



FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
KATIE BARNHART,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2026-3471
	:	
WAYNESBORO AREA SCHOOL	:	
DISTRICT,	:	
Respondent	:	

FACTUAL BACKGROUND

On July 6, 2026, Katie Barnhart (“Requester”) submitted a request (“Request”) to the Waynesboro Area School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. The total number of students identified under IDEA as having a Specific Learning Disability [(“SLD”)] with a primary or secondary area of need related to reading, including:
 - basic reading skills
 - reading fluency
 - reading comprehension
 - written expression when related to literacy needs
2. The number of students with SLD Reading who are receiving:
 - specially designed instruction
 - reading intervention services
 - supplemental reading support
3. The names of reading intervention programs, curricula, or instructional approaches used with students identified with SLD Reading.

4. The number of students who have received instruction through the Wilson Reading System, including (if tracked):
 - Wilson Foundations
 - Wilson Just Words
 - Wilson Reading System
 - Wilson Level I trained instruction
 - Wilson Dyslexia Practitioner or higher-level Wilson certification
5. The number of district employees currently trained in:
 - Wilson Level I
 - Wilson Dyslexia Practitioner
 - other structured literacy programs/certifications
6. Aggregate student progress data for students identified with SLD Reading, including:
 - percentage meeting IEP reading goals
 - percentage demonstrating measurable reading growth
 - reading assessment data used to monitor progress
 - frequency of progress monitoring
7. The [D]istrict's written criteria or procedures used to determine:
 - whether reading interventions are effective
 - when interventions are changed or intensified
 - how student response to intervention is evaluated
8. Any [D]istrict professional development records from the past three years related to:
 - dyslexia
 - structured literacy
 - evidence-based reading instruction
 - phonemic awareness
 - phonics instruction
 - reading intervention for students with disabilities

On August 13, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the District granted the Request in part, providing responsive records to Items 1 (in part), 3, (in part), 5, 6 (in part), 7, and 8 (in part). The District denied the Request in part, arguing that it is not required to create records that do not currently exist to Item 1, 65 P.S. § 67.705; that

there are no records responsive to Item 2; and that Items 4 and 8 (in part) are insufficiently specific, 65 P.S. § 67.703.¹

On August 21, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.² 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 28, 2026, the OOR extended the submission period to October 2, 2026.

On October 2, 2026, the District submitted the attestation, made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, of Dr. Rita Sterner-Hine (“Sterner-Hine Attestation”), Superintendent and Acting Open Records Officer (“AORO”) for the District. Through the Sterner-Hine Attestation, the District argues that it is not required to create new records under 65 P.S. § 67.705³ and that a portion of Item 8 is insufficiently specific, 65 P.S. § 67.703. The District further explains that it identified 279 SLD students and that this information was provided to the Requester, with redactions to Student ID, Student First Name, Student Last Name, School ID and Grade Level.⁴

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

¹ With respect to its arguments, the District also contends that, to the extent responsive records should exist, records responsive to portions of the Request would be exempt pursuant to the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, et seq.; 34 C.F.R. 99.3, and records responsive to Item 8 are exempt personnel records, 65 P.S. § 67.708(b)(7).

² The Requester granted the OOR additional time to issue a final determination. *See* 65 P.S. § 67.1101(b)(1).

³ The District further asserts that even if the District’s software system could classify and organize the 279 SLD students into the requested separate categories, this information would be exempt pursuant to FERPA.

⁴ The responsive records provided the Building Name, Disability 1, and indicated whether the student was “In Spec Ed Program.”

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)).

1. The District demonstrated that no additional responsive records exist

On appeal, the District argues that other than the disclosed records, no additional responsive records exist and that it is not required to create new records under 65 P.S. § 67.705. 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 identified record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pennsylvania Department of Corrections*, 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 all 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).

Moreover, under Section 705 of the RTKL, when responding to a request, “an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. § 67.705; *see also Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). Providing information from an agency database does not constitute the creation of a record. *See Commonwealth v. Cole*, 52 A.3d 541, 549 (Pa. Commw. Ct. 2012) (“[D]rawing information from a database does not constitute creating a record under the [RTKL.]”) (citing *Gingrich v. Pa. Game Comm’n*, No. 1254 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 38 (Pa. Commw. Ct., Jan. 12, 2012)); *see also Ctr. For Investigative Reporting v. Pa. Dep’t of Health*, No. 227 C.D. 2023, 2024 Pa. Commw. Unpub. LEXIS 298 (Pa. Commw. Ct., June 5, 2024). However, “an agency need not manipulate the data or produce it in a specific requested or unique format” *PublicSource v. Pa. Dep’t of Health* (Office of Open Records), 2021 Pa. Commw. Unpub. LEXIS 571, * 17 (Pa Commw. Ct., Nov. 9, 2021).

In support of its position, the District submitted the Sterner-Hine attestation, authored by Dr. Sterner-Hine, who is familiar with the records and operations of the District. *See Sterner-Hine Attestation*, ¶ 2. Following receipt of the Request, “District staff were directed to search for special education records and/or existing data that may be responsive to the [R]equest[.]” *Id.* at ¶ 4. As a result of this search, the District’s software system generated a report concerning the number of identified SLD students.⁵ *Id.* at ¶ 5. Dr. Sterner-Hine asserts that “[t]he District’s software system is not currently capable of creating a report, even as aggregate data, to classify and organize the total amount of 279 SLD students into the separate categories as requested,” and in order to provide

⁵ The report with redactions was provided to the Requester. As the Requester does not challenge the redactions, she has waived any challenges thereto, and the OOR will not further address the redactions in this Final Determination. *See Pa. Dep’t of Corr. v. Off. of Open Records*, 18 A.3d 429 (Pa. Commw. Ct. 2011).

such information, the “District staff [would be required to] manually review each educational file [...] of the 279 SLD students and create a record that does not currently exist[.]” *Id.* at ¶ 5(a). Similarly, as to Item 2 of the Request, “the District’s software system is not currently capable of creating a report, even as aggregate data, to classify and organize SLD Reading students into the specific services as requested.” *Id.* at ¶ 6.

In addition, as to Item 3, the District asserts that it provided the names of reading intervention programs and/or instructional approaches generally used with SLD Reading students; however, the “District cannot provide an exhaustive list of reading intervention programs as a student’s educational team may recommend alternative programs from time to time based individual student needs.” *Id.* at ¶ 7. The District “does not separately maintain, organize, or compile a list of alternative reading intervention programs used by SLD Reading students as this recommendation would be documented in a student’s IEP.” *Id.* Finally, as to Items 4 and 6, the District’s Special Education Department and software “do not currently compile and/or track the number of students who have received instruction through the Wilson Reading System” and do not compile, maintain or organize aggregate data concerning reading assessment materials and the frequency of progress monitoring. *Id.* at ¶¶ 8-9.

In *Pa. Dep’t of Health v. Mahon*, the Commonwealth Court held that an agency “may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record.” 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011)). We note that the preponderance of the evidence is the lowest evidentiary standard. *See 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). Based on the Sterner-Hine Attestation, the District has met its burden of proof, by a preponderance of the evidence, that there are no additional records responsive to Request. *Hodges*, 29 A.3d at 1192. Additionally, the District has established that compiling the data in the manner sought in the Request would impermissibly require the creation of a new record under 65 P.S. § 67.705.

2. A portion of Item 8 of the Request is insufficiently specific

The District asserts that it provided the Requester with partial information responsive to Item 8 of the Request and that the remainder of Item 8 of the Request is “overly broad and ambiguous and [...] does not identify a discrete group of record sought, i.e. attendance sheets, certificates, training materials, etc.” Further, the District argues that Item 8 “as phrased required the District to exercise its own judgment and discretion as to whether a particular record is responsive over the requested time frame.”

Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” *Id.* When determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015).

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify ‘a discrete group of documents, either by type...or by recipient.’” *Id.* (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126 (citing *Carey, supra*). “The timeframe prong is, however, the most fluid

of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” *Id.*

The above factors are intended “to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested.... The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” *Pa. Dep’t of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Finally, we must analyze the entirety of a request, as it is possible that portions of a request are insufficiently specific, while other portions provide sufficient guidance. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting “the valid part of the request was included in a laundry list of requested materials”).

Item 8 of the Request seeks “[a]ny [D]istrict professional development records from the past three years related to: dyslexia, structured literacy, evidence-based reading instruction, phonemic awareness, phonics instruction, [and] reading intervention for students with disabilities.”

In *In re: Mazin*, the request specified a subject matter that was well-known to the agency, but it failed to identify any particular type of record and included expansive language, seeking all correspondence “relating to” or “concerning” general terms. 2025 Pa. Commw. Unpub. LEXIS 190 (Pa. Commw. Ct. 2025).⁶ The Court concluded that such terms expanded “the potential net significantly and the terms themselves are general,” putting the agency “in the position of having

⁶ An unpublished opinion of the Commonwealth Court may be cited for its persuasive value. 210 Pa. Code § 69.414.

to make judgment calls regarding some correspondence that might be tangential” to the items requested. *Id.* at *4.⁷

Similarly, Item 8 of the Request expands the shared subject matter of each subpart by using the terms “relate to,” and none of the subparts of Item 8 seek a clearly defined universe of documents that the District can search for. Additionally, Item 8 of the Request provides potential senders or receivers of “[a]ny [D]istrict professional development records.” Without more guidance, the District is unable to search for potentially responsive records or to narrow a universe of potentially responsive records without making judgments as to which records are, in fact, responsive to the Request. *See In re Mazin, supra; Legere*, 50 A.3d at 165. Accordingly, taken as a whole, Item 8 of the Request, to the extent the District has not identified responsive records, is insufficiently specific. *See* 65 P.S. § 67.703; *Pa. Dep’t of Educ., supra*. However, nothing in this Final Determination precludes the Requester from filing a new, more specific request for Item 8 of the Request, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

CONCLUSION

For the foregoing reasons, the appeal is **denied**, 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 Franklin 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. §

⁷ *Pa. Dep’t of Env’t Prot. v. Legere*, 50 A.3d 160, 165 (Pa. Commw. Ct. 2012) (finding that a request that would require an agency to review all potentially responsive files and “make judgments as to the relation of the documents to the specific request” would be insufficiently specific); *City of Phila. Off. of the Dist. Att’y v. Bagwell*, 155 A.3d 1119, 1143 (Pa. Commw. Ct. 2017) (finding that an open-ended request that fails to give an agency guidance in its search for information sought may be so burdensome that the request will be found overbroad under the RTKL).

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.⁸ 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 23, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT
APPEALS OFFICER

Sent via Appeal Portal to: Katie Barnhart; Dr. Rita Sterner-Hine, AORO;
Krystal Edwards, Esq.; Jennifer Dambeck, Esq.

⁸ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).