pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
SUNIL VULLI,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-3132**
	:	
LOWER MERION SCHOOL DISTRICT,	:	
Respondent	:	

FACTUAL BACKGROUND

On June 18, 2026,[1] Sunil Vulli ("Requester") submitted a request ("Request") to Lower Merion School District ("District") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

> 1. Internal Board Communications: All emails, text messages, written memoranda, and internal digital communications (including but not limited to Microsoft Teams or Slack chats) sent or received by Superintendent Dr. Frank Ranelli, Board Member Anna Shurak, or any member of the LMSD School Board, containing any of the following search terms: "Policy 137", "Policy 134", "opt-out", "Pencils Over Pixels", "Chromebook exemption", or "tech-free". [ ]
>
> 2. Federal PPRA Compliance & Privacy Records: All internal memos, emails, meeting minutes, and communications concerning the district's compliance with the federal Protection of Pupil Rights Amendment (PPRA, 20 U.S.C. § 1232h) in relation to the mandatory 1:1 student device initiative. This includes any discussions regarding third-party EdTech software data collection, parental rights

[1] Because the Requester submitted his Request in the evening of June 17, 2026, it was not received by the District until the following day. *See* Novak Attestation, ¶¶ 4-6.

> to inspect digital curriculum materials, student data tracking/profiling, and the legal implications of removing a parent's right to opt out of digital instructional delivery.
>
> 3. Legal Risks & Counsel Opinions: All correspondence, legal opinions, or memos exchanged between [District] administrators/board members and [D]istrict legal counsel regarding the legal risks, liabilities, or statutory compliance (specifically concerning 22 Pa. Code § 4.4 or the PPRA) of repealing Policy 137. (Note: To the extent that the district asserts attorney-client privilege over any records, please provide a privilege log detailing the author, recipient, date, and general subject matter of the withheld documents).
>
> 4. Administrative Impact Data: Any administrative impact studies, line-item cost projections, data analyses, or logistical assessments generated by the administration regarding the feasibility of providing paper-based accommodations to students.
>
> Timeline Specification: This request applies to all responsive records created, sent, or received between January 1, 2026, and June 17, 2026.

On July 29, 2026,[2] following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the District partially denied the Request, providing records responsive to Items 1-3 of the Request that were redacted under the constitutional right to privacy, the Family and Educational Rights and Privacy Act ("FERPA"), personal identification information and minor child identification, and attorney-client privilege. 20 U.S.C. § 1232g *et seq.*; 65 P.S. §§ 67.708(b)(6)(i)(A); (b)(30). The District denied Item 4 of the Request on the basis that no responsive records exist. The District also found Item 1 of the Request partially insufficiently specific, as the key phrase "opt out" is included on every District email. 65 P.S. § 67.703.

On July 31, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure.[3] The OOR invited both parties to

[2] The District's Offices were closed on Friday, June 19, 2026 in observance of the Juneteenth Holiday and on Friday, June 26 2026, as the District observes summer hours by closing on Fridays. *See* Novak Attestation, ¶¶ 9-10.

[3] The Requester granted the OOR a 30-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).").

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 27, 2026, the Requester submitted a rebuttal statement and requested an *in camera* review of the withheld and redacted records.

On August 28, 2026,[4] the District submitted a position statement reiterating its grounds for denial. The District indicated that upon further review of this Request, the District's Information Technology Department ("IT") was able to narrow a search for records in response to Item 1 of the Request with the phrase "opt out" and, therefore, no longer asserts that Item 1 is insufficiently specific. The District Solicitor indicated a legal review of the records responsive to Item 1 of the Request was ongoing. In support of its position, the District submitted the attestations made under the penalty of perjury[5] authored by Ruth Novak ("Novak Attestation"), the District's Agency Open Records Officer ("AORO"), Executive Assistant to the Superintendent, and Board Secretary, and Bethany L. O'Neill, Esq. ("O'Neill Attestation"), the District's Solicitor.

On August 31, 2026, the OOR directed the District to provide an exemption log outlining the redacted and withheld responsive records, along with an accompanying attestation verifying the facts contained within the exemption log.

On September 11, 2026,[6] the District submitted an exemption log ("Log I"), with accompanying affidavit of Attorney O'Neill ("O'Neill Attestation II"), providing additional detail on the accuracy of the Log's contents. However, the District also indicated that the Log is not a

[4] The District requested two extensions to submit a position statement and supporting evidence, which was granted over the Requester's objection. *See* 65 P.S. § 67.1102(b)(3)("In the absence of a regulation, policy or procedure…, the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute").
[5] 18 Pa. C.S. § 4904.
[6] The District requested an additional extension, which was partially granted until September 11, 2026, over the Requester's objection. 65 P.S. § 67.1102(b)(3).

complete compilation of all redacted and withheld records, and that the District was still compiling and reviewing responsive records.

On September 12, 2026, the Requester submitted a statement objecting to the District's response as insufficient and asserting that the records provided should have been provided in their original format, rather than a "static" .pdf document.

On September 16, 2026, the Requester submitted an additional statement, citing systemic administrative bad faith and a request for immediate *in camera* review based upon the District's failure to timely comply with the submission deadlines set forth in the appeal. The Requester also submitted an email he received from the District dated September 15, 2026, which attached redacted records and indicated the District was still redacting additional records that would be provided as soon as possible. The Requester also submitted the responsive records that were attached to the September 15, 2026 email.

On September 16, 2026, the OOR directed the District to clarify whether the records provided on September 15, 2026 were included in the Log, and to respond to the Requester's arguments regarding the format of the responsive records. The OOR also notified the parties that the record would be closed on September 25, 2026 unless good cause was shown.

On September 17, 2026, the District notified the OOR that the responsive records produced on September 15, 2026 were not included in the Log, and additional supporting evidence would be submitted for those records. An additional submission extension request by the District was denied by the OOR. *See id.*, n.6.

On September 24, 2026, the District submitted an additional exemption log ("Log II") which addresses the redacted responsive records provided to the Requester on September 15, 2026 and September 23, 2026. O'Neill Attestation ¶¶ 5-6. The District also submitted an accompanying

attestation made under penalty of perjury[7] authored by Attorney O'Neill ("O'Neill Attestation III"). providing additional detail on the accuracy of Log II's contents.

On September 24, 2026, the Requester submitted a September 22, 2026 email sent by the District Solicitor's office to the Requester regarding an application and interview process with the District's School Board,[8] as well as the additional redacted records provided by the District.

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)). Here, the Requester seeks an *in camera* review; however, the OOR has the necessary information and evidence before it to properly adjudicate the matter. Therefore, the request for *in camera* review is hereby denied.

1. The District has proven that records were properly redacted pursuant to Sections 708(b)(6) and 708(b)(30)

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-

[7] 18 Pa. C.S. § 4904.
[8] The September 22, 2026 email alleges the District of violations of the Sunshine Act. Although the OOR is responsible for providing annual trainings on the Sunshine Act, *see* 65 P.S. § 67.1310(a)(3), the Requester's claims regarding alleged violations of that Act are outside the scope of the appeal, as the OOR lacks the authority to adjudicate such claims. *See* 65 Pa. C.S. § 715.

21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the Office has acted in bad faith or that additional responsive records exist, "the averments in the [Attestations] should be accepted as true." *McGowan v. Pa. Dep't of Envt'l. 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 District redacted numerous records listed in Log I and Log II, asserting that the records contains exempt personal identification information. Section 708(b)(6)(i)(A), exempts "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). The District identifies and the redacted records show that personal emails and cellular phone numbers were redacted of both employees of the District and private citizens. *See* Log I; Log II; O'Neill Attestation ¶ 19(e); O'Neill Attestation III ¶ 5(b).

Here, it is clear on the face of the redacted records and the evidence presented by the District that personal emails and cellular phone numbers were redacted from the responsive records identified by Bates Numbers LMSD006-054, 085-090, 140-196, 199-238, 241-274, 277-314, 354-386, 325-353, 417, 426-439, 546-547, 583, 733-803, 820-923, 927-934, 959-1063, 1066-1067, 1070, 1073-1095, 1098-1105, 1106-1111, 1124-1130, 1147-1153. *See* Log I; Log II; O'Neill Attestation ¶ 19(e). The redacted information clearly falls within Section 708(b)(6) exemption. 65 P.S. § 67.708(b)(6)(i)(A). Accordingly, the District has met its burden of proving that the redaction of personal emails and cellular phone numbers under Section 708(b)(6)(i)(A) are exempt from disclosure. 65 P.S. § 67.708(b)(6)(i)(A).

The District also contends that redactions were made because the information would reveal the identity of a minor. *See* 65 P.S. § 67.708(b)(30). Section 708(b)(30) of the RTKL exempts from access records "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). The District's evidence establishes that the records contain names of minor children and discusses minor children relevant to the subject matter of the Request that if released, would disclose the identity of the children. *See* Log I; Log II; O'Neill Attestation ¶ 19(e-f); O'Neill Attestation III ¶ 5(b-c). Accordingly, the District has met its burden of proving that the redaction of the names of minor children under Section 708(30) are exempt from disclosure for Bates Numbers LMSD 99-111, 143-146, 155-165, 178, 430-438, 753-763, 986, 1073-1092, 1101-1106, 1126-1127, 1147-1153, and 1162-1166. 65 P.S. § 67.708(b)(30).

2. The District only proved that certain information is protected under the constitutional right to privacy

The District also withheld information, including the names, home addresses and employment of private citizens under the constitutional right to privacy. 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*, 148 A.3d 142, 158-59 (Pa. 2016) ("PSEA"). 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 interest. *Id.; see also Pennsylvania State Univ. v. State Employees' Retirement Bd.*, 935 A.2d 530 (Pa. 2007) (employing a balancing test with respect to home addresses sought under the former Right-to-Know Act).

The Supreme Court has not expressly defined the types of "personal information" subject to the balancing test; however, it has described the "right to informational privacy" as "namely the

right of an individual to control access to, and dissemination of, personal information about himself or herself." *Reese v. Pennsylvanians for Union Reform*, 173 A.3d 1143, 1159 (Pa. 2017); *see also Sapp Roofing Co. v. Sheet Metal Workers' International Assoc.*, 713 A.2d 627, 630 (Pa. 1998) (plurality) (finding names, 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); *Times Publishing Co. v. Michel*, 633 A.2d 1233, 1240 (Pa. Commw. Ct. 1993) ("weighing privacy interests and the extent to which they may be invaded, against the public benefit which would result from disclosure").

In *Butler Area Sch. Dist. v. Pennsylvanians for Union Reform*, the Court applied the analysis set forth in *PSEA*, to determine that a tax assessment list was not sufficiently "personal" to trigger the balancing test. 172 A.3d 1173 (Pa. Commw. Ct. 2014). In doing so, the Court stated:

> When the type of information is not categorically protected, privacy analysis consists of two steps. The first step is assessing whether the information at issue is sufficiently personal in nature to trigger protection as a privacy interest. The second step is weighing an individual's privacy interest in nondisclosure against an interest in disclosing the personal information.... [B]efore reaching the balancing test, we must first discern a cognizable privacy interest in the information at issue....
>
> [A]ppellate decisions teach us that certain factors are constant when evaluating a privacy interest in information. One is an individual's reasonable expectation that the information is of a personal nature.... When information is public as a matter of statute, it is unreasonable for a person to expect that it is of a personal nature.... Another factor is how the agency obtained the information; when an individual voluntarily submits information, it may be disclosed...; whereas, information obtained by an agency premised on statutory confidentiality is protected.... Also, the context holds additional significance, as does whether the information is an essential component of a public record....

172 A.3d at 1182-84 (citations omitted).

In this instance, the District redacted employer names and descriptions of employment of private citizens who emailed the District and voluntarily provided that information in explaining their position on a District issue. While the OOR has previously held that the names of employment references are protected by the constitutional right to privacy, the company or agency that employs an individual has never been determined to be protected. *See Porter v. Abington Township*, OOR Dkt. AP 2017-2223, 2018 PA O.O.R.D. LEXIS 431.

In applying the analysis set forth in *PSEA*, a place of employment is generally publicly accessible, whether on the employer's own webpage or marketing materials, or on the individual's social media. In this instance, the information was voluntarily provided by the private citizens in their communications with the District. Further, the names of the individuals who hold this employment are also redacted, so it is unclear how the information of an employer, without the connection to the individual employed there, can affect a privacy interest. The OOR cannot find an expectation of privacy in an individual's employer, nor has the District demonstrated how one has an expected privacy interest in a place of employment. Therefore, we must conclude there is no privacy interest in an employer and this information cannot be withheld under the constitutional right to privacy.

The District also redacted the names and home addresses of private citizens. In previous cases, the OOR has permitted the redaction of personal information such as names, home addresses, personal telephone numbers, and personal email addresses of private citizens from agency records where the public interest in such information is not such that it would outweigh the privacy interest. *Geleff v. Exeter Township*, OOR Dkt. AP 2023-3106, 2024 PA O.O.R.D. LEXIS 284; *Monaghan v. Lycoming County*, OOR Dkt. AP 2023-2427, 2023 PA O.O.R.D. LEXIS 2848; *Gentner v Palisades School District*, OOR Dkt. AP 2022-0519, 2022 PA O.O.R.D. LEXIS 996.

While the Requester argues that there is a public interest in the disclosure of the names of parents, specifically, the names of parents who signed a petition that was emailed to the District, the Requester does not articulate how disclosure of the names in the petition or in the emails would be in furtherance of the public's interest, nor is the OOR able to perceive any such interest that outweighs the privacy interest of those individuals, particularly when these records also implicate the private citizens' children and specific aspects of their education. Therefore, the District was permitted to redact the names and home addresses from the responsive records under the constitutional right to privacy.

3. The District has demonstrated that some of the withheld responsive emails are privileged

The District asserts that emails identified as Bates No. LMDSD 813-814, 815-818, 819-820, 821-822, 823-824, 825-838, 839-843, 844-901, 902, 903-908, 909-915, and 916-919 were withheld and emails identified as Bates Nos. LMDSD 401, 408-416, 418, 425, and 955-956 were redacted because they consist of privileged communications between District employees and officials and their Solicitor. The RTKL's definition of privilege includes the attorney-work product doctrine and the attorney-client privilege, and the presumption that records in the possession of agencies are public records does not apply to records that are privileged. *See* 65 P.S. §§ 67.102 and 305(a)(2).

In order 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. *Bousamra v. Excela Health,* 210 A.3d 967, 982-83 (Pa. 2019) (citing *Nationwide Mut. Ins. Co. v. Fleming,* 924 A.2d 1259, 1263-64 (Pa. Super. Ct. 2007), *aff'd* 992 A.2d 65 (2010)). "[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). An agency may not, however, rely on a bald assertion that the attorney-client privilege applies. *See Clement v. Berks County,* OOR Dkt. AP 2011-0110, 2011 PA O.O.R.D. LEXIS 139 ("Simply invoking the phrase 'attorney-client privilege' or 'legal advice' does not excuse the agency from the burden it must meet to withhold records"). "[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. 2014) (citations omitted).

In support of its position, the District submitted three affidavits and two Logs, which describe the withheld or redacted emails; identify the emails by number, date, record type and authors/recipients; and list the District's bases for withholding such. Attorney O'Neill affirms she is an attorney and is employed by Wisler Pearlstine, LLP, the Solicitor appointed by the Township. O'Neill Attestation ¶¶ 1-2. The redacted and withheld records consist of email communications between District employees and officials and their Solicitor that include the Solicitor's opinion regarding policy considerations and the relevant legal authority analysis; issues raised by parents to District officials; as well as communications between the Solicitor and the District in which the District is seeking legal guidance in responding to issues raised in communications with parents *See* Log I; O'Neill Attestation, ¶ 20. These discussions were held outside the presence of strangers,

for the purpose of securing legal opinion, advice and assistance in legal matters regarding the District. O'Neill Affidavit ¶¶ 19(b-c), 21.

As set forth above, under the RTKL, a sworn affidavit or statement made under the penalty of perjury may serve as sufficient evidentiary support. *See Sherry v.*, 20 A.3d at ; *Moore* 992 A.2d at 909. In the instant matter, the evidence presented affirms that the District is the client of Wisler Pearlstine, LLP, and it is not waived. O'Neill Attestation ¶¶ 2, 23. Further, it is undisputed that Attorney O'Neill and her associates at Wisler Pearlstine, LLP are licensed to practice in Pennsylvania. *Id.* ¶ 22. Additionally, the District's evidence shows that the withheld and redacted responsive records were only exchanged between the solicitors and District employees and officials. *See* Log I; Log II; O'Neill Attestation ¶ 21. Accordingly, the first three elements of the attorney-client privilege have been satisfied, and the Requester has not submitted any evidence to suggest that the privilege has been waived. *Bagwell v. Pa. Dep't of Educ.*, 103 A.3d 409, 420 (Pa. Commw. Ct. 2014) ("when waiver is the focus of a dispute, the burden is shifted to the party asserting waiver"). Finally, the District's evidence affirms that the emails were exchanged for the purpose of providing legal services and advice regarding District issues. *See* Log I; Log II; O'Neill Attestation ¶ 20(a-b).

4. The District proved records responsive to Item 4 of the Request do not exist in its possession, custody or control

The District asserts that records responsive to Item 4 of the Request do not exist in its possession, custody or control. 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), *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).

Here, Attorney O'Neill indicates that she and AORO Novak both inquired with Megan Shafer, the Assistant to the Superintendent for District Administration, to determine whether any records responsive to Item 4 of the Request exist. O'Neill Attestation ¶ 24. She confirmed that no studies, projections, analyses, or assessments were undertaken by the District. *Id.* ¶ 25. The framework to which the Requester refers is reflective of the general approach taken by the District's Policy Committee in describing how to effectuate policy change. *Id.* Ms. Shafer also indicated that Policy Committee meetings are public and the Committee listens to comments shared by parents and community members to inform policy decisions, but no records exist that are responsive to Item 4 of the Request. *Id.*

There has been no sufficient evidence provided that otherwise contradicts the statements offered by the District in the affidavit submitted. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022). The Requester's arguments focus on the implication of no records existing, which is irrelevant to this appeal. Our inquiry is limited to whether records exist, whether

the records are public records under Section 102 of the RTKL, and if so, whether or not they are exempt from production under Section 708(b) of the RTKL.[9] Thus, based upon the evidence presented, the District has proven by a preponderance of the evidence that records responsive to Item 4 of the Request do not exist in the District's possession, custody or control.[10] *See* 65 P.S. § 67.708(a).

5. The District has provided records in the medium requested

The Requester argues that the District has failed to provide the records in their original format and instead provided .pdf copies of emails that are now "static" and do not hold any original metadata. Pursuant to Section 701 of the RTKL, "[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." 65 P.S. § 67.701. The RTKL does not define "medium;" however, the OOR has defined it "as the substance through which something is transmitted or carried, a 'means,' such as on paper or on the hard-drive or on a database or over the internet." *Acton v. Fort Cherry Sch. Dist.*, OOR Dkt. AP 2009-0926, 2009 PA O.O.R.D. LEXIS 786, *aff'd*, No. 2010-719 (Wash. Com. Pl. July 26, 2011), *aff'd*, 38 A.3d 1092 (Pa. Commw. Ct. 2012), *petition for allowance of appeal denied*, 57 A.3d 72 (Pa. 2012).

Under the RTKL, "medium" is a broad term, and "electronic medium" encompasses all electronic formats. *See Hahn v. Lawrence Cnty.*, OOR Dkt. AP 2020- 0181, 2020 PA O.O.R.D. LEXIS 1893 *aff'd*, 285 A.3d 343 (Pa. Commw. Ct. 2022) (the OOR permitted the agency to fulfill

[9] *See* 65 P.S. §§ 67.1102; 1310(a)(5). Furthermore, the reasons for requesting records under the RTKL are irrelevant. "The status of the individual requesting the record and the reason for the request, good or bad, are irrelevant as to whether a document should be made public under Section 301(b) [of the RTKL]" *See Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 (Pa. Commw. Ct. 2014); *see also* 65 P.S. § 67.102; 65 P.S. § 67.305; *Cafoncelli v. Pa. State Police*, 2017 Pa. Commw. Unpub. LEXIS 405 (Pa. Commw. Ct. 2017)(citing *Hunsicker*).

[10] To the extent that the Requester asserts additional records *should* exist, there has been no evidence presented that additional records do, in fact, exist. The OOR makes no determinations as to whether additional records should exist, as our inquiry is limited to only whether records are "in existence and in possession of the … agency at the time of the right-to-know request." *Moore, supra.*; *see also* 65 P.S. § 67.705.

a request for an "[o]riginal electronic word processing file of written meeting minutes" by providing a .pdf rather than the actual .doc or .docx file); *Suszan & SpotCrime v. City of York & York City Police Dep't*, OOR Dkt. AP 2022-1894, 2022 PA O.O.R.D. LEXIS 2361. Agencies are not required to produce records in any specific file type. *See, e.g., Hahn*, 2020 PA O.O.R.D. LEXIS 1893; *Simmons-Ritchie v. Pa. Dep't of Cmty. and Econ. Dev.*, OOR Dkt. AP 2017-0426, 2017 PA O.O.R.D. LEXIS 559, *11-12 (citing *Curry v. W. Vincent Twp.*, OOR Dkt. AP 2013-0507, 2013 PA O.O.R.D. LEXIS 230 (denying an appeal where the township provided the records in .pdf format even though the requester expressly requested, and the township possessed, the records in Word format)).

The Requester argues that by providing records embedded into a .pdf, the District knowingly destroyed authenticating metadata. Metadata is data that provides information about other data, is information in the possession, custody, or control of an agency, and therefore may qualify as a "record" under the meaning of the RTKL. *See* 65 P.S. § 67.102. However, nowhere in the Request does the Requester seek metadata, and neither the Requester nor the OOR is permitted to alter a request on appeal. *See, e.g., McKelvey v. Office of Attorney Gen.*, 172 A.3d 122, 125 (Pa. Commw. Ct. 2017) ("Once a RTKL request is submitted, the requester may not expand or modify the request on appeal") (citations omitted); *see also Pa. State Police v. Office of Open Records*, 995 A.2d 515 (Pa. Commw. Ct. 2010); *Staley v. Pittsburgh Water & Sewer Auth.*, OOR Dkt. AP 2010-0275, 2010 PA O.O.R.D. LEXIS 256 (stating that "a requester may not modify the original request as the denial, if any, is premised upon the original request as written"). The OOR's review of this appeal is limited to the language of the original Request. Accordingly, the District provided the records in the electronic medium, as was requested, and was not required to provide metadata

as that is outside the scope of this Request. The District has met its burden of proving it complied with the RTKL.

6. The OOR declines to make a finding of bad faith

The Requester requests the OOR make a finding of bad faith concerning the District's actions. While the OOR may make a finding of bad faith, only a court may impose related penalties. *See* 65 P.S. 67.1304(a), 1305. Under the RTKL, a finding of bad faith is appropriate where an agency refuses to comply with its statutory duties under the RTKL. *Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, 243 A.3d 19, 28-29 (Pa. 2020); *California Univ. of Pa. v. Bradshaw*, 210 A.3d 1134 (Pa. Commw. Unpub. 2021), *appeal denied* 2019 PA LEXIS (Pa. 2019); *Office of the Dist. Atty. of Phila. v. Bagwell*, 155 A.3d 1119 (Pa. Commw. Ct. 2017).

In the instant matter, we decline to make a finding of bad faith. The Requester asserts that the District's repeated extension requests and delayed production of responsive records is evidence of bad faith. However, the District provided access to responsive records and has participated on appeal by providing the OOR and the Requester with responsive evidence, and these actions do not support a finding of bad faith.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the District is required to provide all responsive records with unredacted employer information 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 Montgomery 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: October 9, 2026

/s/ Julie Sodl

_____

APPEALS OFFICER
JULIE SODL

Sent via E-File Portal to: Sunil Vulli
Ruth Novak, AORO
Bethany L. O'Neill, Esq.

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