



**FINAL DETERMINATION**

**IN THE MATTER OF**

**KRISTINA INGRAM,  
Requester**

**v.**

**NORTHERN LEBANON  
SCHOOL DISTRICT,  
Respondent**

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**Docket No.: AP 2026-3189**

On June 22, 2026, Kristina Ingram (“Requester”) submitted a request (“Request”) to the Northern Lebanon School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

...[A]ll records of communications, including but not limited to emails, text, messages, instant messages, and other electronic correspondence, sent or received by any School Board member, the superintendent, or district administrative staff regarding the proposal to add a superintendent salary increase to the agenda for the June 2, 2026 meeting. This [R]equest includes communications conducted through [D]istrict used accounts and devices, as well as personal email accounts, personal cell phones, and other personal electronic devices, to the extent such communications relate to [D]istrict business or the consideration, discussion, preparation, scheduling, or placement of the superintendent salary increase proposal on the June 2, 2026 agenda. Please provide records from 01/01/26 to 06/20/2026, including communications between board members, administrators, solicitors, consultants, and any other individuals involved in the development or placement of the proposal on the agenda....

On July 9, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the District partially denied the Request, arguing that personal identification

information was redacted from certain responsive records under the RTKL, 65 P.S. § 67.708(b)(6), and under the constitutional right to privacy. The District also argues that certain responsive records were withheld as privileged attorney-client communications.

On August 5, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the partial denial and stating grounds for disclosure.<sup>1</sup> 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 12, 2026, the District provided additional responsive records to the Requester. *See* District Supplemental Exhibit A.

On that same day, the Requester provided a statement in support of the appeal.

On August 17, 2026, the District submitted a position statement reiterating its grounds for the partial denial.<sup>2</sup> In support, the District submitted the attestation of its Director of Business Affairs and Open Records Officer, Leanne Martin (“Martin Attestation”), which describes the District’s search, identifies the information the District reacted from the records provided, addresses the three withheld communications, and confirms that all responsive records have been provided to Requester.

On that same day, the Requester provided a supplemental statement in support of the appeal.

## LEGAL ANALYSIS

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<sup>1</sup> The Requester granted the OOR a thirty-day extension 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).”)

<sup>2</sup> In its position statement, the District states that it “elected not to invoke Section 708(b)(10)(i)(A) as the basis for withholding the vast majority of these communications, 65 P.S. § 67. 708(b)(10)(i)(A)” but “[r]ather, in the interest of transparency and in a good-faith effort to provide Requester with the fullest possible response, the District [used its discretion and] produced these otherwise exempt deliberative communications.”

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).

### **1. The appeal is moot in part**

During the appeal, the District provided additional records responsive to the Request. *See* District Supplemental Exhibit A; Martin Attestation, ¶¶ 20-22. Accordingly, the appeal is dismissed as moot as to the records provided. *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”); *Kutztown Univ. of Pa. v. Bollinger*, 217 A.3d 931 (Pa. Commw. Ct. 2019).

### **2. Personal identification information was properly redacted**

The District argues that personal identification information was redacted from certain responsive records under Section 708(b)(6) of the RTKL and under the constitutional right to privacy. *See* 65 P.S. § 67.708(b)(6).

Section 708(b)(6) of the RTKL expressly 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.” *See* 65 P.S. § 67.708(b)(6)(i)(A). Because the Martin Attestation verifies that personal cell phone numbers were redacted from certain responsive records and personal cell phone numbers are expressly exempt from disclosure, the redactions are proper. *Id.*; Martin Attestation, ¶ 14.<sup>3</sup>

Further, if a request for records implicates personal information that is not expressly exempt from disclosure under the RTKL, the Pennsylvania Supreme Court has held that individuals still possess a constitutional right to privacy in certain types of information. *See Pa. State Educ. Ass’n v. Commonwealth*, 148 A.3d 142 (Pa. 2016). When considering information that is 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 interest. *Id.*; *see also Sapp Roofing Co. Inc. v. Sheet Metal Workers’ International Assoc.*, 713 A.2d 627 (Pa. 1998) (finding names, home addresses, social security numbers, and telephone numbers of private citizens to be personal information subject to the balancing test); *Hartman v. Pa. Dep’t of Conserv. & Nat. Res.*, 892 A.2d 897, 906-07 (Pa. Commw. Ct. 2016) (finding the names and home addresses of snowmobile registrants to be protected by the constitutional right to privacy).

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<sup>3</sup> 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. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010); *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

The Martin Attestation states that “names and contact information of individuals found in responsive records that are not affiliated with the agency” were redacted. *See* Martin Attestation, ¶ 14. Additionally, the Requester does not articulate any public interest in the release of the information, nor can the OOR perceive one. As such, the redactions were proper pursuant to the constitutional right to privacy. *See Sapp, supra; Hartman, supra.*

### **3. The District demonstrated that it properly withheld privileged attorney-client communications**

The District argues that it properly withheld three responsive records as privileged attorney-client communications. The Requester argues, in sum, that the District did not meet its burden of proof to show the withheld records are privileged.

Although the RTKL excludes records subject to a privilege from the definition of “public record,”<sup>4</sup> an agency may not rely on a bald assertion that the attorney-client privilege applies. *See Mezzacappa v. Northampton Cnty., OOR Dkt. AP 2022-2617, 2023 PA O.O.R.D. 240.* Rather, 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.” *Office of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2014) (citing *id.*). The attorney-client privilege protects only

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<sup>4</sup> *See* 65 P.S. § 67.102.

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).

In support of the District's position that the communications were properly withheld, the Martin Attestation identifies the three emails by date and shows that the withheld records are communications between the District and its "legal counsel, Brooke Say, Esq[.], ...David Walker, Esq[.]" and Michael Lewis, Esq." *See* Martin Attestation, ¶¶ 16-18. There is no indication in the record that it is disputed that the named attorneys represent the District or that the attorneys are members of the Pennsylvania Bar. The Martin Attestation also identifies the individual District employees or officials who are senders and recipients of the withheld communications. *Id.* Additionally, the District's evidence demonstrates that the withheld communications each pertain to the provision of legal advice or legal strategy regarding the "the proposed Superintendent salary motion for the Board agenda[.]" "the Superintendent salary proposal[.]" and the District's response to the instant Request. *Id.* Therefore, based on the evidence presented, the District has demonstrated that three emails identified in the Martin Attestation are privileged and, thus, the records were properly withheld.

**4. The District demonstrated that it conducted a good faith search and that no additional records exist**

The District argues that it conducted a good faith search for records responsive to the Request and that no additional responsive records exist within its possession, custody or control. The Requester argues, in sum, that the District's search is insufficient and incomplete and that the District's provision of additional records during the appeal shows that the District did not conduct a good faith search.

In response to a request for records, “an agency shall make a good faith effort to determine if...the agency has possession, custody or control of the 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), *aff’d*, 243 A.3d 19 (Pa. 2020). 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 the District’s position, the Martin Attestation describes, in detail, the District’s search for records responsive to the Request, including identifying the employees and officials who are reasonably likely to possess the requested records” *See* Martin Attestation, ¶¶ 6-12. Additionally, the Martin Attestation affirms that “all responsive records have been provided to Requester, except for the...records” withheld or the redacted portions of certain records provided. *Id.*, ¶ 23. Moreover, in *Mutchler v. Pennsylvania Public Utility Commission*, the Commonwealth Court rejected a requester’s argument that the agency’s search was inadequate because it simply relied on each Commissioner conducting his or her own search and the District locating additional responsive records after the response period does not negate the credible

evidence it provided on appeal. No. 1714 C.D. 2024, 2026 Pa. Commw. Unpub. LEXIS 161, \*15 (Pa. Commw. Ct. 2026);<sup>5</sup> *see also Baker v. W. Perry Sch. Dist.*, OOR Dkt. AP 2026-0932, 2026 PA O.O.R.D. LEXIS 1430. Accordingly, based on the evidence presented, the District has demonstrated it conducted a good faith search and that no additional records responsive to the Request exist within its possession, custody or control. *See Hodges*, 29 A.3d at 1192; *see also 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); *Pa. Dep’t of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022) (concluding that, in the absence of countervailing evidence, an agency may satisfy its burden of proving a record does not exist by submitting “either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record”).

### CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, 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 Lebanon 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.<sup>6</sup> All documents or communications following the issuance of this Final Determination shall be sent to

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

<sup>6</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

[oor-postfd@pa.gov](mailto: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 30, 2026**

*/s/ Erika Similo*

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APPEALS OFFICER

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