pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
EVAN ROBERT WOOD,	:	
Requester	:	
	:	
v.	:	**Docket No.: AP 2026-4284**
	:	
PENNSYLVANIA STATE CIVIL SERVICE COMMISSION,	:	
Respondent	:	

FACTUAL BACKGROUND

On August 24, 2026, Evan Robert Wood ("Requester") submitted a request ("Request") to the Pennsylvania State Civil Service Commission ("Commission") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

> DATE RANGE September 20, 2011 through the date of the Commission's search.
>
> RECORDS REQUESTED
>
> 1. Existing docket entries, index records, saved search results, case-management records, or other existing records identifying civil-service appeals, complaints, investigations, or audits in which a pleading, issue code, case description, adjudication, order, or disposition refers to both:
>
>   a. Veterans' preference, veteran status, completion of an initial contractual military service obligation, first full term, or first term of service; and
>   b. DADT, "Don't Ask, Don't Tell," homosexual conduct, homosexuality, sexual orientation, same sex conduct, discharge upgrade, corrected DD Form 214 or 215, corrected military record, discharge review-board action, correction-board action, or a court-martial remaining after a correction or upgrade[.]

Please produce existing nonidentifying docket or index fields, including docket number, filing date, agency or appointing authority, issue category, disposition date, and disposition to the extent maintained. Applicant identifying fields may be redacted.

2. Final adjudications, order[s], findings, audit findings, corrective-action records, or other final Commission records in matters described in Item 1, including matters in which veterans' preference was denied, removed, restored, or reconsidered because an applicant allegedly did not complete an initial contractual military service obligation despite a later discharge upgrade or military record correction.

3. Final or operative policies, manuals, guidance, training materials, decision rubrics, memoranda, or written protocols concerning:
   a. DADT-era or sexual-orientation-related military separations in veterans' preference matters.
   b. Corrected DD Forms 214 or 215, discharge upgrades, changed separation authority, or military correction-board decisions;
   c. Whether a correction or upgrade changes treatment or completion of an initial contractual military service obligation; or
   d. Whether a court-martial finding or conviction that remains after a correction or upgrade may affect an appeal, audit, or veterans' preference determination.

4. Communications, memoranda, meeting records, or referrals between the Commission and the Office of Administration, Department of Military and Veterans Affairs, Governor's Office, Governor's Advisory Commission on LGBTQ Affairs, or Governor's Advisory Council for Veterans Services concerning the subjects in Item 3.

5. Existing aggregate reports, audits, trend analyses or management summaries that count or analyze matters described in Items 1 or 2.

On September 23, 2026, after extending its time to respond by thirty days, the Commission denied the Request, asserting that Items 1 and 2 of the Request are insufficiently specific. 65 P.S. § 67.703. The Commission further argued that Items 3-5 do not exist.

On October 1, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. The OOR invited both parties to

supplement the record and directed the Commission to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 26, 2026, after being afforded additional time to do so, the Commission submitted a position statement, reiterating its grounds for denial. In support of its position, the Commission submitted the attestation of its Open Records Officer, Shannon Griegel ("Griegel Attestation").

On October 27, 2026, the Requester submitted a reply to the Commission's position statement.[1]

LEGAL ANALYSIS

The Commission 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 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 Commission 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 submission was received after the record closed; however, to develop the record, the submission was considered. *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").

1. Items 1 and 2 of the Request are insufficiently specific

The Commission asserts that Items 1 and 2 of the Request are insufficiently specific. 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." 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR undertakes a nonexclusive, multi-factor test, considering "the extent to which the request specifies subject matter, the extent to which it defines the scope of the records it seeks, and the extent to which it limits the timeframe of the request." *Pa. Off. of the Governor v. Brelje*, 312 A.3d 928, 937 (Pa. Commw. Ct. 2024) (citing *Pa. Dep't of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015)). The test is not "a conjunctive, bright-line rule requiring each 'element' of the test to be satisfied; rather, it [is] a flexible approach" consistent with relevant caselaw. *Id*.

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").

Based upon the above multifactor test, we find that Items 1 and 2 of the Request are insufficiently specific. In particular, they are too broad in terms of scope, as Item 1 seeks "[e]xisting docket entries, index records, saved search results, case-management records, or other existing records," and Item 2 seeks "[f]inal adjudications, order, findings, audit findings, corrective-action records, or other final Commission records." Moreover, each Item has an especially lengthy timeframe of 15 years. Additionally, their broad subject matters do not aid in the search for responsive records, as they will require the Commission to make judgments about a record's responsiveness. *Methacton Sch. Dist. v. Office of Open Records*, 250 C.D. 2021, 2021 Pa. Commw. Unpub. LEXIS 670 (Pa. Commw. Ct. 2021) ("[a] requester's failure to identify a subject matter may be accorded more or less weight depending upon other factors"). Thus, Items 1 and 2 of the Request do not satisfy Section 703 of the RTKL.[2]

2. The Commission demonstrated that Items 4 and 5 of the Request do not exist but failed to show that records responsive to Item 3 do not exist

The Commission argues that records responsive to Item 3-5 of the Request do not exist. 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

[2] The Requester is not prohibited from filing a new request that satisfies the requirements of 65 P.S. § 67.703.

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 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).

In support of the Commission's argument, the Griegel Attestation[3] provides, in part:

> 15. In reviewing the Request's Items #4 and #5, on September 2, 2026, I requested Executive Director Jeffrey T. Wallace to search documents, shared drives and emails for communications, memoranda, meeting records, or referrals involving the subject matter listed in Items #4 and #5.
>
> 16. On September 2, 2026, I received confirmation from Executive Director Wallace that he searched his documents and did not have responsive records for the Request's Items #4 and #5.

Here, the Griegel Attestation explains that the likely custodian was contacted, a search was conducted and that no records responsive to Items 4 and 5 of the Request exist. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that, in the absence of

[3] Under the RTKL, an attestation is generally competent evidence to sustain an agency's burden of proof. *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 competent evidence that the Commission acted in bad faith, "the averments in [the attestation] should be accepted as true."

countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true). Therefore, based on the evidence provided, the Commission has met its burden of proving that records responsive to Items 4 and 5 of the Request do not exist within its possession, custody or control.[4] *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

Notwithstanding, the Commission has not met its burden of proving that records responsive to Item 3 of the Request do not exist. The Griegel Attestation states only that "[i]n reviewing the Request's Item #3, the Commission does not possess, have custody or control of final or operative polices, manuals, guidance, training materials, decision rubrics, memoranda, or written protocols involving the subjects listed in Item #3, parts a-d." This statement does not provide sufficient detail of what records were searched or how thorough that search was. *See* 65 P.S. § 67.901 ("an agency shall make a good faith effort to determine if the record requested is a public record … and whether the agency has possession, custody or control of the identified record"). Consequently, the Commission did not meet its burden of proving that records responsive to Item 3 do not exist. *Hodges*, 29 A.3d at 1192.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Commission is required to conduct an additional search for all records responsive to Item 3 and provide any responsive records within thirty days. If responsive records do not exist, the Commission is required to provide the Requester with a detailed affidavit or attestation made under the penalty of perjury describing the search for responsive records and affirming their non-

[4] Despite the Requester's arguments, the OOR makes no determinations as to whether responsive 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.

existence. 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 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.[5] 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: November 2, 2026

/s/ Magdalene C. Zeppos-Brown
MAGDALENE C. ZEPPOS-BROWN, ESQ.
DEPUTY CHIEF COUNSEL

Sent via OOR Portal to: Evan Robert Wood;
Shannon Griegel, AORO; and
Johnathan Buchanan, Esq.

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