



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

:

**SAMANTHA DUNPHY,
Requester**

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:

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v.

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Docket No.: AP 2026-1873

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**LUZERNE COUNTY,
Respondent**

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On March 23, 2026, Samantha Dunphy (“Requester”) submitted a request (“Request”) to Luzerne County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. Whether...County Children, Youth and Families [(“CYF”)] ever held legal custody of [a named child].
2. The date on which...CYF became aware that [the named child] was residing within...[the] County.
3. Records identifying which agency had placement or custody authority immediately prior to...CYF, if any.

On April 21, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the County denied the Request, arguing that the records responsive to the Request are exempt from public access under the Child Protective Services Law (“CPSL”), 23 Pa.C.S. §§ 6301 *et seq.* See 65 P.S. § 67.305(a)(3).

On May 12, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the County to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On May 21, 2026, the County submitted a position statement reiterating its grounds for denial.

LEGAL ANALYSIS

The County 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 County 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)).

On appeal, the County argues that “[e]ach of the three parts of the [R]equest[...] are related to revealing whether the records of a child exist, and then what records they are[,] including whether...[the] County held legal custody, dates...[the] County was aware the child resided [there]in...and records relating to placement” of the minor child. The County also argues that the CPSL governs the disclosure of the records responsive to the Request. *See* 23 Pa.C.S. §§ 6301 *et seq.*; 65 P.S. § 67.305(a)(3). Further, the County argues that certain responsive records are

protected by 55 Pa. Code § 3130.44, which is a state regulation that governs the disclosure of records maintained by CYF.

The Requester argues that the County's denial is overbroad because the Request does not seek "protected child-specific file contents[,]” but rather, it seeks “records sufficient to identify agency involvement and custody/placement authority.” The Requester also argues that if the responsive records “contain[] confidential child-identifying details, those details may be redacted while still disclosing non-exempt information[,]” and that the County did not meet its burden of proof on appeal.

The RTKL provides that any record that is “exempt from being disclosed under any Federal or State law or regulation or judicial order or decree” is not a public record under the RTKL. 65 P.S. § 67.102. Section 3101.1 of the RTKL indicates that “[i]f the provisions of this act regarding access to records conflict with any other Federal or State law, the provisions of this act shall not apply.” 65 P.S. § 67.3101.1. Accordingly, to the extent that the CPSL applies, it supersedes the application of the RTKL to the responsive records. *See, e.g., Kody Leibowitz and WJAC 6 News v. Pa. Dep’t of Human Serv.*, OOR Dkt. AP 2017-0279, 2017 PA O.O.R.D. LEXIS 348, *12 (holding that information relating to child abuse investigations is exempt under the [CPSL]).

Turning to the CPSL, the Commonwealth Court has interpreted the confidentiality provisions of the CPSL as follows:

The CPSL provides for the confidentiality of the information contained in the statewide database, as well as child abuse reports generally, and strictly limits access to and disclosure of this information. *See* 23 Pa. C.S. §§ 6335, 6339. The broadest of these is Section 6339 of the CPSL, which states:

Except as otherwise provided in this subchapter or by the Pennsylvania Rules of Juvenile Court Procedure, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and reports made pursuant to section 6313 (relating to reporting procedure) as well as any other information obtained,

reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department or a county agency shall be confidential.

Sheils v. Pa. Dept. of Educ., 964 C.D. 2014, 2015 Pa. Commw. Unpub. LEXIS 251 (April 10, 2015), *petition for allowance of appeal denied*, 125 A.3d 779 (Pa. 2015);¹ *see also Wiest v. Northumberland Cnty. Children & Youth Serv.*, OOR Dkt. AP 2022-2134, 2023 PA O.O.R.D. LEXIS 166; *Peterson v. Luzerne Cny.*, OOR Dkt. 2022-0330, 2022 PA O.O.R.D. LEXIS 604.

Additionally, Pennsylvania Code Section 3490.91 states:

[R]eports, report summaries and other accompanying information obtained under the CPSL and this chapter in the possession of the Department and a county agency are confidential. Except for the subject of a report, persons who receive information under this section shall be advised that they are subject to the confidentiality provisions of the CPSL and this chapter, that they are required to ensure the confidentiality and security of the information and that they are liable for civil and criminal penalties for releasing information to persons who are not permitted access to this information.

55 Pa. Code § 3490.91(a); *see also* 55 Pa. Code 3680.34. Furthermore, the regulations promulgated pursuant to the CPSL state:

Information that may be used to identify the child or the parents by name or address, and information contained in the case record, is confidential. A staff person may not disclose or make use of information concerning the child or the parents other than in the course of the performance of his duties.

55 Pa. Code § 3130.44(a). Additionally, the regulations state that “[i]nformation in case records may not be released to a person or agency other than those specified in subsections (b)-(d)² without prior authorization of the court.” 55 Pa. Code § 3130.44(e).

Here, the plain language of the Request clearly seeks records related to a specific minor child and there is no information in the appeal record showing that the Requester is one of the

¹ An unpublished opinion of the Commonwealth Court may be cited for its persuasive value. 210 Pa. Code § 69.414.

² Individuals specified include Federal authorities, the Commonwealth and the Department of Human Services; members of administrative review panels; and, parents and legal guardians, child's attorney and court staff. 55 Pa. Code § 3130.44(b)-(d).

statutorily specified individuals to whom otherwise confidential CYS records may be released. *See Pa. Game Comm'n v. Fennell*, 149 A.3d 101, 104-05 (Pa. Commw. Ct. 2016); *Office of the Governor v. Davis*, 122 A.3d 1185 (Pa. Commw. Ct. 2015) (en banc) (holding that an affidavit may be unnecessary when an exemption is clear from the face of the record); *see also* 55 Pa. Code § 3130.44(b)-(e).

Accordingly, based on the plain language of the Request, the records responsive to the Request are not subject to access under the RTKL. 65 P.S. § 67.3101.1. Moreover, because the requested records are protected under the CPSL, the records do not constitute “public records” that are subject to the redaction provisions in 65 P.S. § 67.706.³

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the County 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 Luzerne 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-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: June 11, 2026

/s/ Erika Similo

³ *See, e.g., Castillo v. Pa. State Police*, 310 A.3d 831, 836 (Pa. Commw. Ct. 2024) (internal quotation and citations omitted); *Heavens v. Pa. Dep't of Env't Prot.*, 65 A.3d 1069, 1077 (Pa. Commw. Ct. 2013) (“the redaction requirement contained in Section 706 ... applies only to records that are public and contain information that is not subject to access.”).

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

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