Thus, based on the evidence presented, the District has sustained its burden of proof, by a preponderance of the evidence, that it properly redacted certain emails responsive to the Request

as reflecting internal, predecisional deliberations of the agency personnel. *See* 65 P.S. § 67.708(b)(10)(i)(A).

CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part** and **dismissed as moot in part**, and the District is required to provide the Requester with copies of unredacted records at SDP0003-SDP0005, SDP0006-SDP0008, SDP0009-SDP0016,¹⁵ SDP0017-SDP0018, SDP0023-SDP0024, SDP0054, SDP0069, SDP0080, and SDP0172 as discussed above, 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 to the Philadelphia 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; 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.^{2F16} 65 P.S. § 67.1303. All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: April 7, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via Appeal Portal to: David Osborne; Kristina Helmers, Esq., AORO

¹⁵ The individual names of teachers may be redacted.

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