



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

**IN THE MATTER OF**

**JAMES HULINGS,  
Requester**

**v.**

**SENECA VALLEY SCHOOL DISTRICT,  
Respondent**

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: **Docket No: AP 2025-3460**  
: **Consolidated appeals of OOR Dkts. Nos.**  
: **AP 2025-3460, AP 2025-3462 and AP**  
: **2025-3463**  
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### **FACTUAL BACKGROUND**

On September 26, 2025, James Hulings (“Requester”) submitted three requests (“Requests”) to Seneca Valley School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating, in pertinent part:

#### **Request 1:**

I hereby request the following documents: including but not limited to every memo, letter, email, text message and personal phone text message in the custody, possession and/or the control of the Seneca Valley School Board, and related [agencies], containing the words Act 34, and/or Intermediate High School Performing Arts Center Addition.

Please limit the responsive document to dates starting with the date January 1, 2023 and ending with September 26, 2025.

**Request 2:**

I hereby request the following documents: including but not limited to every memo, letter, email, text message and personal phone text message in the custody, possession and/or the control of the Seneca Valley School Board, and related [agencies], containing the words PNC, regarding the Intermediate High School Performing Arts Center Addition.

Please limit the responsive document to dates starting with the date January 1, 2023 and ending with September 26, 2025.

**Request 3:**

I hereby request the following documents: including but not limited to every Proposal, Request for Quotation, Purchase Order, and Invoice in the custody, possession and/or the control of the Seneca Valley School Board, and related [agencies], containing the words Act 34, and/or Intermediate High School Performing Arts Center Addition.

Please limit the responsive document to dates starting with the date January 1, 2023 and ending with September 26, 2025.

On November 3, 2025, following a thirty-day extension, 65 P.S. § 67.902(b), the District denied Requests 1 and 2, arguing that these Requests were insufficiently specific. 65 P.S. § 67.703. The District granted Request 3 in part, providing responsive records. The District also denied Request 3 in part, redacting names pursuant to the constitutional right to privacy.

On November 24, 2025, the Requester appealed to the Office of Open Records (“OOR”), challenging the District’s denials and stating grounds for disclosure. Specifically, the Requester argues that Requests 1 and 2 are sufficiently specific and argues that the District failed to provide purchase orders responsive to Request 3. 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.<sup>1</sup> 65 P.S. § 67.1101(c).

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<sup>1</sup> On December 2, 2025, the OOR consolidated the appeals into OOR Docket Number AP 2025-3460.

On December 5, 2025, the District submitted a position statement reiterating its grounds for denial. Specifically, the District reiterates that Requests 1 and 2 are insufficiently specific, and purchase orders responsive to Request 3 do not exist in the District’s possession, custody or control. Notably, concerning Requests 1 and 2, the District requested that should the OOR disagree with its argument that these Requests are insufficiently specific, the District requested the opportunity to review and redact/withhold records that are exempt from disclosure in accordance with the Commonwealth Court’s opinion in *Pa. Office of the Governor v. Brelje*, 312 A.3d 928 (Pa. Commw. Ct. 2024). In support of its position, the District submitted the attestation of Ian Hunter (“Hunter Attestation”), Open Records Officer (“AORO”) for the District.

On December 11, 2025, after consideration of the record, the OOR informed the parties that the instant appeal would be stayed for further fact-finding, pursuant to *Brelje*. The OOR further notified the District that we “are inclined to find that Request 1 is partially specific where it seeks ‘memo[s], letter[s], email[s], text message[s] and personal phone text message[s] in the custody, possession and/or the control of the Seneca Valley School Board... containing the words PNC, and/or Intermediate High School Performing Arts Center Addition,’ and Request 2 is partially specific where it seeks ‘memo[s], letter[s], email[s], text message[s] and personal phone text message[s] in the custody, possession and/or the control of the Seneca Valley School Board... containing the words Act 34, and/or Intermediate High School Performing Arts Center Addition’ in the specified timeframe.” Thus, pursuant to *Brelje*, the OOR afforded the District an opportunity to identify responsive records and claim specific applicable exemptions, as requested.

On January 12, 2026, the District submitted correspondence, providing a brief summary of its search for records responsive to Requests 1 and 2, and potentially applicable exemptions. The District further requested a period of thirty (30) days to fully raise exemptions and provide

evidence in support of those exemptions. That same day, the OOR issued correspondence, granting the District's request.

On February 20, 2026, the District submitted a supplemental verified position statement, reiterating that the District still believes that Requests 1 and 2 are insufficiently specific. However, after conducting a full search and review as directed by the OOR, the District asserts that it properly redacted or withheld records pursuant to protecting personal identification information/names of citizens under the constitutional right to privacy; privileged records pursuant to the attorney-client privilege and attorney work-product doctrine; draft resolutions, internal, predecisional deliberations, and records reflecting the strategy of adopting a budget. 65 P.S. § 67.708(b)(6); 65 P.S. § 67.708(b)(9); 65 P.S. § 67.708(b)(10). In support of its position, the District submitted the supplemental attestation of Ian Hunter ("Supplemental Hunter Attestation"). Finally, the District submitted an exemption log and produced records responsive to Requests 1 and 2.

On February 23, 2026, the OOR issued correspondence, providing the Requester with an opportunity to address the District's submission. The Requester has not made any submissions during the pendency of the appeal.

On May 11 2026, the OOR sought clarification from the District to affirm that the facts and information presented in the exemption log are true and accurate. On May 12, 2026, the District submitted the attestation of Christopher Voltz, Esq. ("Voltz Attestation"), Solicitor for the District, affirming that the facts and information contained in the exemption log are true and accurate.<sup>2</sup>

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<sup>2</sup> The aforementioned Attestations are made subject to penalties under 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.

## 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)). Likewise, “[t]he 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).

### **1. The appeal is dismissed as moot in part**

On February 20, 2026, during the pendency of the appeal, the District provided over 250 pages of records responsive to Requests 1 and 2. Accordingly, the appeal is dismissed as moot as to these records. *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”).

### **2. Requests 1 and 2 are sufficiently specific in part**

The District maintains that Requests 1 and 2 are overly broad, and, therefore, insufficiently specific under Section 703 of the RTKL, which 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”).

Request 1 seeks records “including but not limited to every memo, letter, email, text message and personal phone text message in the custody, possession and/or the control of the Seneca Valley School Board, and related [agencies], containing the words Act 34, and/or Intermediate High School Performing Arts Center Addition.” Similarly, Request 2 seeks records

“including but not limited to every memo, letter, email, text message and personal phone text message in the custody, possession and/or the control of the Seneca Valley School Board, and related [agencies], containing the words PNC, regarding the Intermediate High School Performing Arts Center Addition.”

The timeframe for the Requests are clear, a period of over 2 years. The scope of Requests are somewhat broad, as the language of the Requests states, “including but not limited to,” but each Request otherwise identifies discrete types of records such as memos, letters, emails, and text messages. Finally, while the Requests only specifically sets forth two keywords each, the subject matter may likely be discerned from those keywords, for example, a clear reference to the “Intermediate High School Performing Arts Center Addition.”

Notably, the Requests references two groups of senders and recipients: the “Seneca Valley School Board,” and “related agencies.” As later demonstrated, the individuals comprising of “board members” are evident to the District, and the board is comprised of 9 members. *See* District’s Supplemental Position Statement, pg. 3. However, “related agencies” is a vaguer term. *See, e.g., Montgomery County v. Iverson*, 50 A.3d 281, 284 (Pa. Commw. Ct. 2012) (concluding a request which “does not identify specific individuals, email addresses, or even departments, but requests any applicable emails sent from the County’s domain to four other domains” was insufficiently specific); *Pa. Dep’t of Educ.*, 199 A.3d at 1124-126 (“A request for a broad category of documents, such as all records, may be sufficiently specific if confined to a particular recipient or recipients”); *see also Carey*, 61 A.3d at 372 (concluding that the scope of the request must identify “a discrete group of documents, either by type . . . or by recipient”). Therefore, to the extent that the Requests seek records sent to, or from, unnamed “related agencies,” there is a lack of specificity, even with the inclusion of any specific subject matter. *See Pa. State Police v. Office*

*of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (finding the portion of a request seeking “manuals” to be sufficiently specific, and the portion seeking “any and all records” to be insufficiently specific).

Additionally, in terms of subject matter, the Hunter Attestation affirms that “[t]he District is in the process of developing and constructing an addition to the High School Performing Arts Center,” and admits that “[i]t is not disputed that the Project is a well-known event that has been discussed by numerous members of the public, School Board, District Administration, District staff and District agents and employees for multiple years.” Further, “[a]s part of that Project, the District held an Act 34 Hearing, so for purposes of interpreting the Request[s],” the District understands that the Intermediate High School Performing Arts Center Addition was the appropriate subject matter. Hunter Attestation ¶¶ 22-23.

The Commonwealth Court has noted that “the specificity of a request must be construed in the request’s context, rather than envisioning everything the request might conceivably encompass.” *See Iverson*, 50 A.3d 281, 284; *see also Pass v. Capital Area Transit*, OOR Dkt. AP 2014-0173, 2014 PA O.O.R.D. LEXIS 247. *See Pa. Dep’t of Env’tl. Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012) (“The fact that a request is burdensome does not deem it overbroad”); *see also Ruggiero v. Lackawanna Cnty.*, OOR Dkt. AP 2014-0043, 2014 PA O.O.R.D. LEXIS 157 (“[A] request involving the detailed review of voluminous documents does not relieve the agency of its requirements to presume the records are open and available and respond in accordance with the RTKL.”).

Based on the foregoing, the OOR remains inclined to find that Request 1 is partially specific where it seeks memos, letters, emails, and text messages in the custody, possession and/or the control of the Seneca Valley School Board...containing the words PNC, and/or Intermediate

High School Performing Arts Center Addition, and Request 2 is partially specific where it seeks memos, letters, emails, and text messages in the custody, possession and/or the control of the Seneca Valley School Board... containing the words Act 34, and/or Intermediate High School Performing Arts Center Addition' in the specified timeframe. Pursuant to *Brelje*, the District complied with the OOR's order to locate and review records responsive to these portions Requests 1 and 2 deemed to be sufficiently specific, and raised any applicable exemptions supported with evidence, which will be further addressed below.

**3. The District is not required to provide nonresponsive records to Requests 1 and 2**

The District's exemption log identifies limited records that have been withheld as nonresponsive to Requests 1 and 2. In response to portions of these Requests that have been determined to be sufficiently specific as explained above, the District affirms that the it interpreted these Requests as focusing on records provided to Board Members as to render such records in their possession, custody or control, and emails/communications involving Board Members, which the OOR finds to be a reasonable interpretation of the Requests. *See Spatz v. City of Reading*, OOR Dkt. AP 2013-0867, 2013 PA O.O.R.D. LEXIS 513; *Signature Info. Solutions, Inc. v. City of Warren*, OOR Dkt. AP 2012-0433, 2012 PA O.O.R.D. LEXIS 557. Moreover, the Requester, who has been given the opportunity to formally address the District's submission, has not raised any challenge to the District's interpretations of these portions of the Requests.

Here, the District's exemption log and verified position statement affirms that certain communications were not sent to or received by any Board members, the Board members were not copied on these particular communications or were unrelated to the specified project. The District has demonstrated that these records are nonresponsive. Accordingly, such records are not

subject to disclosure.<sup>3</sup> See *Ference v. Sewickly Borough*, OOR Dkt. AP 2020-0095, 2020 PA O.O.R.D. LEXIS 1879 (distinguishing withholding entire nonresponsive records and making redactions).

**4. Personal phone numbers, email addresses, and names of citizens are exempt pursuant to Section 708(b)(6) of the RTKL and the constitutional right to privacy**

*a. Personal phone numbers and email addresses*

The District asserts that it properly redacted personal phone numbers and personal email addresses records responsive to Requests 1 and 2. Section 708(b)(6)(i)(A) of the RTKL facially exempts: “[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).

Here, a review of the District’s exemption log and the verified facts in the District’s supplemental position statement affirms that the District redacted personal phone numbers and personal email addresses of board members, members of the public, and consultants from these records, which have not been held out to the public. The OOR routinely finds that telephone numbers and email addresses that have not been held out to the public are facially exempt under the RTKL. See, e.g., *Shepherd v. Pa. Dep’t of Educ.*, OOR Dkt. AP 2025-1304, 2025 PA O.O.R.D. LEXIS 1270; *Brock v. Bucks Cnty.*, OOR Dkt. AP 2022-1118, 2022 PA O.O.R.D. LEXIS 1653; *Gentner v. Palisades Sch. Dist.*, OOR Dkt. AP 2022-0519, 2022 PA O.O.R.D. LEXIS 996. The Requester has not provided any evidence or rationale as to why this information cannot be

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<sup>3</sup> In an abundance of caution, the District went on to raise and discuss any applicable exemptions to the nonresponsive records. However, because certain records are nonresponsive, the OOR did not address the District’s additional arguments.

redacted. Accordingly, as this information is facially exempt, the District properly redacted personal phone numbers and personal email addresses under Section 708(b)(6) of the RTKL.

*b. Names of Citizens*

The District asserts that it properly redacted the names of citizens from responsive emails sent to board members pursuant to the constitutional right privacy. 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. *See Pa. State Educ. Ass'n v. Commonwealth*, 148 A.3d 142 (Pa. 2016) (recognizing an individual right to privacy in certain types of personal information).

The Pennsylvania Supreme Court, the Commonwealth Court, and the OOR have recognized that, in certain circumstances, names of private citizens are subject to a right to privacy, and disclosable only where the public interest favors disclosure. *Sapp Roofing Co. v. Sheet Metal Workers Int'l Ass'n*, 552 Pa. 105 (1998); *Hartman v. Dep't of Conserv. & Nat. Resources*, 892 A.2d 897 (Pa. Commw. Ct. 2005); *Yakim v. Monroeville*, OOR Dkt. AP 2017-0741, 2017 PA O.O.R.D. LEXIS 792; *Lehman v. Northampton Cnty.*, OOR Dkt. AP 2017-0098, 2017 PA O.O.R.D. LEXIS 421. To determine whether the constitutional right to privacy precludes disclosure of an individual's personal information, the OOR must apply the balancing test enunciated in *Denoncourt v. Pa. State Ethics Comm'n*, 470 A.2d 945 (Pa. 1983), and applied in the public records context in *Times Publ. Co., Inc. v. Michel*, "weighing privacy interests and the extent to which they may be invaded, against the public benefit which would result from disclosure." 633 A.2d 1233, 1237 (Pa. Commw. Ct. 1993).

The OOR has previously found that the names of private citizens contacting school board members are protected under the right to privacy. *See Chirco v. Cheltenham Twp. Sch. Dist.*, OOR Dkt. AP 2018-0484, 2018 PA O.O.R.D. LEXIS 697 (finding that the names of citizens who contacted a school board member about a certain topic were protected by the right to privacy). There has been no articulated interest in these names, the Requester has not raised any challenges to the redaction of the names after receiving these records, and the OOR cannot discern a public interest that would outweigh the privacy interests of the names of private citizens present in the records. Accordingly, the District properly redacted the names of private citizens from the responsive records.

#### **5. Draft resolutions may be exempt under Section 708(b)(9) of the RTKL**

The District asserts that it properly withheld draft resolutions concerning Act 34 as exempt under Section 708(b)(9) of the RTKL. Section 708(b)(9) exempts from disclosure “[t]he draft of a bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by or for an agency.” 65 P.S. § 67.708(b)(9). This exemption covers only drafts that fall into the specific categories set forth in Section 708(b)(9) of the RTKL. *See, e.g., Public Interest Legal Foundation v. City of Phila. Office of City Comm’rs*, OOR Dkt. AP 2018-0256, 2018 PA O.O.R.D. LEXIS 562 (drafts of transcripts do not meet the categories identified by the exemption); *but see Watt v. State College Borough*, OOR Dkt. AP 2020-0113, 2020 PA O.O.R.D. LEXIS 1777 (finding that a draft zoning ordinance was exempt). Likewise, a draft policy that enters conventional use, even if it has not been formally approved by the agency, may be considered an active policy and no longer exempt from disclosure. *See Phila. Public Sch. Notebook v. Sch. Dist. of Phila.*, 49 A.3d 445, 451- 52 (Pa. Commw. Ct. 2012) (finding that Section 708(b)(9)

of the RTKL no longer applied to resolutions once they were placed on an agenda for a public meeting for discussion and consideration).

Notably, within the exemption log and the verified facts of the District's position statement, while it is clear that draft resolution language concerning Act 34 have been redacted from responsive records, the evidence is silent as to whether the draft resolutions have entered conventional use. While nothing in the record explicitly confirms that the drafts have indeed entered conventional use, to the extent that any of the drafts have been placed on an agenda for a public meeting for discussion and consideration as was the case in *Phila. Public Sch. Notebook*, the records cannot be withheld and must be provided. However, if not, the OOR finds that the draft resolutions may remain exempt from access pursuant to Section 708(b)(9) of the RTKL.

**6. The District has demonstrated that certain records are exempt under Section 708(b)(10) of the RTKL**

The District asserts that certain records responsive to Requests 1 and 2 were properly redacted and/or withheld because they reflect internal, predecisional deliberations and/or records reflecting strategy to be used to develop or achieve the successful adoption of a budget, legislative proposal, or regulation pursuant to Section 708(b)(10) of the RTKL. Additionally, the District further asserts that several records were specifically developed by third-party contractors, but qualify as memos, research, and other documents meant to be used to support an internal deliberation of the District. Section 708(b)(10)(i)(A) exempts from public disclosure a record that reflects:

[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, ... 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 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 be deliberative in nature, a record must make recommendations or express opinions on legal or policy matters and cannot be purely factual in nature. *Kaplin*, 19 A.3d at 1214. 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). In addition, to be exempt from disclosure, 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). 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).

Meanwhile, Section 708(b)(10)(i)(B) of the RTKL exempts from disclosure “[t]he strategy used to develop or achieve the successful adoption of a budget, legislative proposal or regulation.” 65 P.S. § 67.708(b)(10)(i)(B). In order to be exempt under Section 708(b)(10)(i)(B), a record must reflect an agency’s strategy. *See Camburn v. Borough of Pottstown*, OOR Dkt. AP 2015-0315, 2015 PA O.O.R.D. LEXIS 509; *Williams v. Middlesex Twp.*, OOR Dkt. AP 2015-0062, 2015 PA O.O.R.D. LEXIS 166. The term “strategy” means “the art of devising or employing plans or stratagem toward a goal.” *Knauss v. Chadds Ford Sch. Dist.*, OOR Dkt. AP 2009-0443, 2009 PA O.O.R.D. LEXIS 653 (citing Merriam-Webster’s Dictionary, 11th ed.); *see also Camburn v. Borough of Pottstown*, OOR Dkt. AP 2015-0246, 2015 PA O.O.R.D. LEXIS 436 (holding that records reflecting the strategy of an agency’s adoption of an ordinance was not subject to access under the RTKL).

Here, a review of the District’s exemption log and descriptions support that relevant email communications are internal because they were only exchanged between and involved District board members and relevant District employees, such as the District’s business manager. A review of the exemption log and descriptions of the records provided further support that these records were either redacted and/or withheld because the records reflect discussions, deliberations, and suggestions that considered how to implement courses of action which had not yet occurred, such as deliberating whether financing for the project was necessary, how to approach finalizing a budget with respect to the specified expansion project, how to obtain the required financing for the project, and deliberations to assess the need for the project, and deciding whether the expansion project should be approved as further detailed in the exemption log. Accordingly, based upon the

evidence provided here, the District has demonstrated that certain records were properly redacted and/or withheld pursuant to Section 708(b)(10)(i)(A) of the RTKL.<sup>4</sup>

Additionally, as stated above, the District further asserts that several records such as financial summaries and projections/proforma debt profiles, project presentation documents, project design presentation documents, and other financial presentation documents were specifically developed by third-party contractors and consultants, but qualify as memos, research, and other documents meant to be used to support the internal deliberations of the District.

Although communications with an agency's contractor are not internal for RTKL purposes, the "origination of records from outside an agency does not preclude application" of Section 708(b)(10)(i)(A). *Off. of the Governor v. Davis*, 122 A.3d 1185, 1193 (Pa. Commw. Ct. 2015) (citing *Bagwell v. Pa. Dep't of Educ.*, 76 A.3d 81 (Pa. Commw. Ct. 2013) (finding that records originating with a different entity that is not an agency under the RTKL may become records of an agency when records are used in agency decision-making)). The OOR has noted that this is particularly the case when the records constitute "research, memos or other documents used in the predecisional deliberations." *Shannon v. Pa. Dep't of Educ.*, OOR Dkt. AP 2021-1351, 2021 PA O.O.R.D. LEXIS 1797 (finding that a report by the agency's consultant assessing a charter school's renewal application was exempt where there was evidence that the report was generated exclusively for the agency's use and was not shared with anyone outside the agency) (quoting 65 P.S. § 67.708(b)(10)(i)(A)); *see also Wolfson v. Allegheny Co.*, OOR Dkt. AP 2021-2372, 2021 PA O.O.R.D. LEXIS 2529 (finding that a master spreadsheet of proposals that was internally compiled but discussed with an outside accounting firm to ensure eligibility qualified as internal). The

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<sup>4</sup> Because the OOR finds that certain records are exempt under Section 708(b)(10)(i)(A) of the RTKL, 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.

research-memos-documents rubric versus the third-party consultant communications distinction is highlighted in *Shannon v. City of Phila.*, where the OOR held that while research prepared for an agency by a third party may be exempt under Section 708(b)(10), communications with third party consultants are not internal to the agency and are thus, not exempt under Section 708(b)(10). OOR Dkt. AP 2025-1848, 2025 PA O.O.R.D. LEXIS 2265.

Here, the District's exemption log and verified facts of the District's position statement affirm that these documents, while prepared by third-party entities such as the District's financial consultant from PNC Capital Markets and construction design contractors (Cannon Design and Eckles Construction), these records were maintained internally by the District to aid in various internal, predecisional deliberations in consideration of several aspects of the specified expansion project. *See* District Exemption Log; Supplemental District Position Statement, pg. 8. Section 708(b)(10)(i)(a) specifically exempts "research, memos or other documents used in . . . deliberations." Accordingly, the OOR determines that these documents qualify as internal to the District for purposes of Section 708(b)(10)(i)(A).

**7. The District has demonstrated that purchase orders responsive to Request 3 do not exist in its possession, custody or control**

Concerning Request 3, the Requester argues that he was not provided with copies of any responsive purchase orders. In response, the District asserts that after conducting a good faith search, responsive purchase orders do not exist in its possession, custody or control. In support of the District's position, the Hunter Attestation states, in part:

9. [Request 3] sought every "Proposal, Request for Quotation, Purchase Order, and Invoices" related to the Intermediate High School Performing Arts Center Addition and related Act 34 proceedings[.]
10. In response to [Request 3], I conducted a thorough examination of files in the possession, custody and control of the District for records responsive to [Request 3] underlying this appeal and inquired with relevant District personnel as to whether any responsive records exist in their possession.

11. As a result of this search, the District provided Requester with records responsive to [Request 3], which included information on the Act 34 Public Hearing, public notice for the hearing and related costs, and an official bond statement from PNC. (*See Appeal Docs.*, AP 2025-3463, pp. 9-59).
12. However, the District did not locate and could not provide any purchase orders.
13. The District could not locate or provide any purchase orders because, at the time of [Request 3], and of this date, nothing for the Intermediate High School Performing Arts Center Addition (“Project”) has been purchased and the contracts with the successful bidders for the Project were entered into during the week of November 25, 2025. In sum, there are no purchase orders to provide to Requester.
14. Accordingly, based upon the above-described search of the District’s files, inquiries with relevant District personnel, and the status of the Project, the District does not possess any responsive purchase orders.

Under the RTKL, an affidavit or statement made under 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. Off. 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, or that purchase orders from the time of the Request, do in fact, exist, “the averments in the [attestation] 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 *Scolforo*, 65 A.3d at 1103).

In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record[.]” 65 P.S. § 67.901. The RTKL does not define the term “good faith effort.” However, the Commonwealth Court has concluded that:

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 record and assess their public nature under... the RTKL.

*Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, 185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff'd*, 243 A.3d 19 (Pa. 2020).

In *Pa. Dep't of Health v. Mahon*, the Commonwealth Court discussed the evidence required to establish the absence of records, quoting its previous decision in *Hodges v. Pa. Dep't of Health*, which held that an agency “may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record.” *Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011)); *see also Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a “more likely than not” inquiry).

Here, in accordance with *Mahon*, the District has provided sufficient evidence to demonstrate that it conducted a good faith search for records and explains why no responsive purchase orders were produced at the time of Request 3. Accordingly, the OOR determines that the District has demonstrated that responsive purchase orders do not exist in its possession, custody or control. *See Mahon*, 283 A.3d at 936; *Hodges*, 29 A.3d at 1192.

## CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the 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 Butler 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>5</sup> All documents or communications following 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: May 15, 2026**

*/s/ Tope L. Quadri*

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TOPE L. QUADRI  
APPEALS OFFICER

Sent via portal to: James Hulings  
Ian Hunter, AORO  
Christopher Voltz, Esq.

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