



IN THE MATTER OF

**WILLIAM LABOVITZ and
LABOVITZ LAW GROUP, LLC,
Requester**

v.

**SOUTH ALLEGHENY SCHOOL
DISTRICT,
Respondent**

[illegible]

Docket No.: AP 2026-3242

On June 10, 2026, William Labovitz, Esq. and the Labovitz Law Group, LLC (collectively “Requester”) submitted a request (“Request”) to the South Allegheny School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating, in relevant part¹:

2. Please provide all documents which in any manner relate to the retirement of former teacher Kris Watts.
3. Please provide all documents which in any manner relate to any disciplinary action taken against former teacher Kris Watts.

On July 22, 2026, after extending its time to respond by thirty days, the District denied Items 2 and 3 of the Request, asserting they are insufficiently specific. 65 P.S. § 67.703. The District further argued that Item 3 sought exempt employee records. 65 P.S. § 67.708(b)(7).

¹ The Request contained 3 items; however, the Requester only challenges the District's response to Items 2 and 3. As such, Item 1 will not be further addressed in this Final Determination.

On August 7, 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 District to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On August 19, 2026, the District submitted a position statement, reiterating its grounds for denial. In support of its position, the District submitted the attestation of its Open Records Officer, Joseph Esper (“Esper Attestation”).

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)).

The District asserts that Items 2 and 3 of the Request are insufficiently specific. Section 703 of the RTKL 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 undertakes a nonexclusive, multi-factor test, considering “the extent to which the request specifies subject matter, the extent to which it defines the scope of the records it seeks, and the extent to

which it limits the timeframe of the request.” *Pa. Off. of the Governor v. Brelje*, 312 A.3d 928, 937 (Pa. Commw. Ct. 2024) (citing *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015)). The test is not “a conjunctive, bright-line rule requiring each ‘element’ of the test to be satisfied; rather, it [is] a flexible approach” consistent with relevant caselaw. *Id.*

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”).

Based upon the above multifactor test, we find that Items 2 and 3 of the Request are insufficiently specific. In particular, they are too broad in terms of scope, as they each seek “all

documents which in any manner relate to” the subject matters. Moreover, while the timeframe of Item 2 is implied from the date of the individual’s retirement, Item 3 lacks a timeframe entirely. *See Pittsburgh Post-Gazette*, 119 A.3d at 1125-26 (“A request for a broad category of documents, such as all records, may be sufficiently specific if confined to a particular recipient or recipients”). Additionally, responding to the Request would require the District to review all of the potentially responsive records and to make judgment calls as to the relation of those documents to the Request. *See Pa. Dep’t of Env’tl. Prot. v. Legere*, 50 A.3d 260, 264-65; *see also Mollick v. Township of Worcester*, 32 A.3d 859, 871 (Pa. Commw. Ct. 2011) (“[I]t would place an unreasonable burden on an agency to examine all its emails for an extended time period without knowing, with sufficient specificity, to what [agency] business or activity the request is related”). Thus, Items 2 and 3 of the Request do not satisfy Section 703 of the RTKL.²

CONCLUSION

For the foregoing reasons, the appeal is **denied**, 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 Allegheny 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.³ 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>.

² The Requester is not prohibited from filing a new request that satisfies the requirements of 65 P.S. § 67.703.

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

FINAL DETERMINATION ISSUED AND MAILED: September 3, 2026

/s/ Magdalene C. Zeppos-Brown
MAGDALENE C. ZEPPOS-BROWN, ESQ.
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Sent via OOR Portal to: William Labovitz, Esq;
Joseph Esper, AORO;
Matthew Markulin, Esq.; and
Falco Muscante, Esq.