



FINAL DETERMINATION

IN THE MATTER OF

**TAMI HARTLAUB,
Requester**

v.

**PENNSYLVANIA DEPARTMENT OF
HEALTH,
Respondent**

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Docket No: AP 2026-3531

FACTUAL BACKGROUND

On July 9, 2026, Tami Hartlaub (“Requester”) submitted a request (“Request”) to the Pennsylvania Department of Health (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[1.] ...[A]ll records, memoranda, legal opinions, privacy assessments, re-identifica[tion] analyses, policy memoranda, and communications regarding the [Department]’s decision to public[ly] release or publish school level vaccination and exemption data.

[2.] [A] complete export or screen shots of every data entry screen in the SILR (school immunization law report) application used by school nurses to report to the [Department].

On August 17, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department partially granted the Request, providing records responsive to Item 2 of the Request. The Department denied Item 1 of the Request, asserting Item 1 is insufficiently

specific, 65 P.S. § 67.703; however, based on the Department’s reasonable interpretation of Item 1, the Department further claims that responsive records do not exist in the Department’s possession, custody or control.

On August 25, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.¹ Specifically, the Requester asserts that the Department’s ability to interpret Item 1 of the Request renders the Item sufficiently specific.² The OOR invited both parties to supplement the record and directed the Department to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

On September 21, 2026, the Department submitted a position statement, reiterating the Department’s basis for partially denying the Request and claiming that the Requester’s appeal is deficient since the Requester’s appeal did not include the Department’s 30-day extension letter, despite the OOR’s August 28, 2026 request for the Requester to provide said letter. In support of the Department’s position, the Department submitted two attestations made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, authored by Danica Hoppes (“Hoppes Attestation”), the Department’s Agency Open Records Office (“AORO”), and Thomas McCleaf (“McCleaf Attestation”), the Department’s Director of the Bureau of Immunizations (“BOI”).³

LEGAL ANALYSIS

The Department is a Commonwealth agency subject to the RTKL. 65 P.S. § 67.301. Records in the possession of a Commonwealth agency are presumed to be public, unless exempt

¹ 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).”).

² As the Requester does not challenge the Department’s response to Item 2 of the Request, Item 2 and the Department’s response thereto will not be further addressed in this Final Determination.

³ The OOR granted two evidentiary submission extensions to both parties through September 21, 2026. *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”).

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 Department 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 factfinder ... 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 sufficient

The Department claims that the appeal filing is deficient; however, upon review of the documents submitted at the time of the appeal, the Department’s own final response indicates a thirty-day extension was invoked by the Department via the issuance of a letter on July 10, 2026. *See* Requester appeal p. 6. Additionally, while the Department claims the appeal filing is deficient, the Department does not refute or deny that said thirty-day extension was invoked timely on July 10, 2026. *See generally* Department position statement. Thus, given the totality of factual circumstances, the OOR finds the record is complete in order to comply with 65 P.S. § 1303(b). *See Paul v. Pa. State Police*, 361 A.3d 695 (Pa. Commw. Ct. 2026).

2. The Department has reasonably interpreted the Request

The Department claims that a search for responsive records was performed based upon its reasonable interpretation of Item 1 of the Request. Upon review of Item 1 of the Request, as the scope was not clear, Director McCleaf sought guidance from the Department’s AORO, RTKL

counsel and counsel for BOI regarding the records that would be considered responsive to the Request. McCleaf Attestation ¶¶ 12, 13.⁴ Based upon internal discussions and the feedback provided, the Department interpreted the Request to seek memoranda, legal opinions, privacy assessments and reidentification analyses documenting the Department’s decision to publicly release or publish school-level vaccination and exemption data. McCleaf Attestation ¶ 14. Additionally, the Department noted that to the extent there was another record not identified that documented the Department’s decision to publicly release or publish school-level vaccination and exemption data, said record would also be considered responsive to the Request. McCleaf Attestation ¶ 15. We agree that a reasonable interpretation of Item 1, based on the language of the Request itself, would include memoranda, legal opinions, privacy assessments and reidentification analyses documenting the Department’s decision to publicly release or publish school-level vaccination and exemption data. Therefore, the Department’s interpretation of Item 1 of the Request is reasonable, i.e., the types of records sought by the Requester,⁵ as it is not disputed by the Requester and is supported by the language of the Request.

3. The Department has demonstrated that records responsive to Item 1 do not exist

The Department asserts that records responsive to Item 1 of the Request do not exist in the Department’s possession, custody or control. 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

⁴ Under the RTKL, a sworn affidavit or statement 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). In the absence of any evidence that the Department has acted in bad faith, “the averments in [the attestations] 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 *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

⁵ *See* Requester appeal p. 4.

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, the Request seeks records associated with the public release or publishing of school level vaccination and exemption data by the Department. In support of the Department's argument that it does not possess records responsive to Item 1 of the Request, the McCleaf Attestation provides, in relevant part, the following:

16. With respect to privacy assessments and reidentification analyses, I am personally aware that no such assessment or analysis was completed.

17. The Department suppresses immunization and exemption data when student enrollment is under twenty students.

18. The purpose of suppressing this data is to ensure the confidentiality of students' personal health information, which may otherwise be used to identify specific student(s) because of limited enrollment.

19. By way of example, if a school has only six students enrolled and the publicly disclosed information reveals that five of the students are vaccinated, the identity of the unvaccinated student could be easily deduced resulting in the disclosure of that student's otherwise confidential health information.

20. This is consistent with the Department's longstanding practice of suppressing school immunization data for less than twenty students at the county and state level.

21. The Department has applied data suppression to school immunization data for at least 20 years, to my direct knowledge.

22. Because the Department already suppresses immunization data for schools where less than twenty students are enrolled, neither a privacy assessment nor a reidentification analysis regarding the publication of school-level vaccination and exemption data was necessary.

23. Accordingly, the Department does not have privacy assessments or reidentification analyses responsive to [Item 1 of] the Request.

24. As Director of BOI, one of my primary responsibilities is to provide feedback and guidance regarding immunizations/vaccinations, including the extent to which such information may be publicly disclosed.

25. I was therefore consulted and involved in discussions about the Department's compliance with the EO, preparation and publication of SILRs, disclosure of school-level immunization and exemption data, and the development and implementation of the Pennsylvania School Immunization Rates Interactive Data Tool.

26. While I was involved in discussions regarding the potential disclosure of school-level vaccination and exemption data, those conversations occurred during virtual and in-person meetings.

27. Based upon my recollection and personal knowledge of my documents, I do not have any records documenting the Department's decision to publicly release or publish school-level vaccination and exemption data.

28. I did not request, create, or receive any memorandum or legal opinion documenting the Department's decision to publish school-level vaccination and exemption data.

29. Given my position, responsibilities, familiarity with the Department's records relating to school-immunization data, and involvement with the publication of school-level vaccination and exemption data, if such a memorandum or legal opinion existed, it would have been provided to me for review and feedback.

30. If these records existed, I have no reason to believe that anyone else within BOI would possess them without my knowledge.⁶

⁶ See also Hoppes Attestation ¶¶ 26-31.

Thus, as explained by Director McCleaf, there are no privacy assessments or re-identification analyses that are responsive to Item 1 of the Request due to the Department's longstanding practice of suppressing school immunization data for less than twenty students at the county and state level. Further, Director McCleaf notes that the discussions regarding the potential disclosure of school-level vaccination and exemption data occurred during virtual and in-person meetings and because of this, memoranda or legal opinions documenting the Department's decision to publish school-level vaccination and exemption data do not exist. Finally, as explained by the AORO, the appropriate custodian of responsive records, to the extent those records existed, would be the BOI because the Request concerned vaccination and exemption data. Hoppes Attestation ¶¶ 6-8.

Therefore, the Department has demonstrated that a good faith search for records responsive to Item 1 of the Request was conducted. Based on the evidence provided, the Department has demonstrated that it does not possess the responsive records sought in Item 1 of the Request. There has been no sufficient evidence provided that otherwise contradicts the statements offered by the Department in the attestations submitted. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022). Based on the evidence provided, the Department has met its burden of proof that records responsive to Item 1 of the Request do not exist in the Department's possession, custody or control.⁷ *Hodges*, 29 A.3d at 1192.⁸

⁷ The OOR makes no determination as to whether 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; *see also* 65 P.S. § 67.705.

⁸ While the Department also argues that Item 1 of the Request is insufficiently specific, the McCleaf Attestation details the Department's understanding of Item 1 and search for responsive records. In certain situations, the ability to understand a request and perform a search for responsive records indicates that a request is sufficiently specific. This argument is without basis given the Department's understanding of the Request and ultimate inability to locate records responsive to Item 1 of the Request. *See generally* McCleaf Attestation.

CONCLUSION

For the foregoing reasons, the appeal is **denied**. The Department 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 Commonwealth Court. 65 P.S. § 67.1301(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 Section 1303 of the RTKL; however, 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.⁹ 65 P.S. § 67.1303. 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 22, 2026

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent to: Tami Hartlaub (via portal only)
Sandra Adams, Esq. (via portal only)
Danica Hoppes (via portal only)

⁹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).