



**pennsylvania**  
OFFICE OF OPEN RECORDS

**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>MICHAEL MCWILLIAMS,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No: AP 2026-1321</b>
	:	
<b>PIKE COUNTY DISTRICT ATTORNEY’S</b>	:	
<b>OFFICE,</b>	:	
<b>Respondent</b>	:	
	:	
<b>and</b>	:	
	:	
<b>JAMIE WAGENHOFFER,</b>	:	
<b>Direct Interest Participant</b>	:	

**FACTUAL BACKGROUND**

On February 26, 2026, Michael McWilliams (“Requester”) submitted a request (“Request”) to the Pike County District Attorney’s Office (“Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq*, stating:<sup>1</sup>

1. I am requesting the following information: whether Assistant District Attorney Jamie Wagenhoffer resigned, was terminated by the agency, and/or forced into being resigned.
2. I am also looking for Ms. Wagenhoffer’s employment application and records. Particularly her application materials associated with <http://www.employment.pa.gov/>.

On April 2, 2026, following a thirty-day extension during which to respond, 65 P.S. §

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<sup>1</sup> For ease of discussion, we have numbered the Request as seeking two items.

67.902(b), the Office denied the Request in part, arguing that Item 1 asks a question rather than seek records<sup>2</sup> and granted the Request in part, providing records responsive to Item 2. The Office further denied the Request in part, redacting portions of the records responsive to Item 2 as records containing personal identification information, 65 P.S. § 67.708(b)(6), and protected by the Criminal History Record Information Act. 18 Pa.C.S. §§ 9101 *et seq.*

On April 2, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The Requester submitted a position statement, arguing, that the Office “clearly does not know basic grammar or English. The punctuation-known as a question mark-was not present.” The OOR invited both parties to supplement the record and directed the Office to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On April 7, 2026, after being notified by the Office that Ms. Wagenhoffer<sup>3</sup> may have an interest in the appeal,<sup>4</sup> the OOR directed the Office to provide Ms. Wagenhoffer notice of the instant appeal. The OOR also clarified the remaining issues on appeal and provided both parties the opportunity to submit additional evidence/argument on whether Item 1 asks a question.<sup>5</sup> That same day, the Requester submitted a clarification position statement,<sup>6</sup> affirming that the Office provided the full employment application, without redactions, for Ms. Wagenhoffer.

On April 9, 2026, Ms. Wagenhoffer, through her attorney Theron Solomon, submitted a

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<sup>2</sup> Despite denying the Item 1 of the Request, the Office identified one document “that pertains to the general area of [the Requester’s] question which is 16 pages in length that may be considered a final action under 65 P.S. [§] 67.708(b)(7)(viii).”

<sup>3</sup> Ms. Wagenhoffer was a former Assistant District Attorney for the Office and is no longer employed for the Office.

<sup>4</sup> On April 6, 2026, the Requester objected to the third-party notice.

<sup>5</sup> More specifically, the OOR asked whether the 16-page document identified as potentially responsive to Item 1 was provided to the Requester in redacted form or withheld in its entirety and/or whether it was part of the Requester’s appeal. The Requester responded that he did not receive any records responsive to Item 1 of the Request.

<sup>6</sup> The Requester raises several issues that are outside of the OOR’s purview and will not be addressed in this Final Determination.

Request to Participate in this matter, asserting that Ms. Wagenhoffer has a direct interest in the matter as the owner of a record containing confidential or proprietary information or trademarked records. Attorney Solomon argues that the “[d]ocuments are outside the scope of the RTK law and are personal and private to Ms. Wagenhoffer [and t]he issue far exceeds the scope of [the R]equest.” That same day, the OOR granted Ms. Wagenhoffer’s request to participate as a direct interest participant.

On April 9, 2026, the Requester submitted a supplemental position statement, arguing, among other things, that Ms. Wagenhoffer “has no legal standing to be a direct participant in this matter.”

On April 23, 2026, the Office submitted a position statement, reiterating its arguments that Item 1 of the Request asks a question and does not seek records and that the Office has provided the subject materials with the redactions removed.

On April 23, 2026, the Requester submitted an additional position statement, arguing, in essence, that Item 1 of the Request seeks records. The Requester argues that if he used the words “records on” in place of “whether”, the Request would have been proper and, therefore, the omission of the words “records on” does not change “that the aforementioned always existed in a declarative form.”<sup>7</sup>

## LEGAL ANALYSIS

The Office 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

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<sup>7</sup> The Request cannot be reworded on appeal. The OOR has held that a requester may not modify or expand a request on appeal. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Commw. Ct. 2010); Therefore, the OOR’s review on appeal is confined to the Request as written. However, nothing in this determination prevents the Requester from filing a new RTKL request with the Office, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Office 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. Direct Interest Party status and objections**

The Requester objects to Ms. Wagenhoffer’s status as a direct interest participant. The RTKL permits a third party with a direct interest in the record subject to an appeal to participate on appeal. 65 P.S. § 67.1101(c). The OOR applies the traditional standing test to determine whether the third-party has a “direct interest” in the responsive records, which merits due process; whether they can show a “direct and substantial interest [and] a sufficiently close causal connection between the challenged action and the asserted injury” so the interest qualifies as immediate. *DeFazio v. Civil Serv. Comm’n of Allegheny Cnty.*, 562 Pa. 431, 756 A.2d 1103, 1105 (Pa. 2000). In this case, the Request specifically identify records regarding Ms. Wagenhoffer. Therefore, Ms. Wagenhoffer has a due process right to participate, and the OOR properly granted her request to participate as a direct interest participant.<sup>8</sup>

### **2. The appeal is moot in part**

During the pendency of the appeal, the Office provided the Requester with unredacted records responsive to the Request (i.e. the attorney license numbers and names of individuals listed as recommendations for Ms. Wagenhoffer’s application). *See* Office’s position statement, p. 2.

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<sup>8</sup> The OOR notes that Ms. Wagenhoffer’s raises issues that were addressed by the Office.

As such, the appeal is dismissed as moot as it relates to the unredacted 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. Item 1 of the Request asks a question**

The Office denied Item 1 of the Request, arguing that it does not seek records under the RTKL but instead seeks answers to questions. *See Walker v. Pa. Ins. Dep't*, No. 1485 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 425 at \*16 (Pa. Commw. Ct. 2012) (“The RTKL is not a forum for the public to demand answers to specifically posed questions to either a Commonwealth or local agency. In fact, there is no provision in the RTKL that requires an agency to respond to questions posed in a request”); *Faggiolo v. Aston Twp.*, OOR Dkt. AP 2022-0934, 2022 PA O.O.R.D. LEXIS 1479 (holding that the presence or absence of a question mark is not determinative as to whether a request asks a question).

Section 102 of the RTKL 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. A RTKL request which seeks a record is not transformed into a question simply because it describes a record inexpertly, inexactly, or in broad terms. Finally, while an agency may interpret a request, that interpretation must be reasonably based on the text of the request and, if necessary, the context of the request. *See Dunbar v. Pa. Office of Att’y Gen.*, No. 670 C.D. 2023, 2024 Pa. Commw. Unpub. LEXIS 494, \*6 (Pa. Commw. Ct. 2024) (citing *In re Melamed*, 287 A.3d 491, 499 n.15 (Pa. Commw. Ct. 2022) (internal citations omitted)).

Here, Item 1 of the Request states the following: “I am requesting the following

information: whether Assistant District Attorney Jamie Wagenhoffer resigned, was terminated by the agency, and/or forced into being resigned.” The Office argues that “the language used by the [R]equest[e]r is clearly in the form of a question regardless of the punctuation he chose to use and does not make a request for a specific document.” Further, the Office argues that it “is difficult to fathom a final disposition document that someone was forced into resigning, which was one of the areas of the [R]equest.”

Item 1 of the Request can be reasonably read as asking the Office how Ms. Wagenhoffer left employment. Thus, based on the plain language, Item 1 does not seek a discrete piece of information, nor identify any record that would satisfy it; rather it seeks the answer to a question. Therefore, the instant appeal must be denied in part because item 1 does not seek records, as required under the RTKL. However, as noted above, nothing in this determination prevents the Requester from filing a new RTKL request with the Office, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

### CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the Office is not required to take any further action. 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 Pike County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>9</sup> All documents or communications following the issuance of this Final Determination

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<sup>9</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

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: May 11, 2026**

*/s/ Lyle Hartranft*

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LYLE HARTRANFT, ESQ.  
APPEALS OFFICER

Sent via portal to: Michael McWilliams; Bruce DeSarro, Esq., AORO  
Theron Solomon, Esq.