

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF

**SHAIYA WHITSEY,
Requester**

v.

**CITY OF MCKEESPORT,
Respondent**

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Docket No: AP 2026-3688

FACTUAL BACKGROUND

On August 17, 2026, Shaiya Whitsey (“Requester”) submitted a request (“Request”) to the City of McKeesport (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking various records relating to the City Police Department, including surety bond records, liability insurance records, City ordinances, and certain financial records, among other items.

Having received no response from the City within five business days, the Requester appealed to the Office of Open Records (“OOR”) on September 4, 2026, alleging that the Request was deemed denied. *See* 65 P.S. § 67.901. The OOR invited both parties to supplement the record and directed the City to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

On September 18, 2026, the City submitted an unsworn position statement from its legal counsel and Open Records Officer, J. Jason Elash, Esq., stating that the Request was “not

submitted on the required form, a standard Pennsylvania RTK Request Form as required by the City.” The Requester did not submit any additional legal argument or evidence during the appeal.

LEGAL ANALYSIS

On appeal, the City argues that the Requester failed to comply with the City’s RTKL policy when submitting the Request by email rather than using the OOR’s standard RTKL Request Form. It is undisputed that an agency may promulgate regulations and policies to govern its administration of the RTKL. 65 P.S. § 67.504; *see also Grine v. Centre Co.*, 138 A.3d 88, 98 (Pa. Commw. Ct. 2016). Furthermore, an agency with a posted policy requiring the use of a specific form or forms may deny access to records where a requester fails to use the required form(s). *See, e.g., Miller v. Chester County*, OOR Dkt. AP 2025-3497, 2025 PA O.O.R.D. LEXIS 3384. However, the City did not include a copy of or a link to its approved RTKL policy with its submission, and the OOR was unable to locate the policy on the City’s website.¹ As a result, by correspondence dated September 21, 2026, the OOR directed the City to provide a copy of its RTKL policy or to otherwise direct the OOR to the link at which the policy could be viewed by the public. Despite viewing the correspondence on the OOR’s e-file portal system, the City failed to respond. Therefore, without evidence that the City possesses an approved and publicly posted RTKL policy requiring the use of the statewide request form, the City was not permitted to deny the Request on this basis.²

¹ The OOR was unable to locate an approved RTKL policy on the City’s website; rather, the RTKL page on the City’s website asks requesters to “[p]lease complete the state RTK Form and submit to Solicitor J. Jason Elash via email” at the address used by the Requester. However, there is no indication that this statement is part of a larger RTKL policy approved by the City.

² The City’s submission also suggests that the City “is currently employing a new system which is designed to automatically respond when the proper form is not utilized by a requestor....” Because the automatic notification was not included with the appeal documents, the OOR requested a copy of the document; however, like the City’s approved RTKL policy, the notification was not submitted for review.

Furthermore, because the City is a local agency subject to the RTKL, 65 P.S. § 67.302, records in the possession of the City are presumed to be public, unless proven to be exempt from disclosure under the RTKL or other law, or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. Here, the City failed to submit competent evidence to establish that the requested records are exempt; therefore, the City has not met its burden of proof under the RTKL, and the responsive records must be disclosed. *Id.*; *see also* 65 P.S. § 67.708(a)(1).

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the City is required to process the Request and provide all responsive records within thirty days. 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 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>.

FINAL DETERMINATION ISSUED AND MAILED: 25 September 2026

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Shaiya Whitsey;
J. Jason Elash, Esq., AORO

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