



FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
MARK SEIBERLING	:	
AND KLEINBARD LLC,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2026-2990
	:	
PHILADELPHIA SCHOOL DISTRICT,	:	
Respondent	:	

On June 1, 2026, Mark Seiberling, Esq. and Kleinbard LLC (collectively “Requester”) submitted a request (“Request”) to the Philadelphia School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[C]opies of records maintained by the School District of Philadelphia concerning the School District’s RiSE initiative (“Reimagining School Excellence”), including the initiative to revise, redesign, or reimagine the Charter School Performance Framework, from January 1, 2024 through the present. Specifically, ...the following records:

1. Records concerning the creation, development, planning, implementation, administration, and operation of the RiSE initiative.
2. Communications, including emails, text messages, instant messages, correspondence, and attachments, between or among School District personnel, Charter Schools Office personnel, Board of Education members, consultants, advisors, or other individuals regarding RiSE.
3. Records identifying the purpose, goals, objectives, rationale, or intended outcomes of RiSE.

4. Records concerning revisions, proposed revisions, modifications, or alternatives to the Charter School Performance Framework considered through RiSE.
5. Records relating to any working groups, committees, subcommittees, task forces, or advisory groups associated with RiSE, including:
 - a. membership lists;
 - b. appointment or selection criteria;
 - c. invitations or solicitations for participation;
 - d. meeting schedules;
 - e. agendas;
 - f. minutes;
 - g. notes;
 - h. presentations; and
 - i. recordings.
6. Records relating to the Academic Success, Organizational Compliance and Viability, and Financial Health and Sustainability subcommittees or any successor committees.
7. Draft and final reports, memoranda, presentations, white papers, recommendations, analyses, summaries, and evaluations prepared in connection with RiSE.
8. Records concerning metrics, standards, benchmarks, formulas, weighting criteria, or evaluation methodologies considered, proposed, tested, or adopted through RiSE.
9. Records concerning the use, review, analysis, or consideration of student performance data, demographic data, financial data, charter evaluation data, renewal data, or other information used in connection with RiSE.
10. Records concerning comparisons to or consideration of charter accountability frameworks used by other school districts, authorizers, states, educational organizations, or consultants.
11. Communications between the School District and outside entities concerning RiSE, including but not limited to charter school operators, advocacy organizations, elected officials, consultants, foundations, educational institutions, nonprofit organizations, and other stakeholders.
12. Contracts, agreements, memoranda of understanding, engagement letters, invoices, purchase orders, scopes of work, or payment records relating to consultants, advisors, vendors, or third parties retained or involved in RiSE.

13. Records concerning community engagement, public input, stakeholder feedback, surveys, comments, or public responses relating to RiSE.
14. Records concerning implementation timelines, pilot programs, anticipated effects, anticipated changes to charter renewals or evaluations, or implementation planning.
15. Records concerning the impact of RiSE on charter renewal decisions, annual charter evaluations, nonrenewal recommendations, or oversight activities.
16. Records identifying custodians responsible for RiSE-related records.

On July 8, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the District partially¹ denied the Request, arguing that the Request, in part, is insufficiently specific, 65 P.S. § 67.703, that certain responsive records contain exempt, personal, identification information, 65 P.S. § 67.708(b)(6), that certain responsive records reflect the District's internal, predecisional deliberations, 65 P.S. § 67.708(b)(10), that certain responsive records are exempt noncriminal investigative records, 65 P.S. § 67.708(b)(17) and that the District does not possess certain requested records.

On July 22, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the partial denial² and stating grounds for disclosure.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. 65 P.S. § 67.1101(c).

On August 4, 2026, the District submitted a position statement reiterating its grounds for the partial denial. In support of its position, the District provided the attestations of its Assistant

¹ The District provided records responsive to Items 3, 5(a), 5(c), 12, and 13 of the Request.

² The Requester confirmed that the appeal does not challenge the redactions made to the records responsive to Items 3, 12, or 13 of the Request nor does the appeal challenge the denial of Items 5(b), 5(i) or 16.

³ During the appeal the Requester granted the OOR an extension of time to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) ("Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).")

General Counsel, Kristina Helmers, Esq. (“Helmerts Attestation”), and of its Chief of Charter Schools, Peng Chao (“Chao Attestation”). Both attestations address the District’s specificity arguments. Additionally, the Chao Attestation addresses the records withheld as related to noncriminal investigations.

On that same day, the Requester submitted a position statement in support of the appeal and seeking *in camera* review of the withheld records.

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)). While the Requester sought an *in camera* review of the withheld records, the OOR has the information and evidence before it to properly adjudicate the matter. Therefore, the request for *in camera* review is denied.

- 1. Items 1, 6-7, 9, 11, 14 and 15 of the Request are insufficiently specific, Item 2 of the Request is sufficiently specific in part and Item 8 of the Request is sufficiently specific**

The District argues that Items 1-2, 6-9, 11, and 14-15 of the Request are insufficiently specific in whole or in part. *See* 65 P.S. § 67.703. The Requester argues that the District “erroneously narrowed the scope of” the items.

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 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”).

Here, each Item of the Request has the same lengthy but finite timeframe of “January 1, 2024 to the present” or, approximately, two and a half years. *See Pa. Dep’t of Educ.*, 119 A.3d 1121. A lengthy timeframe is not fatal to a request’s specificity as long as its subject matter and scope provide the agency with enough information to search for responsive records. *Id.*

a. Item 1 of the Request is insufficiently specific

Item 1 of the Request has a subject matter, “the creation, development, planning, implementation, administration, and operation of the RiSE initiative,” and a very broad scope “records[.]” The District argues that the use of the word “concerning” broadens the subject matter, forcing the District to make judgements when determining whether a universe of records are, in fact, responsive.⁴

In *Greim v. Pennsylvania State Police*, 329 A.3d 873 (Pa. Commw. Ct. 2025), the Commonwealth Court recently reiterated that “[a] request need only provide enough information to inform ‘an agency of the records requested.’” *Id.* at 882 (quoting *Montgomery Cnty. v. Iverson*, 50 A.3d 281, 284 n.4). While the use of the phrase “concerning[.]” broadens the scope of Item 1 of the Request, the subject matter of the Request, generally, is the RiSE initiative and the subject matter of Item 1 is its, “the creation, development, planning, implementation, administration, and operation[.]” However, like in *In re Mazin*, Item 1 of the instant Request fails to identify any particular type of record that the District can search. No. 1126 C.D. 2022, 2025 Pa. Commw. Unpub. LEXIS 190, *10-11(explaining that although the request specified a subject matter that was well-known to the agency, it failed to identify any particular type of record and included expansive language seeking all correspondence “relating to” the already general terms it laid out).⁵

⁴ *Pa. Dep’t of Env’t Prot. v. Legere*, 50 A.3d 160, 165 (Pa. Commw. Ct. 2012) (finding that a request that would require an agency to review all potentially responsive files and “make judgments as to the relation of the documents to the specific request” would be insufficiently specific).

⁵ An unpublished opinion of the Commonwealth Court may be cited for its persuasive value. 210 Pa. Code § 69.414.

Accordingly, Item 1 of the Request of the Request is insufficiently specific. *See id.*; 65 P.S. § 67.703; *Pa. Dep’t of Educ.*, 119 A.3d. However, nothing in this Final Determination precludes the Requester from filing a new, more specific request, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

b. Item 2 is sufficiently specific in part

Item 2 of the Request has a broad subject matter, the RiSE initiative. *Pa. Dep’t of Educ.*, *supra*. The scope of Item 2 identifies several specific types of communications sought, “emails, text messages, instant messages, ...and attachments.” *Id.* Item 2 of the Request also, albeit somewhat broadly, identifies the senders and recipients of the requested communications as “District personnel, Charter Schools Office personnel, Board of Education members, consultants, advisors, or other individuals.” While “consultants, advisors, or other individuals” is too broad to aid the District in its search, “Charter Schools Office personnel[] [and] Board of Education members” identify a specific group of individuals. Additionally, though the District argues that it “has over 25,000 employees” and seventy-five individuals in its Charter Schools Office (“CSO”),⁶ the District should reasonably know which employees work or worked with the RiSE initiative during the stated timeframe. Therefore, insofar as it seeks “emails, text messages, instant messages, ...and attachments...between...District personnel, Charter Schools Office personnel [and] Board of Education members,” the Item 1 of the Request is specific. *See* 65 P.S. § 67.703; *Pa. Dep’t of Educ.*, *supra*; *see also Greim, supra; In re Mazin, supra*.

c. Item 3 of the Request is insufficiently specific

Item 3 of the Request has a subject matter, “the purpose, goals, objectives, rationale, or intended outcomes of RiSE” and a very broad subject matter, “records.” However, unlike Item 2

⁶ *See* Helmers Attestation, ¶ 5.

of the Request, Item 3 does not narrow its scope by either identifying any specific type of records sought or any senders or recipients of the records. As such, Item 3 of the Request is insufficiently specific.

d. Item 6 of the Request is insufficiently specific

Item 3 of the Request has a subject matter, three subcommittees, and has the same extremely broad scope, “records.” Additionally, the subject matter of Item 3 is further broadened by the use of the phrase “relating to[.]” Thus, without further information to help guide the District, Item 6, as written, is insufficiently specific.

e. Item 7 of the Request is insufficiently specific

Item 7 of the Request has a subject matter, the RiSE initiative, and, its scope, broadly, identifies specific types of records sought, “reports, memoranda, presentations, white papers, recommendations, analyses, summaries, and evaluations.” However, the subject matter of Item 7 is broadened by using the phrase “in connection with[.]” which is vague and requires the District to make judgements as to whether each document within a universe of potentially responsive records was “prepared in connection with RiSE.” Therefore, Item 7 of the Request is insufficiently specific.

f. Item 8 of the Request is sufficiently specific

Item 8 of the Request has a subject matter, the RiSE initiative, and has a broad scope, “records[.]” The Requester argues that “metrics, standards, benchmarks, formulas, weighting criteria, or evaluation methodologies” are the types of records sought and the District has not presented any contrary evidence suggesting that “metrics, standards, benchmarks, formulas, weighting criteria, or evaluation methodologies” are not types of records that it can search for. Accordingly, Item 8 of the Request is sufficiently specific.

g. Item 9 of the Request is insufficiently specific

Item 9 of the Request has a subject matter, the RiSE initiative, and broad scope, “records[.]” Although it lists specific types of data, such as “student performance data” and “financial data,” the plain language of the Item 9 does not seek the data itself. Rather, Item 9 seeks “records concerning the use, review, analysis, or consideration of” the data, requiring the District would be required to make judgments as to whether a particular record is responsive to the Request. Therefore, Item 9 of the Request is insufficiently specific.

h. Item 11 of the Request is insufficiently specific

Item 11 of the Request has the same subject matter, the RiSE initiative, and broad scope, “[c]ommunications[.]” Although Item 11 attempts to narrow its scope by providing a list of senders and recipients, the list is too general and broad to provide the District with enough information to aid in its search. Accordingly, Item 11 of the Request is insufficiently specific.

i. Item 14 of the Request is insufficiently specific

Item 14 of the Request has a subject matter, the RiSE initiative, which is broadened by the use of the word “concerning.” Additionally, the scope of Item 14 is vague. For example, anticipated effects and implementation planning are not types of documents that the District can search for, making the universe of records potentially responsive to Item 14 unclear. Therefore, the broad subject matter and vague scope render Item 14 insufficiently specific.

j. Item 15 of the Request is insufficiently specific

Item 15 of the Request has a subject matter, the impact of the RiSE initiative and has the same, very broad subject matter, “records.” Item 15 subject matter is limited to RiSE’s impact on “charter renewal decisions, annual charter evaluations, nonrenewal recommendations, or [charter]

oversight activities.” However, Item 15 also uses the broadening language “concerning.” Without specific types of records to search for, Item 15 is insufficiently specific.

2. The District demonstrated that certain records are exempt noncriminal investigative records

The District argues that it properly withheld the records responsive to Items 4, 5(d)-(h), 10 and 13 of the Request and that the records requested in Items 2 and 8 of the Request are exempt from disclosure because the “RiSE [initiative] is an established noncriminal investigation” and the Request seeks “records created or generated during the course of RiSE.” 65 P.S. § 67.708(b)(17). The Requester argues that Section 708(b)(17) is not applicable because the “RiSE initiative to revise...[the District’s own] framework used in evaluating charter schools is not an investigation or official probe conducted as part of...[the District’s] official duties” under the Pennsylvania Charter School Law (“CSL”); rather, the RiSE initiative is part of the District’s “ongoing performance evaluation and monitoring,”

Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation,” including “[c]omplaints submitted to an agency,” “[i]nvestigative materials, notes, correspondence and reports,” and “[a] record that, if disclosed, would ... [r]eveal the institution, progress or result of an agency investigation....” 65 P.S. §§ 67.708(b)(17)(i)-(ii), (vi)(A). For this exemption to apply, an agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe” was conducted regarding a noncriminal matter. *See Pa. Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). However, the investigation must encompass more than the agency’s routine performance of its duties, and the agency cannot rely merely on broad statements that an investigation occurred to satisfy its burden to prove the applicability of the exemption. *Anand v. Commonwealth*, 329 A.3d 1, 18 (Pa. Commw. Ct. 2024) (citing *Pa. Public Util. Comm’n v. Friedman*, 293 A.3d 803,

828 (Pa. Commw. Ct. 2023)); *see also* *Pa. Dep’t of Labor & Indus. v. Darlington*, 234 A.3d 865 (Pa. Commw. Ct. 2020). Further, the inquiry, examination, or probe must be “conducted as part of an agency’s official duties.” *Id.* at 814. An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted factfinding and investigative powers. *See Pa. Dep’t of Pub. Welfare v. Chawaga*, 91 A.3d 257 (Pa. Commw. Ct. 2014). To hold otherwise would “craft a gaping exemption under which any governmental information-gathering could be shielded from disclosure.” *Id.* at 259.

Here, the Chao Attestation states that, under Pennsylvania’s Charter School Law (“CSL”), “a charter school may only operate ‘under a charter from the local board of school directors,’ and that “[t]he board of school directors may choose ‘to revoke or not renew the charter’ of a charter school pursuant to Section 17–1729–A of the [CSL] in the event that the board of school directors makes a finding that at least one of various criteria has not been met.” *See* Chao Attestation, ¶ 4; 24 P.S. § 17–1703–A, 1729–A.⁷ Additionally, the OOR has held that a school district has the legislative authority to investigate charter school applications and that the examinations of charter renewal applications were included within the authority granted by the CSL. *See Joan Myers Brown Academy, A String Theory Charter Sch. v. Phila. Sch. Dist.*, OOR Dkt. AP 2021 2198, 2022 PA O.O.R.D. LEXIS 374; *see also Seiberling v. Phila. Sch. Dist.*, OOR Dkt. AP 2025-2930, 2026 PA O.O.R.D. LEXIS 52 (*Seiberling* I); *o Seiberling v. Phila. Sch. Dist.*, OOR Dkt. AP 2026-0086 (*Seiberling* II), 2022 PA O.O.R.D. LEXIS ____.⁸ Therefore, the District has the legislative authority to evaluate charter applications, charter renewals, and charter schools authorized by its Board.

⁷ The Chao Attestation notes that the Philadelphia Home Rule Charter and District Board Policies 400 and 401 also authorize the District to revoke a charter school’s charter.

⁸ *Seiberling* I and II are both pending with the Philadelphia Court of Common Pleas.

In support of the District’s position that it conducted an investigation within the meaning of Section 708(b)(17) into PCMS’s charter renewal, the Chao Attestation explains that the District’s Charter School Office (“CSO”), “annually assesses each charter school authorized by the [District’s] Board” and that the “CSO’s Accountability Team is responsible for conducting the annual evaluation of all existing charter schools, which includes the comprehensive review of all charter schools that have applied for renewal.” *See* Chao Attestation, ¶ 6. The Chao Attestation also explains that the Accountability Team evaluates “whether a particular charter school is meeting the standards set forth in its charter, [in] the Charter School Performance Framework, and [in] applicable law.” *Id.* Additionally, the Chao Attestation states that Charter School Performance Framework “is the current system used by the CSO to (1) evaluate charter schools authorized by the Board pursuant to Section 17-1728-A(a); and (2) inform its recommendations to the Board regarding the renewal of charter schools” and describes the RiSE initiative as “multi-year, three-phase initiative aimed at investigating the perceived limitations and feedback received from charter schools and community stakeholders about the Framework.” *Id.*, ¶¶ 7-8. The Chao Attestation affirms that, “[t]hrough discussions with the charter community, charter families, elected officials, education advocates, and other stakeholders, RiSE’s purpose is to assess the current standards within the Framework and make a determination whether any adjustments or reconfigurations can be made to improve student outcomes and achievement.” *Id.*, ¶ 9. Moreover, the OOR has previously held that the reports related to RiSE are exempt from public access as records relating to a noncriminal investigation and has rejected the argument that the District’s evaluation of charter schools is akin to the routine field inspection of the agency’s boiler in *Darlington*. 234 A.3d 865. *See St. Vil v. Phila. Sch. Dist.*, OOR Dkt. AP 2026-2104, 2026 PA

O.O.R.D. LEXIS 2692.⁹ Thus, based on the evidence presented and consistent with the OOR’s prior determinations, the RiSE initiative is an ongoing series of systematic, searching inquiries relating to the evaluation of charter schools authorized by the District’s Board.

Turning to the records at issue, the Chao Attestation identifies the records located and withheld in response to Items 4, 5(d)-(h), 10 and 13 and verifies that “each item of the Request...seek[s] records generated or created during RiSE.” *See* Chao Attestation, ¶¶ 11-16. The Chao Attestation also confirms that “RiSE remains ongoing at this time, so the disclosure of any records generated or created during the RiSE would reveal the institution, progress or result of the CSO’s investigation into the perceived limitations and feedback received from charter schools and community stakeholders about the Framework.” Accordingly, based on the evidence presented, the records responsive to Items 4, 5(d)-(h), 10 and 13 and the records requested in Items 2 and 8 are exempt under the noncriminal investigative records exemption of the RTKL. 65 P.S. § 67.708(b)(17)(i)-(ii), (vi)(A); *St. Vil*, 2026 PA O.O.R.D. LEXIS 2692.¹⁰

Furthermore, because the District demonstrated that the records are exempt under Section 708(b)(17) of the RTKL, the records do not constitute “public records” that are subject to the redaction provisions in 65 P.S. § 67.706. *See Castillo v. Pa. State Police*, 310 A.3d 831 (Pa. Commw. Ct. 2024) (holding that an agency is not required to redact a record if the record falls within an exemption under Section 708(b)).

CONCLUSION

⁹ In *Seiberling I*, the OOR found “that the investigation conducted by the...District into charter schools is akin to the regularly conducted investigation of nursing homes conducted by the [Pennsylvania] Department of Health and the inspections of natural gas utility’s operations by the [Pennsylvania Public Utilities Commission] that were found to be noncriminal investigations under the RTKL.” 2026 PA O.O.R.D. LEXIS 52; *Pa. Dep’t of Health*, 4 A.3d at 810-11; *Pa. Public Utilities Commission v. Gilbert*, 40 A.3d 755, 760 (Pa. Commw. Ct. 2012). The same reasoning was used by the OOR in *St. Vil*. 2026 PA O.O.R.D. LEXIS 2692.

¹⁰ Since the District demonstrated that the withheld records are exempt from disclosure under 65 P.S. § 67.708(b)(17), the OOR need not address the District’s alternate grounds for denial. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

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 Philadelphia 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.¹¹ 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: September 17, 2026

/s/ Erika Similo

ERIKA SIMILO
APPEALS OFFICER

Sent via portal to: Mark Seiberling, Esq.
Kristina Helmers, Esq.

¹¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).