pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
EVAN ROBERT WOOD,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4199**
	:	
PENNSYLVANIA OFFICE OF ADMINISTRATION,	:	
Respondent	:	

FACTUAL BACKGROUND

On August 13, 2026, the Pennsylvania Office of Administration ("Office") provided records to Evan Robert Wood ("Requester"). The next day, on August 14, 2026, the Requester submitted a request ("Request") to the Office) pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., stating:

> Pursuant to the Pennsylvania Right-to-Know Law, I request the following existing records. The items are divided by narrow date ranges and subjects learned from OA's August 13, 2026 production.
>
> A. July 23-24, 2026 appeal intake and authority analysis
>
> 1. Records showing receipt, intake, assignment, routing, docketing, referral, closure, or disposition of Evan Robert Wood's July 23, 2026 email seeking review of the PSP Equality and Inclusion Office determination, and his July 24 reconsideration email.
>
> 2. Internal emails, memoranda, notes, research, drafts, approval records, or legal-review transmittals from July 23-31, 2026 concerning whether OA had authority to receive or review that appeal, the application of Management Directive 410.10 to PSP, PSP Administrative Regulation 4-26

§ 26.08(J), timeliness, late acceptance, relation back, exhaustion, or notice of appeal rights. Privileged content may be withheld only if privilege is established. Produce every segregable nonprivileged portion and any nonprivileged routing, date, author, recipient, and disposition information.

3. Records identifying the OA office, position, or role that made or approved the July 24 jurisdiction response and the version of each authority consulted.

B. Policy version, transition, and supersession records.

4. The versions, revision histories, effective-date records, rescission notices, supersession records, transition instructions, and distribution records for Management Directive 410.10 and PSP Administrative Regulation 4-26 provisions governing a complainant's appeal to OA, for January 1, 2025 through August 14, 2026.

5. Records created from January 1 through August 14, 2026 defining the duties, jurisdiction, or intake functions of OA's Bureau of Equal Employment Opportunity Policy and Appeals after the January 7, 2026 amendment to Management Directive 410.10, including guidance concerning PSP complaints or appeals.

6. Records reconciling, identifying, or discussing any conflict between public OA EEO appeal materials, Management Directive 410.10's PSP exclusion, and PSP AR 4-26's OA appeal provision.

C. March-May 2026 accommodation disposition

7. The final version, if any, of the May 5 or May 6, 2026 draft response to Wood's accommodation request shown in OA-21 and OA-22, together with records showing whether, when, and how it was approved, sent, delivered, or discussed before May 9.

8. OA-created or OA-controlled intake, assignment, routing, tracking, decision, transmittal, and closure records for the accommodation request from March 12 through May 29, 2026, including nonmedical portions and dates, offices, roles, and actions. Medical details may be redacted while segregable process information is produced.

D. August 18, 2025 Commonwealth email trace

9. For August 17 through September 30, 2025, existing Commonwealth email-administration, transport, gateway, rejection, quarantine, message-trace, directory or alias, or audit records within OA possession, custody, or control for the email identified by sender evanrobertwood@gmail.com; August 18, 2025 at 2:25:49 p.m. Eastern; subject "Misclassification of Military Court-

Martial - LEOT Disqualification"; attachment Notice_of_Appeal_Wood.pdf; RFC Message-ID ; and recipient variants ra-cs-legalsvcsQandA@pa.gov and ra[U+2011]cs[U+2011]legalsvcsQandA@pa.gov.

10. Records identifying Commonwealth email routing or alias configuration effective August 18, 2025 for the ordinary-hyphen and nonbreaking-hyphen recipient variants, excluding credentials, security secrets, and system-vulnerability details.

11. Retention policies effective August 18, 2025 for the identified message-trace, gateway, quarantine, and directory or alias records.

E. Veterans-preference policy and system records

12. For January 1 through March 31, 2021 and January 1, 2025 through the date OA receives this request, the versions in effect of OA veterans'-preference eligibility manuals, decision trees, reviewer instructions, notice templates, FAQs, training, and implementation guidance addressing initial contractual obligation, first term, discharge characterization, a disability or service-connected-disability provision, 51 Pa.C.S. § 7101.2(a)(iv), Act 102, Act 44, or SB 849.

13. NEOGOV Insight field definitions, reason-code dictionaries, notice templates, workflows, and configuration or change records used for Commonwealth veterans'-preference decisions.

14. Policies or procedures for requesting reconsideration, correcting a preference determination, issuing a written denial, and advising an applicant of review or appeal rights.

15. Records defining the respective responsibility or authority of OA's Bureau of Talent Acquisition, an agency HRO, and PSP Officer Placement for LEOT applicant screening and final decisions.

16. Retention schedules or instructions for NEOGOV decision histories, reviewer notes, shared-mailbox records, and Teams or chat records used in these processes.

On September 21, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Office partially denied the Request, arguing that redacted information is exempt personal identification information under 65 P.S. § 67.708(b)(6)(i), information of an individual's medical, psychiatric or psychological history or disability status under 65 P.S. § 67.708(b)(5), and

confidential under the Americans with Disabilities Act. The Office also argues that entire records are protected by the attorney-client privilege and the attorney-work product doctrine and are exempt under 65 P.S. § 67.708(b)(10)(i)(A) as a record that reflects the internal, predecisional deliberations of an agency. Finally, the Office asserted that it does not possess records for certain parts of the Request.

On September 28, 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 Office to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 9, 2026, the Office submitted a position statement reiterating its grounds for denial, along with attestations made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities, from Open Records Officer Wha Lee Strohecker ("Strohecker Attestation"), Chief Counsel Anthony Holbert ("Holbert Attestation"), and Deputy General Counsel Keith Herbster ("Herbster Attestation"). On October 27, 2026, in response to a prompt from the OOR, the Office submitted a second attestation from Open Records Officer Strohecker ("Revised Strohecker Attestation").

On October 27, 2026, the Requester consented to extend the Final Determination deadline to November 12, 2026, 65 P.S. § 67.1101(b), and submitted a reply to the Revised Strohecker Attestation.

LEGAL ANALYSIS

The Office 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 Office 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)).

One method an agency may use in meeting the burden of proof that a record is exempt is testimonial affidavits, which if "found to be relevant and credible may provide sufficient evidence in support of a claimed exemption." *McGowan v. Pa. Dep't of Envtl. Prot.*, 103 A.3d 374, 381 (Pa. Commw. Ct. 2014) (quoting *Heavens v. Pa. Dep't of Envtl. Prot.*, 65 A.3d 1069, 1073 (Pa. Commw. Ct. 2013)). Such "affidavits must be detailed, nonconclusory, and submitted in good faith." *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) (en banc) (citation omitted). Attestations and affidavits that are "conclusory or merely parrot [an] exemption do not suffice" to satisfy an agency's burden of proof. *Pa. Dep't of Educ. v. Bagwell*, 131 A.3d 638, 659 (Pa. Commw. Ct. 2016). "In other words, a generic determination or conclusory statement are not sufficient[.]" *Scolforo,* 65 A.3d at 1103.

1. The Office demonstrated that no additional responsive records exist

The Office argues that a good faith search was conducted, and that no additional responsive records exist. 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) (*Uniontown Newspapers I*), *aff'd*, 243 A.3d 19 (Pa. 2020) (*Uniontown Newspapers II*). 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).

On appeal before the OOR, the burden of proving a record does not or no longer exists is placed on the agency. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (citing 65 P.S. §67.708). In *Pa. Dep't of Health v. Mahon*, the Commonwealth Court discussed the evidence required to establish the absence of records, quoting its previous decision in *Hodges*, which holds 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." *Mahon,* 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodge*s, 29 A.3d at 1192); *see Moore v. Off. of Open Recs*., 992 A.2d 907, 909 (Pa. Commw. Ct. 2010) (search of records and affidavit that documents are not in agency's possession are enough to satisfy burden of demonstrating nonexistence). "It is questionable to what degree additional detail and explanation are necessary to establish the nonexistence of a record rather than its exemption from disclosure. In the absence of any competent evidence that the agency acted in bad faith or that the agency records exist, the averments in such affidavits [of nonexistence] should be accepted as true." *Mahon,* 283 A.3d at

936 (citing *Smith Butz, LLC v. Pa. Dep't of Env't Prot.*, 142 A.3d 941, 945 (Pa. Commw. Ct. 2016).

Here, the Office submitted the attestation of Open Records Officer Wha Lee Strohecker, who attests that a search was conducted and that no additional responsive records exist in the Office's possession, custody or control. Strohecker Attestation, ¶¶ 11, 17, 21, 29. Based upon this evidence, the Office demonstrated that it conducted a good faith search for responsive records as required by 65 P.S. § 67.901 and did not locate any additional records. Therefore, based on the evidence provided, the Office has met its burden of proof that it does not possess additional responsive records. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (citing 65 P.S. §67.708).

2. The Office proved records are protected by the attorney work-product doctrine and attorney-client privilege

The Office argues that certain records are protected by the attorney-client privilege and attorney-work product doctrine.

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*, 210 A.3d at 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").

The attorney-work product doctrine prohibits disclosure "of the mental impressions of a party's attorney or his or her conclusions, opinions, memoranda, notes or summaries, legal research or legal theories." Pa.R.C.P. 4003.3. "The purpose of the work product doctrine is to protect the mental impressions and processes of an attorney acting on behalf of a client, regardless of whether the work product was prepared in anticipation of litigation." *Bousamra v. Excela Health*, 210 A.3d 967, 976 (Pa. 2019) (internal citations omitted); *see also Heavens v. Pa. Dep't of Env't Prot.*, 65 A.3d 1069, 1077 (Pa. Commw. Ct. 2013) ("[U]nder the RTKL the work-product doctrine protects a record from the presumption that the record is accessible by the public if an agency sets forth facts demonstrating that the privilege has been properly invoked."). While the attorney-client privilege is waived by voluntary disclosure, *Bousamra*, 210 A.3d at 978 (internal citation omitted), the work-product doctrine is not primarily concerned with confidentiality, as it is designed to provide protection against adversarial parties. *Id*. at 979 (internal citations and quotation omitted).

Deputy General Counsel Herbster attests as follows:

5. As Chief Counsel to OA, I provided privileged legal advice to OA's officers and employees in the performance of their official duties.

6. In February 2021, an employee of OA's Bureau of Talent Acquisition contacted the OA, OCC, via email, seeking legal advice concerning Mr. Evan R. Wood's eligibility for preference under the VPA.

7. The case was assigned to then-Assistant Counsel Anthony Holbert to respond and provide legal advice to the employee regarding whether Mr. Wood met the definition of "Veteran" under the VPA.

8. Subsequently, Mr. Wood was denied preference under the VPA by OA.

9. Mr. Wood, via email, communicated his disagreement with OA's conclusion, and he further communicated that he belonged to a protected class and that he was allegedly being unlawfully discriminated against.

10. As Mr. Wood's accusation implicated legal issues, the client forwarded a series of communications to Attorney Holbert and me for legal advice on how best to proceed.

11. To develop a complete plan for response, Attorney Holbert and I analyzed, orally discussed, developed, communicated, considered, and weighed various options regarding application of the law, legal theories, application of policy, other factors, and the likelihood of potential litigation with several OA employees.

…..

15. To develop a complete plan for OA's response to Mr. Wood and weighing the new facts, OA, OCC analyzed, orally discussed, developed, communicated, considered, and weighed various options regarding application of the law, legal theories, application of policy, other factors, and the likelihood of potential litigation with several OA employees.

…..

19. For the reasons stated above, the attorney-client communications referred to in this case represent a memorialization of my mental impressions, conclusions, opinions, memoranda, notes or summaries, legal research or legal theories that occurred in furtherance of providing legal advice and strategy to my clients and to prepare for defense against all claims raised by Mr. Wood.

20. I have not shared these records nor any part thereof, with any third party outside of employees of the OA, OCC, attorneys from OGC, and attorneys from the Office of the Attorney General.

21. To the best of my knowledge, information, and belief, the records and communication I have retained were never publicly presented to, or shared with, any outside third parties.

22. My client has never waived attorney-client privilege and retains a reasonable expectation of privacy regarding the information shared, discussed, debated, and executed through counsel.

In addition, Chief Counsel Holbert attests that responsive "attorney-client communications referred to in this case represent a memorialization of my mental impressions, conclusions, opinions, memoranda, notes or summaries, legal research or legal theories that occurred in furtherance of providing legal advice and strategy to my clients and to prepare for defense against all claims raised by Mr. Wood." Holbert Attestation, ¶ 19. Further:

> 20. I have not shared these records nor any part thereof, with any third party outside of employees of the OA Office of Chief Counsel, attorneys from OGC, and attorneys from the Office of the Attorney General.
>
> 21. To the best of my knowledge, information, and belief, the records and communication I have retained were never publicly presented to, or shared with, any outside third parties.
>
> 22. My client has never waived attorney-client privilege and retains a reasonable expectation of privacy regarding the information shared, discussed, debated, and executed through counsel.

In light of all the evidence, the OOR concludes that the Office has demonstrated that certain records are protected under the attorney-client privilege and attorney-work product doctrine, and thus not a "public record" as defined by the RTKL. 65 P.S. § 67.102.

3. The Office proved records contain exempt medical information

Section 708(b)(5) of the Right-to-Know Law exempts from disclosure "[a] record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information." Here, Strohecker attests that the Office redacted information about the Requester's medical, psychiatric or psychological history or disability status, stating:

> 23. Some of the collected records also contained medical history, including: disability evaluations, disability status, references to psychiatric evaluations and similar medical history, and other information that could be construed as a request for a disability accommodation under the Americans with Disabilities Act.

Revised Strohecker Attestation, ¶ 23. Based upon this evidence, the Office demonstrated that certain redactions were made for information that is exempt from disclosure. Therefore, the Office has met its burden of proof as to exempt medical information. 65 P.S. § 67.708(a)(1).

4. The Office proved records contain exempt personal identification information

Section 708(b)(6) of the Right-to-Know Law 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." Here, Strohecker attests:

> 22. Some of the collected records contained the following types of information: all or part of a person's social security number; driver's license number; personal financial information; personal health information; home, cellular, or personal telephone numbers; personal email addresses; and employee number or other confidential personal identification.

Revised Strohecker Attestation, ¶ 22.

Based upon this evidence, the Office demonstrated that certain redactions were made for information that is exempt from disclosure. Therefore, the Office has met its burden of proof as to exempt personal identification information. 65 P.S. § 67.708(a)(1).

5. The Office did not prove records reflect internal, predecisional deliberations

Section 708(b)(10)(i)(A) of the Right-to-Know Law exempts from disclosure "[a] record that reflects…[t]he internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating

to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations." Here, Strohecker attests:

> 24. Additionally, some of the collected records included internal, predecisional deliberations of OA employees concerning the hiring process.

Revised Strohecker Attestation, ¶ 24. This evidence is generic and conclusory. Therefore, the Office has not met its burden of proof that records reflect internal, predecisional deliberations. 65 P.S. § 67.708(a)(1). *See Bagwell*, 131 A.3d at 659; *Scolforo,* 65 A.3d at 1103.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Office is required to provide those records previously withheld solely under the internal, predecisional deliberations exemption 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 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.[1] 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 openrecords.pa.gov.

FINAL DETERMINATION ISSUED AND MAILED: November 11, 2026

/s/ Josh Macel

JOSH MACEL

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

APPEALS OFFICER

Sent via OOR Portal to: Evan Wood; Wha Lee Strohecker (AORO); Bryan Bartosik-Velez, Esq.