



FINAL DETERMINATION

IN THE MATTER OF

JOHN MILLER,
Requester

v.

OCTORARA AREA SCHOOL DISTRICT,
Respondent

:
:
:
:
:
:
:
:
:
:
:

Docket No: AP 2026-0167

FACTUAL BACKGROUND

On December 5, 2025, John Miller (“Requester”) submitted a request (“Request”) to the Octorara Area School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating, in part, as follows:

... I request access to and copies of the following **existing records** in the possession, custody, or control of the ... District ... for the time period **January 1, 2021 through [December 5, 2025]**.^[1]

For avoidance of doubt, references to “Board member” include **all current and former School Board directors who served at any time during this period**, regardless of election, resignation, retirement, or withdrawal.

[Item] 1. Email and electronic communications

Please produce all emails and electronic communications, including attachments, within the above timeframe. This [R]equest includes records regardless of whether the communication occurred using District email accounts or personal accounts/devices, to the extent they were used to conduct District business. This [R]equest will include all items that fall into either of the following categories:

¹ Although the Request listed the timeframe as January 1, 2021 through the date of the District’s search, the Request can only seek records that were in existence up until the date of the Request. *See, e.g., Pa. Dep’t of Labor & Indus. v. Tabor*, No. 525 C.D. 2015, 2016 Pa. Commw. Unpub. LEXIS 251 (Pa. Commw. Ct. Mar. 31, 2016).

1A. Direct communications with me

All communications where one sender or recipient is any District Board member, superintendent, administrator, employee, contractor, or solicitor acting on behalf of the District, and the other sender or recipient is **[the Requester]**, including communications sent to or from any email address used by me, including but not limited to:

- RobertSmithPA@protonmail.com
- DavidJonesPA@protonmail.com
- CulturalContrarian@protonmail.com

1B. Internal communications referencing my matter

All internal communications among District Board members, administrators, employees, and/or solicitors that reference or discuss any of the following topics relating to **[the Requester]** or **[his]** advocacy, including communications that rely upon, implement, or interpret any District action directed toward **[the Requester]**:

- The March 2022 trespass letter or any predecessor/successor directive, including records reflecting its scope, duration, enforcement guidance, or appeal/review options.
- Public comment restrictions, eligibility rules, time limits, or meeting access policies as applied to **[the Requester]**.
- Communications with, about, or referencing law enforcement involvement connected to **[the Requester's]** attendance or attempted attendance at meetings or District property, including communications between **[the District]** and local police, county detectives, Pennsylvania State Police, or **[District]** solicitors regarding such matters.
- Communications referencing **[the Requester's]** name, "Cultural Contrarian," "Modern Babylon," or other identifiers reasonably associated with **[his]** published work or advocacy.
- Communications referencing District handling, custody, or dissemination of any copyright-protected materials attributed to **[the Requester]**, Cultural Contrarian, Modern Babylon or copyright protected videos on any platform (Youtube, Happs, Twitter, X, Facebook, etc.)
- Communications referencing Anthony Falgiatore in relation to **[the Requester's]** advocacy, records, or disputes involving District actions.

[Item] 2. Letters, notices, and written directives

All letters, notices, warnings, directives, or written correspondence within the timeframe that relate to:

- The March 2022 trespass letter and any related warnings or restrictions.
- Any District instruction or guidance to staff, Board members, or contractors regarding interactions with **[the Requester]**.
- Any written explanation of policies cited as justification for restricting **[the Requester's]** speech or presence at meetings or property.

- All records reflecting any District determination, statement, or discussion of [the Requester's] residency or taxpayer status, including any records relied upon to label [the Requester] 'not a taxpayer' (if any).
- All records reflecting any policy, practice, guidance, or verification method used to determine speaker eligibility at public meetings (including any forms, checklists, instructions, or staff emails describing such verification).

[Item] 3. Records reflecting internal routing, handling, or coordination

All records reflecting internal handling or coordination related to [the Requester] or [his] advocacy, including:

- Logs, summaries, incident notes, internal reports, or meeting notes discussing [the Requester's] communications, attempted appearances, or District strategy for responding to [him].
- Records reflecting coordination with legal counsel regarding [the Requester's] advocacy, public comment, or any alleged violations of District policy.
- Records reflecting coordination with law enforcement regarding any restrictions, removals, warnings, or arrests involving [the Requester].
- All **non-educational-record** communications among District officials or Board members that reference any alleged relationship between [the Requester] and District parents or students, **excluding student educational records**.

[] Search scope

Please include searches of District email systems, archives, and any shared accounts used for District business (e.g., board@..., superintendent@..., info@... or other relevant shared mailboxes), as well as communications on District-controlled devices or platforms used for official business.

For internal emails not directly to/from me, a reasonable search may include terms such as: "John Ryan Miller," "Ryan Miller," "trespass letter," "public comment," "Saxton & Stump," "Falgiatore," "copyright," "Cultural Contrarian," "Modern Babylon," and "3501-2022."

....

See January 16, 2026 Requester Submission, "Exhibit Packet – Representative Deficiencies (A-E)," pp. 26-28 (emphasis in original) (internal footnote added).

On January 6 and 7, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b),² the District partially granted the Request ("Final Response"), by providing 5,616

² A previous appeal involving the same Request was dismissed as premature on January 5, 2026, because the District invoked a timely extension under Section 902 of the RTKL on December 8, 2025, and therefore, had until January 12, 2026 to respond to the Request. See *Miller v. Octorara Sch. Dist.*, OOR Dkt. AP 2025-3778, 2026 PA O.O.R.D. LEXIS 137.

pages of responsive records, while also partially denying the Request, asserting that information was redacted under 65 P.S. §§ 67.708(b)(6)(i)(A), (b)(27), the constitutional right to privacy, PA. CONST. ART. I, § 1, and the attorney-client privilege. The District also asserted that certain responsive records, which were filed in a previous matter before the U.S. District Court for the Eastern District of Pennsylvania in *John Ryan Miller v. Thomas Goggin, et. al*, Civil Action No. 22-3329 KSM (“Federal Lawsuit”), were received by the District in redacted form as part of that litigation, and were not redacted by the District in response to this Request.

Between January 13 and 14, 2026, the parties exchanged email communications pertaining to the Requester’s inquiries about the District’s search and record production.

On January 14, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the partial denial and stating grounds for disclosure. Specifically, he argued, in part, that the District failed to conduct an adequate search, that various additional responsive records exist and that the District failed to show that it was permitted to redact entire pages or substantial portions of the responsive records.³

On January 16 and 20, 2026, the OOR issued a Notice of Filing Deficiency and additional correspondence, directing the Requester to file a copy of the Request and the Final Response by January 30, 2026. On those same dates, the Requester made four submissions, curing the deficiency. 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).

³ The Requester also argued that the District failed to produce a privilege log, similar index and an attestation or sworn affidavit with the Final Response. However, the District was not required to provide evidence in support of its grounds for denial or a good faith search at the response stage of the RTKL process. See 65 P.S. §§ 67.901, 903; see also *Levin v. Pa. Dep’t of Educ.*, OOR Dkt. AP 2023-2588, 2025 PA O.O.R.D. LEXIS 1017, *19 (explaining that “[t]he language in Section 903 does not include a requirement that the agency link a basis for denial with a specific record”).

On January 23, 2026, the District submitted correspondence, seeking an extension to supplement the record and further asserting, in part, that it was unable to meaningfully respond to the appeal because the Requester did not identify which redacted records he was challenging.⁴ That same day, the OOR provided the Requester additional time, to address the points made in the District's correspondence and directed the Requester to identify and upload copies of any disclosed responsive records that he was challenging on appeal. The OOR also extended the parties' deadline to submit evidence, legal argument and general information to support their positions on appeal until February 6, 2026.

On January 23, 2026, the Requester subsequently filed a submission, asserting, in part, that the appeal filing contained exhibits that identify and include representative, non-exhaustive, examples of the disclosed responsive records being challenged. That day, the OOR again directed the Requester to identify and upload copies of all redacted records that the Requester was challenging on appeal by January 28, 2026, noting that, otherwise, the OOR may consider that the only redactions at issue were the examples set forth in the initial appeal filing.

In response, the Requester made an additional submission that same day, identifying a non-exhaustive list of 45 pages of disclosed records that he argued were improperly redacted, and further asserting that the District failed to disclose all responsive attachments, some of which related to the Federal Lawsuit.

On February 6, 2026, the District submitted a Privilege Log, pertaining to the redactions identified in the Requester's January 23, 2026 submissions, copies of certain less redacted records,

⁴ Despite the District's additional argument that the appeal remained deficient, the Requester was not required to file copies of the 5,616 pages of responsive records and each of its Solicitor's, Saxton & Stump, LLC, twenty-six emails transmitting those records to the Requester with the initial appeal submission. *See* 65 P.S. § 67.1102(b)(3) (stating that "the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute").

an email attachment list (“District Exhibit 11”) and a list of hyperlinks (“District Appendix B”). The District also submitted a position statement, reiterating its grounds for denial and further arguing, in part, that a good faith search was conducted, that all responsive records were disclosed and that the District is not required to create records under 65 P.S. § 67.705. In support of its position, the District submitted the sworn affidavits of Dr. Audrey Flojo-Colletti (“Flojo-Colletti Affidavit I”), Assistant District Superintendent and Agency Open Records Officer (“AORO”); Robert Steffy (“Steffy Affidavit”), District Technology Systems Administrator; Sage Bateman (“Bateman Affidavit”), Paralegal for Saxton & Stump; and Michael W. Lewis, Esq. (“Lewis Affidavit I”), of Saxton & Stump.

On February 17, 2026, the OOR directed the Requester to review the records provided on appeal and to clarify whether he was challenging all of the redactions made to the disclosed records.

On March 6, 2026, having received no response from the Requester and because he used the OOR’s Standard RTKL Appeal Form to initiate this matter, the OOR directed the District to provide copies of each of the disclosed records, as well as a supplemental privilege log and attestation, supporting its grounds for redaction.

On March 26, 2026, in response to the OOR’s inquiry, the District filed correspondence and copies of the previously disclosed records and their associated transmittal emails. It also disclosed an additional 59 pages of unredacted records, and it submitted a Supplemental Privilege Log, asserting, in part, that records were also partially redacted under the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. §§ 1232g *et seq.*, as “Minor PII”, *see* 65 P.S. §67.708(b)(30), and because certain documents are not records or responsive to the Request. In addition, the District submitted the supplemental sworn affidavits of Dr. Flojo-Colletti (“Flojo-

Colletti Affidavit II’) and Attorney Lewis (“Lewis Affidavit II”), which indicate, in part, that records were also redacted under the attorney-work product doctrine.

On March 30 and April 7, 2026, the Requester made two submissions, reiterating his challenge to the completeness of the District’s record production, seeking clarification from the District regarding the disclosed records and arguing that certain records were improperly redacted as copyrighted material. In addition, he challenged the District’s redaction of documents as “non-records.” On April 21, 2026, in response to additional correspondence from the Requester, the OOR clarified that the Requester’s supplemental submissions had been made a part of the appeal record.

On May 27-28, 2026, the Requester filed two submissions, reiterating his previous arguments and further asserting, in part, that communications involving Brian P. Fox, in his official District capacity as a Board member, through his “personal alias accounts,” are responsive and subject to disclosure.⁵

On June 2, 2026, the OOR provided the District additional time until June 10, 2026, to respond to the Requester’s supplemental submissions.

In response, that same day, the District made a submission, indicating, in part, that it was relying upon its previous submissions, and that it did not intend to further supplement the record. That day, the Requester also filed correspondence.

On August 17, 2026, the Requester made an additional submission, reiterating, in part, his challenge to the sufficiency of the District’s search.⁶

⁵ The Requester also alleged that Mr. Fox has engaged in defamatory conduct, retaliatory posts and/or “a documented pattern of systematic monitoring, reputational targeting, and interference with the advocacy activities of the Requester], ... dating from March 2022 to the present.” However, all such allegations are outside the scope of this appeal and the purview of the OOR. Notably, the Requester has not raised the issue of bad faith on appeal; therefore, that issue will not be addressed in this Final Determination.

⁶ The OOR extended the deadline for the issuance of the Final Determination in this matter on multiple occasions, ultimately until September 24, 2026, upon the agreement of and/or after receiving no objection from the Requester.

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) (citing 65 P.S. § 67.708). Although the Requester asks the OOR to conduct *in camera* review, the OOR declines to do so because it has the necessary information and evidence before it to adjudicate this matter.

1. The appeal is dismissed as moot in part

On February 6, 2026, the District disclosed unredacted copies of certain records, which are identified as follows: “Miller trespass_Redacted 1 of 7.pdf,” pp. 0001, 0004, 0007, 0010, 0013, 0016, 0019, 0028, 0034; and “Miller trespass_Redacted 2 of 7.pdf,” pp. 0007, 0011, 0034. The District also produced less redacted copies of “Miller trespass_Redacted 2 of 7.pdf,” p. 0018, and “Miller mentions by name (redacted) 2 of 13.pdf,” pp. 0036, 0038, 0040,⁷ and it compiled a list of

On September 9, 2026, the Requester did object to the OOR’s request for an additional extension, and as a result, the OOR did not further extend the Final Determination due date.

⁷ The less redacted photograph at “Miller mentions by name (redacted) 2 of 13.pdf,” pp. 0036, 0038, 0040,” is the same photograph that was redacted by the District under FERPA at the following records: Brian Fox

the hyperlinks contained within the responsive record to provide the Requester with clarification as to whether the linked materials were within the District's possession, custody or control. *See* February 6, 2026 District Position Statement, Ex. 9, Appendix B; Bateman Affidavit, ¶ 24; Lewis Affidavit, ¶ 26.⁸ In addition, on March 26, 2026, the District disclosed an additional 59 pages of unredacted records.⁹

Accordingly, as it pertains to the information provided during the pendency of this matter, the appeal is dismissed as moot. *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").¹⁰

2. The District demonstrated that no additional responsive records exist

On appeal, the District argues that the disclosed records are the only responsive records that exist. The Requester contends that additional responsive records must exist, including email attachments, hyperlink material, a December 8, 2023 email authored by Mr. Fox that was transmitted to multiple recipients using personal email accounts, the Requester's letter of intent to sue the District and records of internal forwarding, discussion of receipt or mail intake records for

Emails_Redacted.pdf," pp. 0015, 0017-0018; "Miller mentions by name (redacted)1of13.pdf," pp. 0269-0278; and "Miller mentions by name (redacted)2of13.pdf," pp. 0042, 0044, 0046, 0048, 0050, 0052, 0054, 0055, 0058, 0060, 0062, 0064, 0066. *See* Privilege Log, pp. 9-10; Supplemental Privilege Log, pp. 2, 65, 66.

⁸ Under the RTKL, a sworn affidavit or statement made under the 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, "... the averments in the [affidavits] 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 *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

⁹ *See* "Miller trespass_Redacted 1 of 7.pdf," pp. 0082-0105, 0106-0107, 0109-0114, 0116-0123, 0166-0183; "Miller trespass_Redacted 2 of 7.pdf," p. 0073. In addition, the disclosed record at p. 59 of the District's "Unredacted After Further Review.pdf" provides the same information that was redacted at "Miller mentions by name (redacted) 4 of 13.pdf," pp. 146-147, 156, 158, 160, 162, 164, 168, 169 and "Miller mentions by name (redacted) 9 of 13.pdf," pp. 60-61.

¹⁰ The material redacted from the "Miller trespass (9310060.1)_Redacted 1 of 7.pdf," pp. 0022, 0025, 0028, 0031, 0034, 0037, 0046, 0055, 0064, 0067, 0073, was disclosed in the records that were provided to the Requester on appeal; therefore, the appeal is moot as to those records as well.

that letter. The Requester further argues that the District provided an inadequate certification of the search's scope because the District did not specify the custodians whose records were searched, "the repositories searched (e.g., email systems, shared drives, administrative files, solicitor correspondence)," whether attachments referenced in emails were included in the search and whether hyperlinked materials were hosted on District-controlled systems, were within its possession, custody, or control or if such materials were considered responsive and searched.

In response to a request for records, "... an agency shall make a good faith effort to determine ... whether the agency has possession, custody or control of the identified record[.]" 65 P.S. § 67.901. While the RTKL does not define the term "good faith effort," in *Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, the Commonwealth Court stated:

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

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted) (*Uniontown Newspapers I*), *aff'd*, 243 A.3d 19 (Pa. 2020) (*Uniontown Newspapers II*). An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency's records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep't of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

In support of its position, the District submitted six affidavits, which affirm that Dr. Flojo-Colletti, who is familiar with its records, coordinated the search. *See Flojo-Colletti Affidavit I*, ¶¶ 1-3, 6; *Flojo-Colletti Affidavit II*, ¶¶ 1-5. The affidavits further reflect that "[t]he Requester was

involved in events occurring in or around September 2022 that led to the issuance of a no-trespass notice, which was later rescinded, along with related interactions involving the District and other third parties[,]” and criminal proceedings. Flojo-Colletti Affidavit II, ¶¶ 10-11; Lewis Affidavit II, ¶¶ 17 In 2022, the Requester also filed the Federal Lawsuit, “in which he sued over a dozen [] District officials[, including, Jill Hardy, Jeff Curtis, Brian Norris, Lisa Bowman, Sam Ganow, Jared Zimmerman, Charlie Koennecker, Brian Fox, Matt Hurley, John Propper, Michelle Orner, and Lisa Yelovich,] [] law enforcement officers from various locations” and Benjamin Pratt, Esq. formerly of Kegel Kelin Litts & Lord LLP (“KKL&L”), which merged with Saxton & Stump. Lewis Affidavit II, ¶¶ 9-13; *see also* March 26, 2026 Miller AIG Emails_Redacted.pdf, p. 84.

Although those events “predated [Dr. Flojo-Colletti’s] employment with the District,” as part of the search for responsive records, she consulted with Attorney Lewis, Esq., whose law firm represented the District throughout said events, and Mr. Steffy “to generate and execute a responsive electronic search consistent with the scope of the Request.” Flojo-Colletti Affidavit I, ¶¶ 6-7; Flojo-Colletti Affidavit II, ¶¶ 4-5, 11, 14; Steffy Affidavit, ¶¶ 1-2; Lewis Affidavit I, ¶¶ 3-5. In addition, they “conduct[ed] a search of locations where responsive records were reasonably likely to be maintained.” Flojo-Colletti Affidavit II, ¶ 12. As a result, the aforementioned searches “yielded approximately four [] gigabytes of data,” consisting of 5,616 pages of responsive records, which were provided to the Requester with redactions. Flojo-Colletti Affidavit I, ¶¶ 7-13; Steffy Affidavit, ¶¶ 4-5; Bateman Affidavit, ¶¶ 7-8, 11-17.

The District’s affidavits further affirm that contrary to the Requester’s assertions on appeal, all responsive attachments were included in the disclosed records, and that the attachments were also imbedded in the responsive emails and can be viewed “using the Paperclip [icon] in Adobe Reader.” Flojo-Colletti Affidavit I, ¶¶ 8, 16; Steffy Affidavit, ¶¶ 5, 13-14; Bateman Affidavit, ¶

26; Lewis Affidavit, ¶¶ 28-29. In addition, the affidavits reflect that the District's search also encapsulated the "intent to sue letter sent by Requester to the District via certified mail[;]" however, the search did not yield any results, as said letter "was never uploaded in any manner to the District's software and does not exist beyond its physical form." Flojo-Colletti Affidavit I, ¶ 17; Steffy Affidavit, ¶ 15; Bateman Affidavit, ¶ 27.

In response to the Requester's arguments regarding the hyperlinked material, the District's affidavits affirm that Attorney Lewis "extrapolated the hyperlinks that were responsive" and listed them in the District's Appendix B. Lewis Affidavit I, ¶¶ 31, 36. The affidavits further reflect that those links are "to materials that (a) are within the District's possession, custody, or control, (b) are publicly available third-party content [including, by way of example, content hosted on public platforms such as YouTube], or (c) are third-party historical content that no longer resolves to active webpages, generating an error message." Lewis Affidavit I, ¶ 32. In addition, the affidavits explain that the hyperlinks that no longer work lead to District records that no longer exist based on the District's website and records management practices and/or that they are third party records that are no longer available. *See* Lewis Affidavit I, ¶¶ 33-34.

Additionally, the District's affidavits reflect that certain responsive records were already redacted when they were previously filed in the Federal Lawsuit, that they were received by the District in that manner and that they were not redacted by the District in the fulfillment of this Request. *See* Lewis Affidavit II, ¶ 20. While the Requester also argues on appeal that certain records contained full-block redactions identified as "Copyright Protected Information," a review of the disclosed records confirms that such records are only included in the March 26, 2026 "Mentions by name emails_Redacted.pdf," which contains the records that were filed in the

Federal Lawsuit.¹¹ The affidavits also show that, based on the above mentioned search, Dr. Flojo-Colletti, Mr. Steffy and Attorney Lewis determined that the 5,616 pages of disclosed records are the only responsive records that exist within the possession, custody or control of the District. *See* Flojo-Colletti Affidavit I, ¶¶ 18-20; Steffy Affidavit, ¶¶ 16-18.

While the District's affidavits could have been more detailed, the RTKL places a low burden of proof on the agency, and in the absence of countervailing evidence, the District's affidavits show that a good faith search was conducted and that no additional responsive records currently exist within the possession, custody or control of the District.¹² *See Roberts v. City of Erie*, OOR Dkt. AP 2026-1091, 2026 PA O.O.R.D. LEXIS 1787, *7 (explaining that “[e]vidence of a reasonable search and contact with the correct custodians is sufficient to show that records do not exist in the agency’s possession”) (citation omitted); *see also Pa. Dep’t of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (explaining that “[i]t is questionable to what degree additional detail and explanation are necessary to establish the nonexistence of a record rather than its exemption from disclosure”) (quoting *Hodges*, 29 A.3d at 1192); *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). Further, pursuant to 65 P.S. § 67.705, the District is not required to create records that do not currently exist.

¹¹ To the extent that the Requester is arguing that the responsive records contain his copyrighted material or links to such, that their disclosure violated the Copyright Act, 17 U.S.C. §§ 101 *et seq.*, and/or or that the District or Mr. Fox engaged in defamation or violated the Americans with Disabilities Act, all such claims are outside the scope of this appeal and the purview of the OOR.

¹² Although the Requester argues that additional responsive records must exist, the OOR makes no determinations as to whether any responsive records *should* exist, as our inquiry is limited to only whether or not records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore*, 992 A.2d at 909. Moreover while the Requester asserts that Mr. Fox, in his capacity as a District Board Member, posted or distributed materials about the Requester on May 27-28, 2026 through a personal “X.com” account , and that District Board correspondence pertaining to such exists, those records are not actually responsive to the Request because they fall outside the January 1, 2021-December 5, 2025 timeframe, and the Request did not expressly seek any social media posts.

However, because the District's evidence affirms that the Requester's intent to sue letter is responsive and only exists in hard-copy paper medium, and because it appears that said letter was not disclosed, the District must provide a copy of that letter to the Requester in the medium in which it currently exists and may charge appropriate copy costs and applicable fees in accordance with the OOR's Official RTKL Fee Schedule.¹³

3. The District was permitted to redact personal identification information

The District asserts that it properly redacted personal email addresses, telephone numbers, and private citizens' names and information, including medical information, from various responsive records under 65 P.S. § 67.708(b)(6)(i)(A) or the constitutional right to privacy. Section 708(b)(6)(i)(A) of the RTKL exempts from disclosure "[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).

Additionally, the Pennsylvania Supreme Court has held that an individual possesses a constitutional right to privacy in certain types of personal information. *Pa. State Educ. Ass'n v. Commonwealth* ("PSEA"), 148 A.3d 142 (Pa. 2016). 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

¹³ Pursuant to Sections 701(a) and 705 of the RTKL, if responsive records only exist in a paper medium, the District is not required to convert those records into electronic copies. *See Grega v. Weatherly Area Sch. Dist.*, OOR Dkt. AP 2025-0167 (consolidated), 2025 PA O.O.R.D. LEXIS 462 *13 (citing 65 P.S. § 67.705); *see also* 65 P.S. § 67.701(a) ("A record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists"). Further, the Official RTKL Fee Schedule, which is available at <https://www.openrecords.pa.gov/RTKL/FeeStructure.cfm>, sets forth the postage fees and the maximum duplication fees per page that an agency may charge. *See* 65 P.S. § 67.1307(b)(1)(i). However, an agency is not permitted to impose fees for the transmission of records via email, or that exceed the actual cost for records provided via a CD/DVD, flash drive or other electronic medium.

interest. *Id.* Although the Pennsylvania Supreme Court did not expressly define the types of “personal information” subject to the balancing test, the Court recognized that certain types of information, including a combination of names, personal telephone numbers and home addresses, by their very nature, implicate privacy concerns and require balancing. *PSEA*, 148 A.3d at 156-57; *see also Pa. State Univ. v. State Employees’ Retirement Bd.*, 935 A.2d 530, 533 (Pa. 2007); *Sapp Roofing Co. v. Sheet Metal Workers’ International Assoc.*, 713 A.2d 627, 630 (Pa. 1998) (plurality). Courts have traditionally recognized a limited personal interest in connection with a person’s name alone, and names may be provided in cases where there is a more significant public interest, or where the name will not give rise to some other injury to security or reputation. *See Times Publishing Co. v. Michel*, 633 A.2d 1233, 1240 (Pa. Commw. Ct. 1993).

In this instance, the District’s two privilege logs and affidavits, as well as a review of the disclosed records, affirm that personal email addresses and telephones numbers, including those of private citizens’ and District officials or personnel, were properly redacted throughout the disclosed records under 65 P.S. § 67.708(b)(6)(i)(A). Additionally, the District’s evidence shows that most of the names of private citizens, who are not affiliated with the District, were properly redacted under the constitutional right to privacy because those individuals have a strong privacy interest in their names, especially where some of the individuals made inquiries to the District and indicated that they felt threatened or were in fear of speaking at a public meeting, or where District officials or personnel made allegations about certain individuals or referred matters pertaining to

them to the police.¹⁴ Moreover, the Requester has not articulated any public interest supporting the disclosure of those names.¹⁵

However, in some instances, it is clear that the District improperly redacted the names of RTKL requesters, which is public information.¹⁶ Additionally, the District improperly redacted social media posts of private citizens from documents that were filed of record in the Federal Lawsuit, as well as appeal captions, and a screenshot of a private citizen's Facebook post that was included in emails between District Board members related to District business, which are not expressly exempt under 65 P.S. § 67.708(b)(6) and which it has not been demonstrated that any individuals have an expectation of privacy in that outweighs the benefit of public disclosure.¹⁷ Further, although the Supplemental Privilege Log indicates that a private citizen's medical information was redacted from the record at "Brian Fox Emails_Redacted.pdf," p. 0083, a duplicate copy of that email at "Miller mentions by name (redacted) 3 of 13.pdf," 0087, from which said material was not redacted, demonstrates that the information is just a general statement about a certain individual being injured.¹⁸ Accordingly, the District must unredact the information referenced in this paragraph from the disclosed records and provide it to the Requester.

¹⁴ See e.g., "Chesco.org emails_Redacted.pdf," pp. 7, 25-36. Although some of the names that were redacted were disclosed elsewhere in the disclosed records, an agency cannot waive a third party's right in nondisclosure by action or inaction. See *Baron v. Dep't of Human Servs.*, 169 A.3d 1268, 1275 (Pa. Commw. Ct. 2017).

¹⁵ While the Requester seeks records about himself, and he may be able to discern some of the redacted names, his identity and motivation for seeking the records is irrelevant in determining whether they are accessible under the RTKL. See e.g., *Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 (Pa. Commw. Ct. 2014); *Cafoncelli v. Pa. State Police*, 2017 Pa. Commw. Unpub. LEXIS 405, *9-10 (Pa. Commw. Ct. June 5, 2017) (citations omitted) ("Under the RTKL, a record is either available to the public at large as a public record or it is shielded from disclosure").

¹⁶ See e.g., "Miller trespass_Redacted 2 of 7.pdf," pp. 7-14, 16, 20, 70.

¹⁷ See Supplemental Privilege Log, pp. 20-21; see also "Mentions by name email_Redacted.pdf," pp. 0093, 0122, Miller trespass_Redacted 2 of 7.pdf," pp. 31, 32; "Brian Fox Emails_Redacted.pdf," pp. 0056, 0062, 0065, 0068; Miller mentions by name (redacted) 2 of 13.pdf," pp. 0229- 0230, 0236, 0239, 0242, 0266, 0269, 0272, 0275, 0278, 0281, 0284, 0287; Miller mentions by name (redacted) 3 of 13.pdf," pp. 0003, 0006, 0009, 0046.

¹⁸ While not raised by the District, the redacted material would also not be expressly exempt under 65 P.S. § 67.708(b)(5).

4. The District was permitted to redact certain minor and student information

The District argues that it properly redacted several records as “Minor PII” or under FERPA. Section 708(b)(30) of the RTKL exempts from disclosure “[a] record identifying the name, home address or date of birth of a child 17 years of age or younger.” 65 P.S. § 67.708(b)(30).

Whereas, FERPA protects “personally identifiable information” contained in “education records” from disclosure, and financially penalizes school districts that have “a policy or practice of permitting the release of education records ... of students without the written consent of their parents.” 20 U.S.C. § 1232g(b)(1). FERPA defines “education records” as those records that are “[d]irectly related to a student” and are “[m]aintained by an educational agency or institution or by a party acting for the agency or institution.” 20 U.S.C. § 1232g(a)(4)(A); *see also* 34 C.F.R. § 99.3. Regulations implementing FERPA define “personally identifiable information” as including, among other things, the student’s name, address, date of birth and “[o]ther information that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.” 34 C.F.R. § 99.3.

The Pennsylvania Supreme Court has previously found that images of students in responsive video recordings may not be released, either under FERPA or the constitutional right to informational privacy, to the extent that the students are “reasonably identifiable” to anyone other than their parents or eligible students, “absent one of the conditions listed under FERPA § 1232g(b)(1) ... without proper consent, or a judicial order or subpoena.” *Easton Area Sch. Dist. v. Miller*, 232 A.3d 716, 731-34 (Pa. 2020). However, the right to privacy may be satisfied by the redaction of those students’ faces. *Id.* at 731.

In this instance, the Supplemental Privilege Log and a review of the disclosed records affirm that the District redacted the faces of two kindergarten students that attended the District's "March Math Madness" at OPLC" event in 2022. *See* Privilege Log, pp. 9-10; Supplemental Privilege Log, pp. 2, 65, 66.¹⁹ The District also redacted a list of student names at "Miller mentions by name (redacted) 9 of 13.pdf," pp. 0165-0200. *See* Supplemental Privilege Log, pp. 88.

Accordingly, in this instance, the District's evidence is sufficient to demonstrate that it was permitted to redact the students' faces from the above-mentioned photographs contained in the responsive records under the constitutional right to privacy or FERPA. The evidence presented also establishes that the list of student names, which the District withheld as "Minor PII," is exempt from disclosure under 65 P.S. § 67.708(b)(30).

However, the District's evidence is insufficient to demonstrate that various records, which are merely identified in the Supplemental Privilege Log as "Student record[s]," are exempt under FERPA. *See id.* at pp. 79, 83; *see also* "Miller mentions by name (redacted) 7 of 13.pdf," pp. 0246-0256, 0259-0260, 0276-0277, 0282- 0288, 0312-0317; "Miller mentions by name (redacted) 8 of 13.pdf," pp. 0093-0095, 0118, 0212- 0221. Because the District has not raised any alternative grounds for redacting those records, they must be disclosed to the Requester. To the extent that any personal identification information that is expressly exempt under 65 P.S. §§ 67.708(b)(6)(i)(a), (b)(30) or the constitutional right to privacy is contained within those records, it may be redacted by the District.

¹⁹ *See also* "Brian Fox Emails_Redacted.pdf," pp. 0015, 0018; "Miller mentions by name (redacted) 1of13.pdf," pp. 0269-0278; "Miller mentions by name (redacted)2of13.pdf," pp. . 0036, 0038, 0040, 0042, 0044, 0046, 0048, 0050, 0052, 0054, 0055, 0058, 0060, 0062, 0064, 0066.

5. The District was permitted to redact communications with its insurance carrier

The District contends that certain responsive records are exempt because they constitute communications with the District's insurance carrier. Section 708(b)(27) of the RTKL exempts "[a] record or information relating to a communication between an agency and its insurance carrier, administrative service organization or risk management office." 65 P.S. § 67.708(b)(27).

The Supplemental Privilege Log and a review of the disclosed records, affirms that the records that were partially redacted under this exemption are email correspondence between various AIG claims analysts or Willis Towers Watson Northeast, Inc. personnel, the District's Solicitor, the District's Business Manager and/or District Board Member Anthony Fagliatore, regarding insurance coverage, the handling of the insurance claim pertaining to the Federal Lawsuit, billing and/or deductibles. *See* Privilege Log, pp. 15-19, 21, 25; *see also* "Miller AIG emails_Redacted.pdf," pp. 0002-0006, 0010, 0068-0070, 0083-0084. 0089-0090, 0093-0095, 0099-0100, 0104-0105, 0112-0113, 0118-0119, 0122, 0125, 0127, 0131, 0133-0137, 0139-0148; "Mentions by name email_Redacted.pdf," 0109-0116; "Miller trespass(9310060.1)_Redacted 2 of 7.pdf," 0065; "Miller mentions by name (redacted) 6 of 13.pdf," 0117-0120. A review of the disclosed records also confirms that none of those correspondence constitutes an insurance contract or financial record.

Accordingly, the District has established, by a preponderance of the evidence, that it was permitted to partially redact the above-mentioned records under 65 P.S. § 67.708(b)(27).²⁰

²⁰ Based on our determination that the District was permitted to redact the above-mentioned disclosed records under 65 P.S. § 67.708(b)(27), the OOR need not address the District's alternative grounds for redacting some of those same records under the attorney-client privilege.

6. The District was permitted to redact privileged material

The District argues that it redacted various records under the attorney-client privilege and the attorney-work product doctrine. For the attorney-client privilege to apply, an agency must demonstrate that: 1) the asserted holder of the privilege is or sought to become a client; 2) the person to whom the communication was made is a member of the bar of a court, or his subordinate; 3) the communication relates to a fact of which the attorney was informed by his client, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or assistance in a legal matter, and not for the purpose of committing a crime or tort; and 4) the privilege has been claimed and is not waived by the client. *See Bousamra v. Excelsa Health*, 210 A.3d 967, 983 (Pa. 2019) (internal citations omitted). “[A]fter an agency establishes the privilege was properly invoked under the first three prongs, the party challenging invocation of the privilege must prove waiver under the fourth prong.” *Off. of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2015) (citations omitted). The attorney-client privilege protects only those disclosures necessary to obtain informed legal advice, where the disclosure might not have occurred absent the privilege, and where the client’s goal is to obtain legal advice. *See Joe v. Prison Health Services, Inc.*, 782 A.2d 24 (Pa. Commw. Ct. 2001).

The attorney-work product doctrine, on the other hand, prohibits disclosure “of the mental impressions of a party’s attorney or his or her conclusions, opinions, memoranda, notes or summaries, legal research or legal theories.” Pa.R.C.P. 4003.3. It applies “regardless of whether the work product was prepared in anticipation of litigation.” *Bousamra*, 210 A.3d at 976. Work-product immunity is only waived by disclosure to an adversarial party or by disclosure “to third persons in circumstances in which there is a significant likelihood that an adversary or potential adversary in anticipated litigation will obtain it.” *Id.* at 978 (citation omitted).

The District's affidavits affirm that Saxton & Stump, which merged with KK&L, was the District's Solicitor during the timeframe of the Request. Lewis Affidavit II, ¶¶ 4-5, 12-13, 17. The affidavits further reflect that the attorneys of that firm are licensed to practice in Pennsylvania. *Id.* at ¶¶ 2-4. In addition, the District's privilege logs and affidavits identify each page of the responsive records that were redacted as privileged and describe them as email correspondence that were exchanged only between said attorneys and various District officials and personnel, which seek and provide legal advice pertaining to the Requester's Federal Lawsuit, the criminal trespass matter involving the Requester, his notice of intent to sue, RTKL requests and appeals, as well as various materials, notices and newsletters issued by the Requester. *See* Privilege Log, pp. 3, 4, 9-15, 22, 23-27, 30, 32-40, 57, 61-63, 67-72, 74-76, 79-80, 86-87, 92-93, 96-97, 99-102; *see also* Lewis Affidavit II, ¶¶ 15, 17, 30(a). The Supplemental Privilege Log also affirms that, in some instances, District officials or staff forwarded counsels' legal advice or work-product to other District personnel or disseminated the instructions from counsel regarding RTKL requests. *See* Supplemental Privilege Log, pp. 33-39, 63. Moreover, there is no indication in the appeal record that any of these redacted records were exchanged for the purpose of committing a crime or tort. Additionally, no evidence has been presented by the Requester to demonstrate that waiver of the raised privileges has occurred for most of said records.

Accordingly, the District has established, by a preponderance of the evidence, that the above-mentioned redacted records are protected by the attorney-client privilege and/or the work product doctrine. *See* 65 P.S. §§ 67.102, 305(a)(2). Despite the Requester's arguments, factual information contained within privileged records is not required to be disclosed in accordance with the redaction provisions of 65 P.S. § 67.706. While the District may have provided the Requester

with redacted copies of privileged records in this matter, it was not required to do so. *See, e.g., Heavens v. Pa. Dep't of Evnt'l Prot.*, 65 A.3d 1069, 1077 (Pa. Commw. Ct. 2013).

However, the appeal record also reflects that the attorney-client privilege was waived as to the records at “Miller PSP and PD_Redacted.pdf,” pp. 0022-0026, because they involved outside third-parties, such as state troopers or detectives. *See* Supplemental Privilege Log, p. 19. Further, the description of the record at “Miller mentions by name (redacted) 9 of 13.pdf,” p. 0155, is insufficient to demonstrate that said record is privileged because it merely indicates that it is an email correspondence to between Anthony Cutillo, Esq. of Saxton & Stump to Ms. Hardy regarding an invoice. Supplemental Privilege Log, p. 88. In addition, while the Supplemental Privilege Log indicates that email correspondence between District Board members and/or the Superintendent, which did not involve counsel, contains litigation strategy or discussion of the criminal investigation, a review of those redacted emails reflects that the discussion pertains to a draft preliminary hearing impact statement for the Requester’s criminal matter between District officials/personnel, updates about the Federal Lawsuit and/or individual(s) allegedly associated with the Requester.²¹ *See* Supplemental Privilege Log, ¶¶ 5-6, 19-20; “Brian Fox Emails_Redacted.pdf,” pp. 0155-0156, 0158-0159, 0161-0167, “Miller PSP and PD_Redacted.pdf,” pp. 0030, 0059, 0060.

Moreover, the email with a subject line of “Miller loses Fed civil suit!!!” was forwarded to Joseph Juisti of the East Pikeland Township Police Department. *See* “Miller PSP and PD_Redacted.pdf,” pp. 0030, 0060. Therefore, the evidence presently before the OOR is insufficient to demonstrate that those aforementioned records contain counsel’s actual legal

²¹ Notably, the District has not raised the criminal investigative records exemption, 65 P.S. § 67.708(b)(16), as a basis for redacting any of the disclosed records, nor is the District’s evidence sufficient to show that said exemption may apply in this instance.

strategy or are privileged. Therefore, said material must be unredacted and disclosed to the Requester.

7. The District may not redact nonresponsive information based solely on that basis

The Supplemental Privilege Log, indicates that numerous pages of responsive records were redacted because they are “[n]on-responsive document[s].” *See* Supplemental Privilege Log, p. 55, 58, 62, 64, 67, 69, 71, 73, 79, 82, 87, 89-91, 93-96, 101. Generally, an agency may not redact “nonresponsive” information from responsive records solely for that reason. *See Linton v. Connoquenessing Twp.*, OOR Dkt. AP 2026-2073, 20226 PA O.O.R.D. LEXIS 2797, *12-14 (quoting *Kerr v. N. Huntingdon Twp.*, OOR Dkt. AP 2014-1080, 2014 PA O.O.R.D. LEXIS 1031).

Here, the District has not presented any argument or evidence establishing that the aforementioned redacted records do not constitute records “of” the District, such that they do not document transaction or activities of the District and were not created, received or retained in connection with such transactions, business or activities of the District. *See* 65 P.S. § 67.102; *see also Allegheny Cnty. Dep’t of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1033-35 (Pa. Commw. Ct. 2011).

Accordingly, to the extent the District considers the information redacted from those records to be nonresponsive to the Request because it is beyond the Request’s scope, the District may not redact such information from the disclosed records on that basis alone. Because the District has not raised any other bases for redacting these records, unredacted versions must be provided to the Requester.²² Additionally the District did not identify any grounds in its

²² *See* Miller trespass_Redacted 6 of 7.pdf,” pp. 0026, 0156-0157, 0183-0184; ““Miller trespass_Redacted 7 of 7.pdf,” pp. 0162, 0185-186; “Miller mentions by name (redacted)1of13.pdf,” pp. 0095- 0212, 0239-0247; “Miller mentions by name (redacted 2of13.pdf,” pp. 0131-0136; “Miller mentions by name (redacted)3of13.pdf,” pp. 080-0082, 0119, 0128, 0147, 0163-0179, 0223-0226, 0228-0232, 0236-0253; “Miller mentions by name (redacted)4of13.pdf,” pp. 0005-0022; “Miller mentions by name (redacted)5of13.pdf,” pp. 0074-0081, 0085-0086; “Miller mentions by name (redacted)6of13.pdf,” pp. 0005-0016; “Miller mentions by name (redacted)7of13.pdf,” pp. 0291-0292, 0318-0320; “Miller mentions by name (redacted)8of13.pdf,” pp. 0030, 0052-0057, 0132-0159, 0164-0172, 0179-0198; “Miller

submissions for redacting the records at “Miller mentions by name (redacted) 9 of 13.pdf,” pp. 60-61, or the redacted portions of the records at “Miller trespass(9310060.1)_Redacted 2 of 7.pdf,” pp. 74-75,” beyond the personal identification information. Therefore, that material must also be disclosed to the Requester.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part and dismissed as moot in part**, and the District is required to unredact the following records and provide them to the Requester within thirty days: (1) All records where the names of RTKL requesters, litigation captions or the private citizens’ Facebook posts contained within District records were previously redacted under 65 P.S. § 67.708(b)(6)(i)(A) or the constitutional right to privacy; (2) the material improperly withheld as “medical information” from Brian Fox Emails_Redacted.pdf,” p. 0083; (3) “Brian Fox Emails_Redacted.pdf,” pp. 0155-0156, 0158-0159, 0161-0167; (4) “Miller PSP and PD_Redacted.pdf,” pp. 0022-0026, 0030, 0059, 0060; (5) “Miller trespass_Redacted 2 of 7.PDF,” pp. 74-75; (6) Miller trespass_Redacted 6 of 7.pdf,” pp. 0026, 0156-0157, 0183-0184; (7) “Miller trespass_Redacted 7 of 7.pdf,” pp. 0162, 0185-186; (8) “Miller mentions by name (redacted)1of13.pdf,” pp. 0095-0212, 0239-0247; (9) “Miller mentions by name (redacted)2of13.pdf,” pp. 0131-0136; (10) “Miller mentions by name (redacted)3of13.pdf,” pp. 080-082, 0119, 0128, 0147, 0163-0179, 0223-0226, 0228- 0232, 0236-0253; (11) “Miller mentions by name (redacted)4of13.pdf,” pp. 0005-0022; (12) “Miller mentions by name (redacted)5of13.pdf,” pp. 0074-0081, 0085-0086; (13) “Miller mentions by name

mentions by name (redacted)9of13.pdf,” pp. 0094-0097, 0111, 0156, 217-220, 229-230; “Miller mentions by name (redacted)10of13.pdf,” pp. 0013-0292; “Miller mentions by name (redacted)11of13.pdf,” pp. 0010, 0021-0042, 0138-0139, 0181-0205; “Miller mentions by name (redacted)12of13.pdf,” pp. 0013-0086, 0109-0180; and “Miller mentions by name (redacted)13of13.pdf,” 0140-0153. Although the District also argues that “Miller mentions by name (redacted) 3of13.pdf,” p. 0235 is a nonresponsive record, that page was actually disclosed in full.

(redacted)6of13.pdf,” pp. 0005-0016; (14) “Miller mentions by name (redacted)7of13.pdf,” pp. 0246-0256, 0259-0260, 0276-0277, 0282-0288, 0291-0292, 0312-0320; (15) “Miller mentions by name (redacted)8of13.pdf,” pp. 0030, 0052-0057, 0093-0095, 0118, 0132-0159, 0164-0172, 0179-0198, 0212-0221; (16) “Miller mentions by name (redacted)9of13.pdf,” pp. 0094- 0097, 0111, 0155-0156, 217-220, 229-230; (17) “Miller mentions by name (redacted)10of13.pdf,” pp. 0013-0292; (18) “Miller mentions by name (redacted)11of13.pdf,” pp. 0010, 0021-0042, 0138-0139, 0181-0205; (19) “Miller mentions by name (redacted)12of13.pdf,” pp. 0013-0086, 0109-0180; (20) “Miller mentions by name (redacted)13of13.pdf,” 0140-0153; and (21) the Requester’s letter of intent to sue the District that only currently exists in hard-copy, paper medium.²³

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 Chester 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.²⁴ 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>.

²³ However, as noted above, the District may leave redacted the information that the OOR has already determined to be exempt under 65 P.S. §§ 67.708(b)(6), (b)(30) or the constitutional right to privacy, and it may redact any other personal identification made expressly exempt by those grounds from the above-mentioned records being ordered to be disclosed.

²⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: September 23, 2026

/s/ Megan Burns

MEGAN BURNS
APPEALS OFFICER

Sent via OOR Portal to: John Miller; Dr. Audrey Flojo-Colletti, AORO; Michael Lewis, Esq.; and Jeffrey Litts, Esq.