



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

<b>IN THE MATTER OF</b>	:	
	:	
<b>CATHLEEN PALM AND THE CENTER</b>	:	
<b>FOR CHILDREN’S JUSTICE,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No.: AP 2026-0441</b>
	:	
<b>PENNSYLVANIA DEPARTMENT OF</b>	:	
<b>HUMAN SERVICES,</b>	:	
<b>Respondent</b>	:	

## FACTUAL BACKGROUND

On October 23, 2025, Cathleen Palm and the Center for Children’s Justice (collectively “Requester”) emailed a request (“Request”) to the Pennsylvania Department of Human Services (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking between the dates of July 1, 2024 through October 23, 2025, communications sent or received by any employee, consultant, or contractor of the Department<sup>1</sup> related to:

1. Public funding to train mandated reporters.
2. Approval of any child abuse recognition and reporting training curriculum.
3. Course content and contact information for curriculum approved by [the Department].
4. Communications between [the Department] and officials at the Pennsylvania Department of Education (PDE) related to:
  - a) Act 126 (of 2013)
  - b) Pending or approved curriculums
  - c) Questions and/or complaints about Act 126 or any pending or approved

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<sup>1</sup> The Request specifically names the Department Secretary Valerie Arkoosh and Deputy Secretary Laval Miller Wilson as named custodians.

curriculum

5. Questions about, feedback specific to the process of those seeking to secure approval for a curriculum regarding the process or decision to approve or not approve a curriculum.
6. The catalyst to and decision then made by [the Department] to no longer accept new Child Abuse Recognition and Reporting Training Curricula “for review and approval” as noted on PA DHS’ website (<https://www.pa.gov/agencies/dhs/resources/keep-kids-safe/mandated-reporter-training>).
7. Outcome reports, measured metrics, feedback from persons trained by any of PA DHS’ contracted trainers identified on PA DHS’ website (<https://www.pa.gov/agencies/dhs/resources/keep-kidssafe/mandated-reporter-training>) as including the Pennsylvania Chapter of the American Academy of Pediatrics, the Pennsylvania Family Support Alliance; and the University of Pittsburgh (Child Welfare Resource Center).
8. Research intended to understand and/or measure the evaluating the content, quality or effect of training mandated reporters in Pennsylvania, including but not limited to trainings/curriculum approved by or financially supported by PA DHS.

Beyond the [Department] Secretary and Deputy Secretary for OCYF, public records produced by, sent to, received by or copying any of the following DHS employees, consultants or contractors, should be included:

- Natalie Bates
- Dr. Rachel Berger
- Amy Grippi
- Diane Michel
- Jessica Andrews-Slagel
- Shannon Walborn
- Dawn Traill
- Gerry Lynn Butler
- Carrie Keiser
- Michele Walsh

On January 12, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department issued a Final Response denying the Request in part, arguing that certain records responsive to the Request are exempt from public disclosure as personal identification information, internal, predecisional deliberations, personal notes of employees, and confidential under the Child Protective Services Law (“CPSL”). *See* 65 P.S. §§ 67.708(b)(6), (b)(10), and (b)(12); 23 Pa. C.S. § 6339.

On February 2, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.<sup>2</sup> The OOR invited both parties to supplement the record and directed the Department to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On February 6, 2026, the Department requested an extension of time to provide remaining responsive records to the Requester and submit evidence and argument in this appeal. On February 9, 2026, the Requester submitted correspondence, noting that despite granting multiple extensions to the Department and despite the issuance of the Department’s Final Response on January 12, 2026, the Department had yet to provide her with any records responsive to the Request and arguing that the Department has demonstrated a pattern of seeking extensions but failing to adequately produce responsive records.

On February 11, 2026, the OOR granted the Department’s request for an extension to provide submissions in this appeal. Because the Department estimated that it would provide the Requester with responsive records on February 14, 2026, the Requester was permitted until March 3, 2026 to review the responsive records and the Department’s basis for withholding records and submit any evidence or argument she wished to have considered.

On February 20, 2026, the Department submitted a position statement, arguing that the Department conducted a good faith search and provided responsive records to the Requester during the course of the appeal.<sup>3</sup> The Department also argues that certain records were withheld or redacted on the basis of personal identification information, internal, predecisional deliberations,

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<sup>2</sup> 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).”)

<sup>3</sup> The appeal is dismissed as moot in relation to the records provided during the course of the 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”).

and personal notes of employees. 65 P.S. §§ 67.708(b)(6), (b)(10), and (b)(12). In support of its position, the Department submitted the attestation of Michele Walsh, an Executive Assistant with the Office of Children, Youth, and Families (“OCYF”) within the Department (“Walsh Attestation”).

On March 2, 2026, the Requester submitted argument that the Department failed to conduct a good faith search for and provide all records responsive to the Request and that the Department failed to sustain its burden of proof for the redaction of certain information within the responsive records. On March 11, 2026, the OOR reopened the record for the Department to provide additional evidence and argument related to the issues specifically raised by the Requester and to address its search for “communications in the possession of [Department] Secretary Valerie Arkoosh and Department contractors which relate to the identified subject matters.” To date, the Department has not submitted additional evidence.

### **LEGAL ANALYSIS**

The Department is a Commonwealth agency subject to the RTKL. 65 P.S. § 67.301. Records in the possession of a Commonwealth 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 Department 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 factfinder ... 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 Department proved that certain records are exempt as personal identification information**

The Department states that it redacted certain records on the basis of personal identification information. Section 708(b)(6)(i)(A) of the RTKL exempts personal identification information, including “[a] record containing all or part of a person’s Social Security number, driver’s license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number.” 65 P.S. § 67.708(b)(6)(i)(A). However, organizational email addresses and personal information that is held out to the public are not exempt. *See Pa. State Syst. of Higher Educ. v. The Fairness Ctr.*, No. 1203 C.D. 2015, 2016 Pa. Commw. Unpub. LEXIS 245 (Pa. Commw. Ct. 2016) (holding that email addresses “held out to the public” are not personal identification information subject to the exemption). The Walsh Attestation<sup>4</sup> states:

20. The responsive records also consisted of e-mails that contained Department employees’ personal e-mail addresses and phone numbers, as well as passwords and financial information of vendors.
21. My understanding is that this information was redacted pursuant to the personal identification information exemption of the RTKL.

*See* Walsh Attestation ¶¶ 20-21. The Department’s evidence is unclear as to what it determined to be “financial information of vendors,” and the OOR cannot perceive how the vendor financial information would be exempt as “personal financial information” as defined by the RTKL, as that phrase is specifically defined to concern individuals. 65 P.S. § 67.102. The Department does not explain how the financial information of a business or institution that is conducting business with the Department is exempt from disclosure. To the extent the financial information of vendors

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<sup>4</sup> Under the RTKL, an attestation is generally competent evidence to sustain an agency’s burden of proof. *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 competent evidence that the Department acted in bad faith, “the averments in [the attestation] should be accepted as true.”

contains social security numbers, passwords, or the financial information of individuals, as specifically defined under the definition of personal financial information, such information may be redacted; otherwise, the Department may not redact the financial information of vendors found within Department records.

The OOR also finds that non-agency issued personal phone numbers and email addresses may be redacted from the responsive records as personal identification information. Regarding specific email redactions, the Requester challenges the redaction of the email address of Laval Miller-Wilson, stating:

Among the responsive records was an August 27, 2024, email from Angela Liddle at the PA Family Support Alliance to Natalie Bates (DHS) and a redacted party that appears to be Laval Miller-Wilson. This record appears to have been inappropriately redacted obscuring Miller-Wilson as a recipient.

*See* Requester Submission, March 2, 2026 p. 5. The Department's evidence does not specify whether this email address is held out to the public or not. Accordingly, the Department has failed to sustain its burden that it may redact the email address.

**2. The Department proved that certain records are exempt as internal, predecisional deliberations**

The Department argues that it properly withheld communications which reflect internal, predecisional deliberations of the Department. Section 708(b)(10)(i)(A) of the RTKL exempts from disclosure records reflecting:

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

65 P.S. § 67.708(b)(10)(i)(A). To withhold a record under Section 708(b)(10)(i)(A), an agency

must show: 1) the deliberations reflected are internal to the agency, including representatives; 2) the deliberations reflected are predecisional, i.e., before a decision on an action; and 3) the contents are deliberative in character, i.e., pertaining to a proposed action. *See Kaplin v. Lower Merion Twp.*, 19 A.3d 1209, 1214 (Pa. Commw. Ct. 2011). For purposes of this exemption, records that are exchanged with another governmental agency are considered “internal” to the agency. *See Off. of the Governor v. Davis*, 122 A.3d 1185 (Pa. Commw. Ct. 2015); *see also West Chester Univ. of Pa. v. Schackner*, 124 A.3d 382, 398 (Pa. Commw. Ct. 2015) (“Records satisfy the ‘internal’ element when they are maintained internal to one agency or among governmental agencies”). However, communications with outside consultants and independent contractors are not “internal,” and are therefore, not subject to the exemption. *See Chester Water Auth. v. Pa. Dep’t of Community and Econ. Dev.*, 249 A.3d 1106, 1112-13 (Pa. 2021).

To establish that records are deliberative, an agency must show that the information relates to the deliberation of a particular decision. *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 378-88 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)). The term “deliberation” is generally defined as “[t]he act of carefully considering issues and options before making a decision or taking some action....” BLACK’S LAW DICTIONARY 492 (9th ed. 2009); *see also Heintzelman v. Pa. Dep’t of Cmty. & Econ. Dev.*, OOR Dkt. AP 2014-0061, 2014 PA O.O.R.D. LEXIS 254, *aff’d* No. 512 C.D. 2014, 2014 Pa. Commw. Unpub. LEXIS 644 (Pa. Commw. Ct. 2014). Factual material contained in otherwise deliberative documents is required to be disclosed if it is severable from its context. *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014).

The Walsh Attestation states, in relevant part:

16. Parts 1, 2, 4, and 5 of this [R]equest included a total of 30 records that were determined to be internal and predecisional to the Department.

17. These records are all emails which include only Department employees as both sender and recipient.
18. No Department contractors or outside parties are included in these e-mails or the decisions being made.
19. These e-mails were created specifically to guide and inform the decisions that needed to be made by the Department regarding the approval and/or funding of mandated reporter training and therefore constitute predecisional deliberations.

See Walsh Attestation ¶¶ 16-19. The Department has demonstrated that these thirty responsive records are communications created specifically to guide and inform the decisions of the Department for the approval and funding decisions related to mandated reporter training and that these records have been maintained internally. Based on the evidence submitted, the Department has proven that these thirty responsive records are exempt as internal, predecisional deliberations.

**3. The Department proved that certain communications are exempt as notes and working papers**

Section 708(b)(12) exempts from disclosure “[n]otes and working papers prepared by or for a public official or agency employee used solely for that official’s or employee’s own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.” 65 P.S. 67.708(b)(12). This exemption protects “notes and working papers created by a ... public official or employee regarding agency-related business, but not for an official function.” *Escalera v. Adams Cnty.*, OOR Dkt. AP 2011-0184, 2011 PA O.O.R.D. LEXIS 176. The records must be for the specific employee’s own personal use and not distributed outside of their office, *Glunk v. Pa. Dep’t of State*, 102 A.3d 605 (Pa. Commw. Ct. 2014), and must be used to carry out the employee’s official duties. *Pa. Dep’t of Labor & Indus. v. Tabor*, 2016 Pa. Commw. Unpub. LEXIS 251 (Pa. Commw. Ct. 2016). This exemption covers documents “necessary for that official that are ‘personal’ to that official in carrying out his public responsibilities.” *City of Phila. v. Phila. Inquirer*, 52 A. 3d 456, 461 (Pa. Commw. Ct. 2012) (*en banc*). The Commonwealth Court has also

held that:

“Personal” within this definition does not mean that it has to involve a public official's personal affairs--a message slip that his wife called--because those types of documents are not covered by the RTKL; it covers those documents necessary for that official that are “personal” to that official in carrying out his public responsibilities.

*Smith ex rel. Smith Butz, LLC v. Pa. Dep't of Env't Prot.*, 161 A.3d 1049, 1066-67 (Pa. Commw. Ct. 2017).

The Walsh Attestation states, in relevant part:

14. Diane Michel, an OCYF employee, provided her own personal notes which she had taken for her own personal use as being potentially responsive to Part 1 of this [R]equest.
15. I have confirmed that these notes were created by Ms. Michel for her own use and are not official minutes or otherwise considered to be official records of the Department.

See Walsh Attestation ¶¶ 14-15. The evidence provided by the Department affirms that the personal notes taken by Ms. Michel were for her own personal use. There is no evidence submitted to suggest that she shared her personal notes outside of the Department. Accordingly, the Department's evidence is sufficient to prove that Ms. Michel's notes are exempt personal notes under Section 708(b)(12) of the RTKL. See 65 P.S. 67.708(a).

#### **4. The Department failed to demonstrate that it conducted a complete search**

The Requester argues that the Department did not conduct a good faith search and did not provide all responsive records. In response to a request for records, an agency is required to “make a good faith effort to determine if ... the agency has possession, custody or control of the record.” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort” as used in Section 901 of the RTKL, in *Uniontown Newspapers, Inc. v. Pennsylvania Department of Corrections*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all

custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession. ... When records are not in an agency's physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors. ... After obtaining potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff'd*, 243 A.3d 19 (Pa. 2020).

An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency's records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

Here, the Walsh Attestation provides:

4. As part of my duties as Executive Assistant in OCYF, I serve as OCYF's liaison to the Right-to-Know Law ("RTKL") Office.
5. As RTKL liaison, I am the initial point-of-contact for all RTKL requests which are assigned to OCYF.
6. Upon reviewing the RTKL requests that seek records that may be in OCYF's possession, I determine who, if anyone, in OCYF might possess responsive records.
7. I then coordinate OCYF's response and ensure responsive records are turned over to the RTKL office in a timely manner.
- ...
9. [The Request] had 7 separate parts seeking records related to mandated reporter child abuse trainings funded and approved by the Department.
10. The following individuals all searched for responsive records and, as is Department policy, directed their relevant staff to search as well: Laval Miller-Wilson, OCYF Deputy Secretary, Natalie Bates, OCYF Chief of Staff, Amanda Dorris, Director of the Bureau of Policy, Programs and Operations, Caitlin Robinson, Director of the Bureau of Children and Family Services, Dr. Rachel Berger, OCYF Medical Director, as well as the following individuals specifically named in the [R]equest: Diane Michel, Amy Grippi, Jessica Andrews-Slagel, Shannon Walborn, Dawn Traill, Gerry Lynn Butler, and Carrie Keiser.
11. I also checked my own records in response to this [R]equest.
12. The individuals identified above and their staff are the only individuals in OCYF who could be reasonably expected to have responsive records for this

R]equest.

...

22. It is my good faith belief that there are no additional responsive records in the possession or control of OCYF.

See Walsh Attestation ¶¶ 4-12, 22.

“The burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011). An attestation by the individual who searched for responsive records is sufficient to meet an agency’s burden of proving the nonexistence of a record. *Id.*; see also *Pa. Dep’t of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that in the absence of countervailing evidence establishing that the agency acted in bad faith or that the agency records exist, averments of nonexistence should be accepted as true.”); *Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021), *appeal granted in part*, 280 A.3d 870, *aff’d*, No. 71 MAP 2022, No. 72 MAP 2022, 2024 Pa. LEXIS 1087 (Feb. 21, 2024) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, which is tantamount to a “more likely than not” inquiry).

However, the Request explicitly seeks communications of Secretary Arkoosh and Department contractors, and the Department’s evidence fails to address whether a search was conducted for communications in the possession of those custodians or why responsive records could not exist in the possession of those custodians. Further, the Requester identifies categories of records that should have been produced but were not. These records were either identified in the Request, logically exist, or their existence is acknowledged by records that were produced. For example, the Requester notes that certain responsive emails reference attachments to those emails, but the attachments were not produced. The Requester also states that the Department “is actively

engaged in an Intergovernmental Working Group on Child Safety and Stability of which the training of mandated reporters has surfaced yet [the Department] provided no responsive records suggestive of any correspondence with or connection to this Working Group.” The OOR requested clarification and more detail from the Department as to the Department’s good faith search, to which the Department did not provide additional evidence.

The OOR does not determine whether records should exist, as our inquiry is limited to whether or not records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore*, 992 A.2d at 909; *see also* 65 P.S. § 67.705. However, the fact that the Requester has identified particular records that are likely to exist without a sufficient rebuttal by the Department causes the OOR to question the statement in the Walsh Attestation that the search conducted was likely to discover all records responsive the Request. As such, the Department has not met its burden of proof. *See Hodges*, 29 A.3d at 1192.

### CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part, and dismissed as moot in part**, and the Department is required to conduct a good faith search for records responsive to the Request and provide all responsive records in accordance with this Final Determination 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 Commonwealth Court. 65 P.S. § 67.1301(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 65 P.S. § 67.1303, but as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>5</sup> All documents or communications following

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

the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto: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 13, 2026**

*/s/ Catherine R. Hecker*

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CATHERINE R. HECKER  
APPEALS OFFICER

Sent via the OOR portal to: Cathleen Palm  
Andrea Bankes