



FINAL DETERMINATION

IN THE MATTER OF

**DONNA DAVIS,
Requester**

v.

**LUZERNE COUNTY,
Respondent**

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Docket No: AP 2026-3115

On July 6, 2026, Donna Davis (“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 records relating to current and former employees of the County. The County did not respond within five business days of receiving the Request, and the Request was, therefore, deemed denied on July 13, 2026. 65 P.S. § 67.901.

On July 30, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”). 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).

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the County did not comply with the RTKL by timely responding to the Request, nor did the County participate on appeal by submitting legal argument or evidence in

support of withholding records.¹ Accordingly, the County did not meet its burden of proof under the RTKL. 65 P.S. § 67.305. Notwithstanding, the OOR notes that records sought in the Request are the records of County employees, including records within their personnel files. The County's failure to respond to the Request implicates the names, dates of birth, and other sensitive information of employees and other private citizens. Accordingly, the County is permitted to redact from the responsive records any personal identification information that is expressly exempt from disclosure pursuant to Section 708(b)(6) of the RTKL, 65 P.S. § 67.708(b)(6),² Section 708(b)(7) of the RTKL, 65 P.S. § 67.708(b)(7),³ and any portion of the responsive records identifying the name, home address, or date of birth of a minor, 65 P.S. § 67.708(b)(30).

For this reason, the appeal is **granted**, and the County is required to provide the requested records to the Requester, subject to the redactions noted above within thirty days, or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that the records do not exist. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with 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

¹ On August 12, 2026, the County requested an extension of the record closing date, and the OOR extended the record closing date until August 26, 2026 to permit the County to obtain all the documents and then give a legal review to redact personal information. The OOR granted the County until August 17, 2026 to submit evidence. To date, the OOR has not received a substantive evidentiary submission on behalf of the County.

² Section 708(b)(6) of the RTKL expressly exempts from disclosure certain "personal identification information," such as "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).

³ Although the OOR generally declines to raise exemptions on the behalf of agencies, we note that Subsection 708(b)(7) of the RTKL exempts certain personal information relating to an agency employee, including: "(ii) [a] performance rating or review; . . . (v) [w]orkplace support services program information; (vi) [w]ritten criticisms of an employee; (vii) [g]rievance material, including documents related to discrimination or sexual harassment; [and] (viii) [i]nformation regarding discipline, demotion or discharge contained in a personnel file." 65 P.S. § 67.708(b)(7)(ii), (v)-(viii). Subparagraph 708(b)(7)(viii) of the RTKL does not apply to the final action of an agency that results in demotion or discharge. Accordingly, any records enumerated in 65 P.S. § 67.708(b)(7)(ii) and (v)-(viii) are not public records and are not required to be provided by the County. However, any final action of the County that resulted in demotion or discharge shall be provided, as there is no expectation of privacy in that record. 65 P.S. § 67.708(b)(7)(viii).

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 website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 31, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent to: Donna Davis
Laura Dennis, Esq.

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