



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

:

**GRAHAM BAKER,
Requester**

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:

:

v.

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Docket No.: AP 2026-1468

:

**WEST PERRY SCHOOL DISTRICT,
Respondent**

:

:

FACTUAL BACKGROUND

On March 2, 2026, Graham Baker (“Requester”) emailed a request (“Request”) to the West Perry School District (“School District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

All posts, comments, replies, and shared content created or distributed by Board members Robbyn Metz, Gabrielle Brandt, Katherine Stover, Tina Magaro, and Krista Wills within the private Facebook group “Free Speech WP” that reference or concern any West Perry School District business matter, including but not limited to: the Feasibility Study, elementary school consolidation project, capital improvement project, school facility financing or bond issuance, Right-to-Know requests filed with the District, or any legal action involving District taxpayers. Timeframe: January 1, 2023 through present.

. . . Documentary evidence confirms that Board President Metz, acting as group administrator, used this private group to distribute official District communications including the October 9, 2025 Feasibility Study Release. . . . Five confirmed members of this group – Metz, Brandt, Stover, Magaro, and Wills – constitute a quorum of the Board of School Directors.¹

¹ On the portion of the RTKL Request form which asks whether the Requester wants copies, the Requester checked the box that he wanted electronic copies.

On April 2, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the School District granted the Request and stated:

The District has arranged for the Administrator of the page to provide you with access to the Free Speech WP Facebook Group for 30 days (4/3 through 5/4). You will have full access to the page for your review, and this access will provide you with all of the above-requested content.

On April 3, 2026, the Requester communicated with the Open Records Officer (“AORO”) for the School District, stating that the means of temporary access to the responsive Facebook content within the Facebook group was insufficient because: (1) third-party platform access is not a substitute for actual record production; and (2) the content currently available within the group appeared incomplete relative to the scope of responsive records sought in the Request. The Requester asked that the School District confirm whether all responsive records were preserved as of the date of the Request.

On April 6, 2026, the School District communicated via email to the Requester that the relevant Facebook group was paused in an attempt to “[freeze] activity on the page”, no School District office has deleted content from the group, and the Facebook group’s administrator has agreed to not make any changes or deletions to the group’s posts during the Requester’s period of access. The School District further stated its position that providing temporary access to the Facebook group was sufficient electronic access under Section 704 of the RTKL.

On April 6, 2026, the Requester communicated that the means of electronic access provided by the School District did not allow for meaningful retention or review, and the Requester stated that he sought copies of the responsive records in a standard electronic format, such as a PDF. That same day, the AORO for the School District communicated to the Requester that he would provide electronic copies of the responsive records by April 13, 2026.

On April 13, 2026, the Requester communicated to the School District that due to “the

material changes to the Facebook group following the date of my request—including changes to administration, the group being paused on April 3, its renaming, and my removal from the group—the [School District’s] chosen method of access has failed[.]” Because of this, the Requester believed that School District constructively denied the Request, and on April 13, 2026, the Requester appealed to the Office of Open Records (“OOR”).² The OOR invited both parties to supplement the record and directed the School District to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On April 23, 2026, the School District submitted a position statement, arguing that it never denied access to the responsive records and was in the process of compiling the records in an electronic format when the Requester filed the instant appeal and directed the School District to no longer communicate regarding this Request outside of the OOR appeal process. With its submission, the School District provided hundreds of pages of posts, comments, replies, and other content of the relevant School Board members within the Facebook group. The School District also submitted the attestation of Lucas Clouse, the AORO for the School District (“Clouse Attestation”). On that same day, the Requester submitted argument that the School District’s evidence is insufficient to demonstrate that a good faith search was conducted because the search for responsive records within the Facebook group was self-directed by the School Board members named in the Request.

LEGAL ANALYSIS

The School 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

² In his April 13, 2026 communication to the AORO for the School District indicating that he believed the School District had constructively denied the Request, the Requester stated for the School District to “[p]lease direct any further correspondence regarding this request through the OOR process.”

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 School 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)).

In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the identified record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 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 all 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 Burr v. Pa. Dep’t of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

The record is clear that the School District was able to identify the relevant private Facebook group, which contains the relevant communications of School Board members related

to School District business. While the School District initially attempted to grant access through the provision of access to the private Facebook group by one of the group's administrators, the Requester made clear that he wanted electronic copies of the relevant communications, and the School District agreed to conduct a search and provide the records in PDF form. The School District provided the responsive records during the course of this appeal, and the Clouse Attestation states, in relevant part:

2. All Board members subject to this [R]equest searched the Facebook Group for the requested records from either 1/1/23 or the date they became a Board member. They certified to the [AORO] that they had provided all found records and had not deleted any content from the Facebook Group.
3. That the records submitted through this [R]equest are all responsive records gathered through these searches and were ready to be released to the Requester on April, 13, 2026, as agreed.
4. The Facebook Group "Free Speech WP" is not controlled or affiliated with the School District.

See Clouse Attestation ¶¶ 2-4. The Requester challenges the search conducted by the School District, arguing that a self-directed search of the individual school board members, without centralized oversight or verification, fails to satisfy the requirement of a good faith search under the RTKL. Notwithstanding, such a search in this situation is adequate under the RTKL. *See Lebedzinski v. Spring-Ford Area Sch. Dist.*, OOR Dkt. AP 2023-0805, 2023 PA O.O.R.D. LEXIS 1565 (holding that an agency is not required to provide an attestation from each custodian, and it is sufficient for the AORO to contact the custodian most likely to possess responsive records and receive a response from each custodian as to the existence or nonexistence of responsive records); *see also See Daly v. Pennsbury Sch. Dist.*, OOR Dkt. AP 2022-0351, 2022 PA O.O.R.D. LEXIS 693; *Baker v. West Perry Sch. Dist.*, OOR Dkt. AP 2026-0702, 2026 PA O.O.R.D. LEXIS 875.

The Requester submitted evidence that the name of the Facebook group was changed after

the Request was submitted to the School District.³ The issue of the Facebook group name being changed or the Facebook group being temporarily paused by an admin of the Facebook group is not a violation of the RTKL. The Request seeks records of communications of the named School Board members from January 1, 2023 through March 2, 2026 that exist on the Facebook group. There is no evidence before the OOR which demonstrates that the pausing of the Facebook group activity after the Request was made or even the renaming of the group materially alters the responsive communications that exist in that Facebook group. Based on the evidence submitted, the School District proved that it conducted a good faith search, and the Requester was provided with the responsive communications of School Board members relating to School District business within this private Facebook group. As such, the appeal is moot. *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 “the controversy has been mooted”).

CONCLUSION

For the foregoing reasons, the appeal is **dismissed as moot**, and the School District 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 Perry County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per 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.⁴ All documents or communications following the issuance of this Final Determination shall be sent to oor-

³ The name of the Facebook group at the time of the Request was “Free Speech WP”, and it was changed to “Free Speech PC.” Based on the evidence in this appeal, it appears that WP refers to West Perry and PC is in reference to Perry County.

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

postfd@pa.gov. This Final Determination shall be placed on the OOR website at:
<http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: May 14, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via portal to: Graham Baker
 Lucas Clouse, AORO