



pennsylvania
OFFICE OF OPEN RECORDS

June 5, 2019

Sent First Class Mail:

Debra C. Immel
Prothonotary & Clerk of Courts
Centre County Courthouse
102 South Allegheny Street
Bellefonte, PA 16823-1488

RE: Submission of Record in:
Simon Campbell v. Bellefonte Area School District, No. 2019-1812

Dear Ms. Immel:

We hereby submit the record in the above-referenced matter. Section 1303 of the Right-to-Know Law, 65 P.S. §§ 67.101, *et seq.*, ("RTKL"), defines the Record on Appeal as "the record before a court shall consist of the request, the agency's response, the appeal filed under section 1101, the hearing transcript, if any, and the final written determination of the appeals officer." Pursuant to *Department of Transportation v. Office of Open Records*, 7 A.3d 329 (Pa. Commw. Ct. 2010), this record includes all "evidence and documents admitted into evidence by the appeals officer pursuant to Section 1102(a)(2)." The record in this matter consists of the following:

Office of Open Records Docket No. 2019-0205:

1. The appeal filed by Simon Campbell ("Requester") to the Office of Open Records ("OOR"), received February 11, 2019.
2. Official Notice of Appeal dated February 11, 2019, sent to both parties by the OOR, advising them of the docket number and identifying the appeals officer for the matter.
3. Bellefonte Area School District's ("District") request for an extension of time to respond dated February 20, 2019.
4. OOR's email dated February 21, 2019 granting the District's extension request.
5. Email chain dated February 21, 2019 wherein the OOR answers Requester's request for clarification of the District's submission deadline.
6. Email chain wherein the OOR grants the Requester's request for an extension to respond to the District's submission dated February 22, 2019.

7. Email dated February 28, 2019 from the Pennsylvania State Education Association ("PSEA") requesting Direct Interest Participant status and making a submission.
8. District's submission dated February 28, 2019.
9. Requester's submission dated March 4, 2019.
10. OOR's email dated March 5, 2019 establishing a submission deadline and the Final Determination issuance deadline.
11. Requester's submission dated March 5, 2019.
12. OOR's email confirming the Requestor's extension agreement dated March 5, 2019.
13. District's submission dated March 12, 2019.
14. Requester's submission dated March 19, 2019.
15. Final Determination issued by the OOR on April 22, 2019.

The OOR has discretion to hold a hearing on appeals filed but chose not to do so in this matter. Therefore, there is no transcript to transmit. Certification of the record in this case is attached to this letter. Please feel free to contact us for any reason in connection with this matter.

Sincerely,



Charles Rees Brown
Chief Counsel

Attachments

cc: Simon Campbell (Requester)
Elizabeth A. Benjamin, Esq. (for District)
Katherine M. Voye, Esq. (for PSEA)

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

SIMON CAMPBELL

Petitioner,

v.

BELLEfonte AREA
SCHOOL DISTRICT

Respondent.

No. 2019-1812

CERTIFICATION OF RECORD

I hereby certify the contents of the record transmitted with this Certification of Record pursuant to Pa.R.A.P. 1952 in *Simon Campbell v. Bellefonte Area School District*, OOR Dkt. AP 2019-0205, which is the subject of this appeal.

The record transmitted with this certification is generated entirely from the Office of Open Records database. It is our practice to scan in each and every document submitted in an appeal. Thus, no originals are being transmitted to this Court.

I certify that this filing complies with the provisions of the 'Public Access Policy of the Unified Judicial System of Pennsylvania Case Records of the Appellate and Trial Courts' that require filing confidential information and documents differently than non-confidential information and documents.

Also, my signature on this Certification of Record and on all other correspondence directed to the Court in connection with this matter may be electronic and not original. I hereby certify that this is my true and correct signature and that I have approved the use thereof for these purposes.



Erik Arneson, Executive Director
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 346-9903
Fax: (717) 425-5343
E-mail: OpenRecords@pa.gov

Dated: June 5, 2019

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

SIMON CAMPBELL

Petitioner,

v.

**BELLEfonte AREA
SCHOOL DISTRICT**

Respondent.

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:

No. 2019-1812

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the Certified Record upon the following persons via e-mail at the address listed below:

Katherine M. Voye, Esq.
Assistant General Counsel
Pennsylvania State Education Association
400 N. Third Street
Harrisburg, PA 17101
KVoye@psea.org

Simon Campbell
668 Stony Hill Road #298
Yardley, PA 19067
psbahorror@gmail.com

Elizabeth A. Benjamin, Esq.
Beard Legal Group PC
3366 Lynnwood Drive
PO Box 1311
Altoona, PA 16603
ebenjamin@beardlegallgroup.com



Faith Henry, Administrative Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 720-7372
Fax: (717) 425-5343
E-mail: faithenry@pa.gov

June 5, 2019

**IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

SIMON CAMPBELL

Petitioner,

v.

**BELLEFONTE AREA
SCHOOL DISTRICT**

Respondent.

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No. 2019-1812

CERTIFIED RECORD

Charles Rees Brown
Chief Counsel
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 346-9903
Fax: (717) 425-5343
E-mail CharlesBrow@pa.gov

Dated: June 5, 2019

**IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW**

SIMON CAMPBELL	:	
Petitioner,	:	No. 2019-1812
v.	:	
	:	
BELLEFONTE AREA	:	
SCHOOL DISTRICT	:	
Respondent.	:	

**TABLE OF CONTENTS
RECORD**

Simon Campbell v. Bellefonte Area School District, OOR Dkt. No. AP 2019-0205

1. The appeal filed by Simon Campbell ("Requester") to the Office of Open Records ("OOR"), received February 11, 2019.
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14. Requester's submission dated March 19, 2019.
15. Final Determination issued by the OOR on April 22, 2019.

1

Devenyi, Dylan

From: no-reply@openrecords.pa.gov
Sent: Monday, February 11, 2019 2:48 PM
To: psbahorror@gmail.com
Subject: PA Office of Open Records - Appeal Confirmation



pennsylvania
OFFICE OF OPEN RECORDS

You have filed an appeal of an agency's response to a request for records under the Right-to-Know Law.

Name: Simon Campbell
Address 1: 668 Stony Hill Rd #298
Address 2:
City: Yardley
State: Pennsylvania
Zip: 19067
Phone: 267-229-3165
Fax:
Email: psbahorror@gmail.com
Agency (list): Bellefonte Area School District
Agency Address 1: 318 North Allegheny Street
Agency Address 2:
Agency City: Bellefonte
Agency State: Pennsylvania
Agency Zip: 16823
Agency Phone:
Agency Fax:
Agency Email: rightToKnow@basd.net
Records Requested: Please see attached.

RECEIVED

FEB 11 2019

OFFICE OF OPEN RECORDS

Request Submitted to Agency Via:	e-mail
Request Date:	01/30/2019
Response Date:	02/08/2019
Deemed Denied:	No
Agency Open Records Officer:	Kenneth Bean, Open Records Officer
Additional Reasons for Appeal:	My request was deemed denied because the agency's response fell outside of the initial five (5) business days. I am not challenging the deemed denials of Request Items 2 and 3. Only Request Items 1, 4, 5, 6 & 7 remain in dispute.
Attached a copy of my request for records:	Yes
Attached a copy of all responses from the Agency regarding my request:	Yes
Attached any letters or notices extending the Agency's time to respond to my request:	No
Agree to permit the OOR an additional 30 days to issue a final order:	No
Interested in resolving this issue through OOR mediation:	No
Attachments:	<ul style="list-style-type: none"> • 1-30-19 RTKL Request (BASD).pdf • 2-8-19 Untimely Response.pdf

I requested the listed records from the Agency named above. By submitting this form, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.



Bellefonte Area School District

318 North Allegheny Street
Bellefonte, PA 16823
Telephone: (814) 355-4814

Dr. Michelle R. Saylor, Superintendent
Mrs. Tammie Burnaford, Assistant Superintendent
Mr. Kenneth G. Bean, Jr., CMA, Director of Fiscal Affairs

February 8, 2019

Via Email: psbahorror@gmail.com
Simon Campbell
668 Stony Hill Road #110
Yardley, PA 19067

RE: 7-Item Right to Know Request dated January 30, 2019

Dear Mr. Campbell:

On January 30, 2019, Bellefonte Area School District received the attached request for information pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §67.101 et seq. ("RTK Law").

Pursuant to Section 902 of Pennsylvania's Right-to-Know Law, you are hereby notified that the District is reviewing your request and will require up to an additional thirty (30) business days to prepare a written response. The reason for the imposition of the extension, in this instance, is because both a legal review is necessary to determine whether and what records exist that are responsive to your request, and whether and to what extent the records are subject to access under the Act. 65 P.S. §67.902(a)(4).

In addition, the District anticipates that if any record requested is identified and determined to be a record subject to access, redaction may be required pursuant to Section 706 and 708 of the Right-to-Know Law. See 65 P.S. §67.902(a)(1). Furthermore, the nature and extent of your request precludes a response within the initial five (5) day response period. See 65 P.S. §67.902(a)(7).

The District will provide a final written response to your request no later than March 8, 2019. At that time, in the event your request is granted, you will be provided with an estimated cost of fees for copying and other information regarding access, if necessary.

You have a right to appeal this determination. Any appeal should be directed, in writing, to Executive Director Erik Arneson at the Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120. Please note that if you choose to file an appeal, you must do so within fifteen (15) business days of the mailing date of the agency's response. See 65 P.S. §67.1101.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kenneth G. Bean, Jr.", is written over the printed name.

Kenneth G. Bean, Jr.
Opens Record Officer

An Equal Opportunity Employer

www.basd.net



pennsylvania

OFFICE OF OPEN RECORDS

Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: Bellefonte Area School District (Attn: AORO)

Date of Request: 1-30-19 **Submitted via:** ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Simon Campbell **Company (if applicable):** _____

Mailing Address: 668 Stony Hill Rd #298

City: Yardley **State:** PA **Zip:** 19067 **Email:** psbahorror@gmail.com

Telephone: 267-229-3165 **Fax:** _____

How do you prefer to be contacted if the agency has questions? ☒ Telephone ☐ Email ☐ U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.*

Please see attached for details. Electronic copies only sought. If the agency alleges that any copy fees are owed please do not actually incur any such costs without first obtaining my approval.

See 65 P.S. § 67.1304(a)(1) (agency required to act in good faith).

DO YOU WANT COPIES? ☒ Yes, electronic copies preferred if available (electronic only)

☐ Yes, printed copies preferred

☐ No, in-person inspection of records preferred (may request copies later)

Do you want certified copies? ☐ Yes (may be subject to additional costs) ☒ No

RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than ☐ \$100 (or) ☒ \$ 0.00.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ **Date Received:** _____ **Response Due (5 bus. days):** _____

30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) **Actual Response Date:** _____

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied **Cost to Requester:** \$ _____

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: *In most cases, a completed RTKL request form is a public record.
More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Nov. 27, 2018

ITEM 1

Screenshot image showing the name of the software program that the agency possesses or constructively possesses that can electronically redact .pdf files.

ITEM 2

The most recently received tax duplicate from the County of Centre or the local tax collector (the expression "tax duplicate" means the list of all property owners and their associated property addresses within the geographic confines of the Bellefonte Area School District).¹

ITEM 3

All currently enforceable collective bargaining agreements between the Bellefonte Area School District and unions.

ITEM 4

The current employment contract for Human Resources Director Michelle Simpson.

ITEM 5

The most recently agreed retention agreement between the school district and Beard Legal Group. Specifically, any document or written statement that reflects the "basis or rate of the fee" as those words have meaning in Rule 1.5(b). Fees. of the Rules of Professional Conduct, 204 Pa. Code § 81.4.

ITEM 6

All itemized invoices received from Beard Legal Group between the dates of January 1, 2018 and the present.

ITEM 7

All emails and/or email attachments sent or received between the dates of January 1, 2018 and the present that have the work email address (msimpson@basd.net) of Human Resources Director Michelle Simpson in any or all of the following e-mail address fields: From:, To:, Cc:, Bcc:, and which relate in subject matter/content, in whole or in part, to the calendar booking activity of Mrs. Simpson (i.e. who she was scheduling/was being scheduled to meet in person, for a work related matter, and any cancellations relating to the same). Also, to the extent it exists, & regardless of who the sender was, I seek written correspondence in *letter form* regarding the same agency activity (i.e. Mrs. Simpson's calendar booking activity) for the same time period, that was sent or received via postal/courier mail and/or via facsimile.

¹ See *Butler Area School District v. Pennsylvanians for Union Reform*; 172 A.3d 1173 (Pa. Commw. Ct. 2017)



February 11, 2019

Via Email Only:

Mr. Simon Campbell
668 Stony Hill Rd #298
Yardley, PA 19067
psbahorror@gmail.com

Via Email Only:

Kenneth Bean, Open Records Officer
Agency Open Records Officer
Bellefonte Area School District
318 North Allegheny St
Bellefonte, PA 16823
rightToKnow@basd.net

RE: OFFICIAL NOTICE OF APPEAL-DOCKET #AP 2019-0205

Dear Parties:

Please review this information carefully as it affects your legal rights.

The Office of Open Records ("OOR") received this appeal under the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101, *et seq.* on **February 11, 2019**. This letter describes the appeal process. A binding Final Determination will be issued pursuant to the timeline required by the RTKL. In most cases, that means within 30 calendar days. The OOR's Final Determination is currently due on **March 13, 2019**.

OOR Mediation: This is a voluntary, informal process to help parties reach a mutually agreeable settlement on records disputes before the OOR. To participate in mediation, both parties must agree in writing. The Parties agreement to mediate stays the Final Determination Deadline. If mediation is unsuccessful, both parties will be able to make submissions to the OOR, and the OOR will have 30 calendar days from the conclusion of the mediation process to issue a Final Determination, unless the Requester agreed to an additional 30 calendar day extension on the appeal form.

Note to Parties: Statements of fact must be supported by an affidavit or attestation made under penalty of perjury by a person with actual knowledge. Any factual statements or allegations submitted without an affidavit will not be considered. The agency has the burden of proving that records are exempt from public access (*see* 65 P.S. § 67.708(a)(1)). **To meet this burden, the agency must provide evidence to the OOR.** The law requires the agency's position to be supported by sufficient facts *and* citation to all relevant sections of the RTKL, case law and OOR Final Determinations. An affidavit or attestation is required to show that records do not exist. Blank sample affidavits are available on the OOR's website.

Submissions to OOR: Both parties may submit information and legal argument to support their positions by 11:59:59 p.m. on February 21, 2019. The record closing date is seven (7) business days from the date of this letter unless the proceedings have been stayed for the parties to submit a completed mediation agreement form, then the record will remain open for seven (7) additional business days beyond the mediation agreement submission deadline. *Submissions sent via postal mail and received after 5:00 p.m. will be treated as having been received the next*

business day. The agency may assert exemptions on appeal even if it did not assert them when the request was denied (*Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013)).

Include the above docket number on all submissions related to this appeal. Also, any information you provide to the OOR must be provided to all parties involved in this appeal. Information shared with the OOR that is not also shared with all parties will not be considered.

Agency Must Notify Third Parties: If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, the agency must notify such parties of this appeal immediately and provide proof of that notice by the record closing date set forth above. Such notice must be made by: (1) providing a copy of all documents included with this letter; and (2) advising that interested persons may request to participate in this appeal (*see* 65 P.S. § 67.1101(c)).

Commonwealth Court has held that “the burden [is] on third-party contractors ... to prove by a preponderance of the evidence that the [requested] records are exempt.” (*Allegheny County Dep’t of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw. Ct. 2011)). Failure of a third-party contractor to participate in an appeal before the OOR may be construed as a waiver of objections regarding release of the requested records.

Law Enforcement Records of Local Agencies: District Attorneys must appoint Appeals Officers to hear appeals regarding criminal investigative records in the possession of a local law enforcement agency. If access to records was denied in part on that basis, the Requester should consider filing a concurrent appeal with the District Attorney of the relevant county.

Public Record Notice: All dockets, filings and OOR orders and opinions in this appeal will be public records and subject to public access with limited exception. The OOR’s Final Determination will generally include a summary of the case including the identity of the parties and the relevant factual background. Final Determinations are available on the OOR’s website and searchable on-line.

If you have general questions about the appeal process, please contact the OOR at (717) 346-9903. If you have questions specific to your appeal, please email the assigned Appeals Officer (contact information is enclosed) - and be sure to provide a copy of any correspondence to all other parties involved in this appeal.

Sincerely,



Erik Arneson
Executive Director

Enc.: Assigned Appeals Officer contact information
Entire appeal as filed with OOR



pennsylvania

OFFICE OF OPEN RECORDS

APPEALS OFFICER:

Magdalene Zeppos, Esq.

CONTACT INFORMATION:

**Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234**

FACSIMILE:

(717) 425-5343

EMAIL:

mzeppos@pa.gov

**Preferred method of contact and
submission of information:**

EMAIL

Please direct submissions and correspondence related to this appeal to the above Appeals Officer. Please include the case name and docket number on all submissions.

You must copy the other party on everything you submit to the OOR. The Appeals Officer cannot speak to parties individually without the participation of the other party.

The OOR website, <https://openrecords.pa.gov>, is searchable and both parties are encouraged to review prior final determinations involving similar records and fees that may impact this appeal.

The OOR website also provides sample forms that may be helpful during the appeals process. OOR staff are also available to provide general information about the appeals process by calling (717) 346-9903.

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: _____

Today's date: _____

Name: _____

PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.

Address/City/State/Zip _____

E-mail _____

Fax Number: _____

Name of Requester: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Name of Agency: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Record at Issue: _____

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☐ Other: (attach additional pages if necessary) _____

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted, _____ (must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.

Zeppos, Magdalene

From: Alyssa Hess <Ahess@beardlegalgroup.com>
Sent: Wednesday, February 20, 2019 2:53 PM
To: Zeppos, Magdalene
Cc: psbahorror@gmail.com; Elizabeth A. Benjamin
Subject: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Please see the email below from Attorney Benjamin. Thanks – Alyssa.

Dear Ms. Zeppos:

This office represents the Bellefonte Area School District with the above-referenced appeal. We are in receipt of the official notice of appeal packet which identifies the District's response to the appeal as being due on or before midnight tomorrow, Thursday February 21, 2019. Due to delays in communication and operations resulting from weather-related cancellations, as well as the degree of information necessary for the Respondent to provide meaningful response to the appeal, we have identified a need for an extension of time to respond, and are hereby respectfully requesting a one week extension of time to provide a response to the appeal on or before February 28, 2019.

Please be advised that we have been in touch with the Requestor Mr. Simon Campbell, to advise that we would be submitting this request for an extension of time to respond, and have likewise copied him on this correspondence. We appreciate your consideration in this regard and any effort you can undertake to provide at your earliest convenience.

If you have any questions, please feel free to get in touch.

Sincerely,

Elizabeth A. Benjamin

Cc: Simon Campbell – psbahorror@gmail.com

Alyssa Hess, Legal Assistant

BEARD LEGAL GROUP PC
3366 Lynnwood Drive
Altoona, PA 16602
814.296.2315 (Direct)

814.283.7045 (Fax)
ahess@beardlegalgroup.com



EMAIL DISCLAIMER AND WARNING:

Although email is a convenient way of communicating, there are drawbacks to email. First, it may not be secure or confidential. Second, there is no certainty or guarantee that email will be delivered to our inbox or that it won't be mistakenly deleted. Therefore, if you are concerned at all about the lack of confidentiality, do not use email to transmit communications to us and tell us about your concerns so that we can accommodate your needs. Further, to our clients, we cannot accept any assignment by email alone, unless you hear from us that we received the email and will be acting on it. If there is anything that we are expected to do, and you have not heard from us promptly acknowledging receipt of the assignment and agreement to perform the work, please ensure that you contact us and talk to a "live" person to ensure that we received the assignment. Thank you.

PRIVILEGED INFORMATION/NOTICE OF CONFIDENTIALITY.

This electronic message, and any/all content within or attached to it is sent by an attorney and/or his/her agent and is confidential. This information within or attached to it may be protected by attorney/client privilege, work product immunity, or other privileges/immunities. It is meant solely and expressly for the intended recipient(s) only, as indicated by the sender. Any disclosure, copying, or distribution of this email, or any other action taken or omitted in reliance on this email, by any person other than the intended recipient(s), is strictly prohibited and may be unlawful. If you are not the intended recipient(s), or have received this email in error, please notify the sender immediately and promptly delete this email.

Zeppos, Magdalene

From: Zeppos, Magdalene
Sent: Thursday, February 21, 2019 9:05 AM
To: Alyssa Hess
Cc: psbahorror@gmail.com; Elizabeth A. Benjamin
Subject: RE: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Parties:

The District's request for an extension is GRANTED. Both parties will have through **February 28, 2019**, to make submissions in the above matter. Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903 | mzeppos@pa.gov
<https://openrecords.pa.gov> | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)

Confidentiality Notice: This electronic communication is privileged and confidential and is intended only for the party to whom it is addressed. If received in error, please return to sender.

From: Alyssa Hess <Ahess@beardlegalgroup.com>
Sent: Wednesday, February 20, 2019 2:53 PM
To: Zeppos, Magdalene <mzeppos@pa.gov>
Cc: psbahorror@gmail.com; Elizabeth A. Benjamin <ebenjamin@beardlegalgroup.com>
Subject: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205
Importance: High

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Please see the email below from Attorney Benjamin. Thanks – Alyssa.

Dear Ms. Zeppos:

This office represents the Bellefonte Area School District with the above-referenced appeal. We are in receipt of the official notice of appeal packet which identifies the District's response to the appeal as being due on or before midnight tomorrow, Thursday February 21, 2019. Due to delays in communication and operations resulting from weather-related cancellations, as well as the degree of information necessary for the Respondent

Zeppos, Magdalene

From: Zeppos, Magdalene
Sent: Thursday, February 21, 2019 10:40 AM
To: 'Simon Campbell'
Cc: Alyssa Hess; Elizabeth A. Benjamin
Subject: RE: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Campbell:

In response to your question, the answer is yes. As the OOR has extended the record closing date, this will include an extension of the time period for the District to notify third parties and to provide proof thereof in accordance with the Official Notice of Appeal. Please let me know if you have any additional questions. Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903 | mzeppos@pa.gov
<https://openrecords.pa.gov> | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)

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From: Simon Campbell <psbahorror@gmail.com>
Sent: Thursday, February 21, 2019 10:33 AM
To: Zeppos, Magdalene <mzeppos@pa.gov>
Cc: Alyssa Hess <Ahess@beardlegallgroup.com>; Elizabeth A. Benjamin <ebenjamin@beardlegallgroup.com>
Subject: Re: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Dear Ms. Zeppos,

Is the OOR granting the district the right to delay notifying any applicable third parties until this later date? Such notification - with submitted proof that it occurred - was also due to occur by midnight tonight.

—
Regards,
Simon Campbell
Tel: 267-229-3165

On Thu, Feb 21, 2019 at 9:04 AM Zeppos, Magdalene <mzeppos@pa.gov> wrote:

Dear Parties:

The District's request for an extension is GRANTED. Both parties will have through February 28, 2019, to make submissions in the above matter. Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
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From: Alyssa Hess <Ahess@beardlegallgroup.com>

Sent: Wednesday, February 20, 2019 2:53 PM

To: Zeppos, Magdalene <mzeppos@pa.gov>

Cc: psbahorror@gmail.com; Elizabeth A. Benjamin <ebenjamin@beardlegallgroup.com>

Subject: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Importance: High

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Please see the email below from Attorney Benjamin. Thanks – Alyssa.

Dear Ms. Zeppos:

This office represents the Bellefonte Area School District with the above-referenced appeal. We are in receipt of the official notice of appeal packet which identifies the District's response to the appeal as being due on or before midnight tomorrow, Thursday February 21, 2019. Due to delays in communication and operations resulting from weather-related cancellations, as well as the degree of information necessary for the Respondent to provide meaningful response to the appeal, we have identified a need for an extension of time to respond, and are hereby respectfully requesting a one week extension of time to provide a response to the appeal on or before February 28, 2019.

Please be advised that we have been in touch with the Requestor Mr. Simon Campbell, to advise that we would be submitting this request for an extension of time to respond, and have likewise copied him on this correspondence. We appreciate your consideration in this regard and any effort you can undertake to provide at your earliest convenience.

If you have any questions, please feel free to get in touch.

Sincerely,

Elizabeth A. Benjamin

Cc: Simon Campbell – psbahorror@gmail.com

Alyssa Hess, Legal Assistant

BEARD LEGAL GROUP PC

3366 Lynnwood Drive

Altoona, PA 16602

814.296.2315 (Direct)

814.283.7045 (Fax)

ahess@beardlegallgroup.com



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Zeppos, Magdalene

From: Zeppos, Magdalene
Sent: Monday, February 25, 2019 8:40 AM
To: 'Simon Campbell'
Cc: Alyssa Hess; Elizabeth A. Benjamin
Subject: RE: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Dear Mr. Campbell:

Your request for an extension to issue a reply to the District's submission is GRANTED. You will have through March 5, 2019, to make a submission. In light of the extensions afforded in this matter, the OOR requests a brief extension to issue its Final Determination. Would you agree to extend the deadline for the Final Determination to March 22, 2019? Also, please keep in mind that the OOR may seek additional time once it receives and reviews the submissions, if the records need to be further developed. Kindly advise at your earliest convenience. Thank you.



Magdalene C. Zeppos, Esquire

Appeals Officer

Office of Open Records

333 Market Street, 16th Floor

Harrisburg, PA 17101-2234

(717) 346-9903 | mzeppos@pa.gov

<https://openrecords.pa.gov> | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)

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From: Simon Campbell <psbahorror@gmail.com>

Sent: Friday, February 22, 2019 4:38 PM

To: Zeppos, Magdalene <mzeppos@pa.gov>

Cc: Alyssa Hess <Ahess@beardlegallgroup.com>; Elizabeth A. Benjamin <ebenjamin@beardlegallgroup.com>

Subject: Re: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Dear Ms. Zeppos,

Section 1101 of the RTKL provides that a requestor appealing from an agency determination "shall address any grounds stated by the agency for delaying or denying the request." 65 P.S. § 67.1101(a)(1). The process due in this statutory scheme is notice and an opportunity to present evidence to the fact-finder. *Wishnefsky v. Dep't of Corr.*, 144 A.3d 290 (Pa. Cmwlth. 2016) ("This case illustrates how the addition of a new reason for denying a request after the appeal, can result in prejudice to the requester, where the OOR does not consider the requester's response").

Given that this is a deemed denial appeal (i.e. no grounds have yet been stated for delaying or denying the request), and also that an agency has the right to raise new denial argument for the first time on appeal, I would like to ask OOR for a later deadline for myself that affords me sufficient opportunity to respond to the district's coming submission. Three extra business days would be appreciated.

Regards,
Simon Campbell
Tel: 267-229-3165

On Thu, Feb 21, 2019 at 10:39 AM Zeppos, Magdalene <mzeppos@pa.gov> wrote:

Dear Mr. Campbell:

In response to your question, the answer is yes. As the OOR has extended the record closing date, this will include an extension of the time period for the District to notify third parties and to provide proof thereof in accordance the Official Notice of Appeal. Please let me know if you have any additional questions. Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
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From: Simon Campbell <psbahorror@gmail.com>

Sent: Thursday, February 21, 2019 10:33 AM

To: Zeppos, Magdalene <mzeppos@pa.gov>

Cc: Alyssa Hess <Ahess@beardlegalgroup.com>; Elizabeth A. Benjamin <ebenjamin@beardlegalgroup.com>

Subject: Re: [External] Simon Campbell v. Bellefonte Area School District OOR Appeal Docket No. AP 2019-0205

Dear Ms. Zeppos,

Zeppos, Magdalene

From: Voye, Katherine [PA] <KVoye@psea.org>
Sent: Thursday, February 28, 2019 1:37 PM
To: Zeppos, Magdalene
Cc: Simon Campbell; ebenjamin@beardlegalgroup.com
Subject: [External] AP 2019-0205 Request to Participate
Attachments: AP 2019-0205 Request to Participate.pdf

Follow Up Flag: Follow up
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Ms. Zeppos:

Please see the attached correspondence regarding this matter.

Thank you.

Katherine M. Voye
Assistant General Counsel
Pennsylvania State Education Association
400 N. Third Street
Harrisburg, PA 17101
(717)255-7077

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VIA EMAIL ONLY

February 28, 2019

Magdalene Zeppos, Appeals Officer
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

**RE: Docket Number AP-2019-0205
Campbell v. Bellefonte Area School District**

Dear Ms. Zeppos:

I am writing in my capacity as counsel for the Bellefonte Area Education Association (hereinafter "Education Association") and the Bellefonte Area Educational Support Professionals Association (hereinafter "ESP Association").

The Education Association is the exclusive bargaining representative of a unit of professional educators employed by the Bellefonte Area School District ("District") as certified under Pennsylvania's Public Employee Relations Act, 43 P.S. § 1101.101 *et seq* (PERA). The ESP Association is certified as the exclusive bargaining representative of a unit of support professional employees employed by the District.

On February 27, 2019, the District first notified the Associations, through their representative, of the underlying Right-to-Know request and the appeal filed in this matter. A copy of the February 27, 2019 correspondence from the District's counsel, Elizabeth A. Benjamin, to PSEA UniServ Representative Brian Landis is enclosed. According to Attorney Benjamin, the requested records include "correspondence exchanged with the District's Human Resource Director Michelle Simpson which may include information that impacts individuals within bargaining units represented by PSEA," and therefore the appeal may impact the rights of EA and ESP Association bargaining unit members.

Based on the limited information provided, the Associations do not know the identities of those employees whose information may be implicated by the request. However, based on the District's representation that the release of requested records may impact the rights of bargaining unit members who are yet to be identified, the Associations believe and therefore aver that the requested records may contain employee information that is exempt from disclosure under the Right-to-Know Law.



Legal Division
400 North Third Street
P.O. Box 2225
Harrisburg, PA 17105-2225
(717) 255-7000 Ext. 7056, 7046 or 7029
(800) 944-PSEA (7732)
Fax: (717) 255-7132
www.psea.org

Richard W. Askey, *President*
Korri J. Brown, *Vice President*
Jeffrey D. Ney, *Treasurer*
James G. Vaughan, *Executive Director*

The PSEA Mission

We are members who promote, protect, and advocate for our schools, students, and professions.

Affiliated with the National Education Association

Magdalene Zeppos, Appeals Officer
February 28, 2019
Page 2

Thus, the Bellefonte Area Education Association and the Bellefonte Area Educational Support Professionals Association hereby request to participate in the instant proceedings as third parties with a direct interest in the records at issue. The completed "Request to Participate" forms are enclosed. Should you grant the Associations' request to participate, we respectfully request a reasonable period of time in which to submit appropriate arguments or evidence for your consideration.

I certify that I am serving a copy of this response on Simon Campbell and Attorney Benjamin, each via email transmission.

Sincerely,



Katherine M. Voyer
Assistant General Counsel

Enclosures

cc: Elizabeth A. Benjamin, Esquire (via email only)
Simon Campbell (via email only)
Kimberly D. Sharp, President, Bellefonte Area Education Association
Vicky L. Confer, President, Bellefonte Area Educational Support Professionals Association
Brian Landis, PSEA UniServ Representative



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEREN BEARD
KRISTAL T. EDWARDS

ELIZABETH A. BENJAMIN

DIRECT DIAL: 814.940.8671
FAX: 814.283.7050
ebenjamin@beardlegalgroup.com

February 27, 2019

Via Email: blandis@psea.org
Brian Landis
PSEA UniServ
400 Shiloh Road
State College, PA 16801

In Re: Campbell v. Bellefonte Area School District
OOR Docket No. AP 2019-0205

Dear Mr. Landis:

On January 31, 2019, Simon Campbell filed a Right to Know Request with the School District seeking access to certain records as outlined in that request. In particular they asked us to produce records of correspondence exchanged with the District's Human Resource Director Michelle Simpson which may include information that impacts individuals within bargaining units represented by PSEA, and in regard to which you recently contacted the School District requesting notification relative to any such records.

The requesting party filed an appeal with the Office of Open Records asserting that the request was deemed denied as of February 8, 2019. We received notice of the appeal from the Office of Open Records shortly thereafter. The notice and all related documents including the January 31, 2019 Right to Know Requests are enclosed with this letter. Due to the fact that the appeal may affect your rights and/or the rights of those represented by you, you may request to participate in this appeal. Failure to participate in this appeal may result in a waiver of objections regarding any release of requested records.

Thank you for your attention to this matter. If you have any questions regarding this appeal, please contact us.

Sincerely,

Elizabeth A. Benjamin, Counsel for Bellefonte Area
School District

Enclosures

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: 2019-0205

Today's date: February 28, 2019

Name: Bellefonte Area Educational Support Prof. Assn.

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Address/City/State/Zip c/o PSEA, 400 North Third Street, Harrisburg, PA 17101

E-mail kvoye@psea.org; Telephone number: (717) 255-7077

Fax Number: (717) 255-7032

Name of Requester: Simon Campbell

Address/City/State/Zip 668 Stony Hill Rd. #298, Yardley, PA 19067

Telephone/Fax Number: (267) 229-3165 /

E-mail psbahomron@gmail.com

Name of Agency: Bellefonte Area School District

Address/City/State/Zip 318 North Allegheny Street, Bellefonte, PA 16823

Telephone/Fax Number: (814) 355-4814 /

E-mail righttoknow@basd.net

Record at issue: Potentially-exempt correspondence pertaining to employees represented by Association

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☒ Other: (attach additional pages if necessary) Representative of agency employees

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted,  Katherine M. Voye, Counsel for Assn. (must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: 2018-0205

Today's date: February 28, 2019

Name: Bellefonte Area Education Association

PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.

Address/City/State/Zip c/o PSEA, 400 North Third Street, Harrisburg, PA 17101

E-mail kvoys@psea.org; Telephone number: (717) 255-7077

Fax Number: (717) 255-7032

Name of Requester: Simon Campbell

Address/City/State/Zip 668 Stony Hill Rd. #298, Yardley, PA 19067

Telephone/Fax Number: (267) 228-3165 /

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- ☐ A contractor or vendor
- ☒ Other: (attach additional pages if necessary) Representative of agency employees

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted,

Katherine M. Voyer, Counsel for Assn. (must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.

Zeppos, Magdalene

From: Brenda Adelman <badelman@beardlegalgroup.com>
Sent: Thursday, February 28, 2019 5:15 PM
To: Zeppos, Magdalene
Cc: Elizabeth A. Benjamin; Carl P. Beard; psbahorror@gmail.com; Saylor, Michelle; Michelle Simpson; Elder, Leslie
Subject: [External] Zeppos OOR Officer with response to OOR Appeal 2019-0205
Attachments: 20190228PDFMagdalene Zeppos with Response to OOR Appeal with documentation.PDF

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Please see the attached correspondence from Attorney Benjamin with the accompanying documentation.

Thanks - Brenda

Brenda J. Adelman,
Assistant to Elizabeth A. Benjamin
814-940-8671
ebenjamin@beardlegalgroup.com
BEARD LEGAL GROUP, P.C.
3366 Lynnwood Drive
P.O. Box 1311
Altoona, PA 16603
(814) 296-2306



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CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
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KRYSTAL T. EDWARDS

ELIZABETH A. BENJAMIN

DIRECT DIAL: 814.940.8671
FAX: 814.283.7050
ebenjamin@beardlegalgroup.com

February 28, 2019

VIA EMAIL – mzeppos@pa.gov

Magdalene Zeppos, Esquire
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

**Re: Simon Campbell v. Bellefonte Area School District OOR Appeal Docket
No. AP 2019-0205**

Dear Ms. Zeppos:

Please be advised that this office represents the Bellefonte Area School District with respect to the above-referenced appeal. Requester Simon Campbell filed the appeal on February 11, 2019 asserting that the School District's response to a 7-item request dated January 30, 2019, in which the District issued a 30-day extension notice, was untimely and is pursuing the appeal on the basis of the deemed denial relative to Items 1, 4, 5, 6 and 7 of the underlying Right to Know Request. The District's 30-day extension notice was included with Mr. Campbell's appeal and is dated February 8, 2019.

This date of the 30-day extension notice is not in dispute however the District notes that it was received by Mr. Campbell within the 3-day mailing period afforded under the OOR procedural regulations requiring that said period be observed prior to the point at which an appeal is filed. Additionally, as a matter of background, the School District notes it did receive a series of Right to Know Requests from Mr. Campbell beginning on January 30th and continuing through February 7, 2019, one of which was withdrawn and contributed to some confusion within the District regarding the issuance of responses to each request. The District did receive correspondence from Mr. Campbell kindly advising of a potential discrepancy with a response to the request dated January 30, 2019 on February 8, 2019 and responded on that same date with the 30-day extension notice Mr. Campbell was seeking. Nevertheless Mr. Campbell has pursued the foregoing appeal, and has declined the School District's efforts to mediate

or otherwise each an amicable resolution to the timeframe applicable to the District's response for this request.

The District submits that it at all times has operated in good faith with respect to its efforts to provide initial response to Mr. Campbell's request and that the request seeks the volume of records that is extensive enough that the District should be afforded additional time in accordance with his 30-day extension notice to review the records and fully discern any/all exemptions that may apply, as further detailed herein.

Nevertheless, and not in derogation of the foregoing, in the event the request submitted in this matter is deemed denied, the School District notes and wishes to assert its right to raise reasons for denying access to any records potentially responsive to the request on appeal before an Appeals Officer, pursuant to the decision rendered by the Pennsylvania Commonwealth Court in *McClintock v. Coatesville Area School District*, 74 A.3d 378 (Pa. Cmwith. 2013) (holding that an agency's right to raise reasons for a denial of access is not waived due to the determination of a deemed denial); see also *Levy v. Senate of Pennsylvania*, 34 A.3d 243 (Pa. Cmwith. 2011). Accordingly, the District has outlined its basis for denial and/or partial denial of some of the records requested, and its current position with respect to each of the items of the request that remain pending within this appeal, below, and has enclosed an attestation in support of same.

- **Item 1: "Screenshot image showing the name of the software program that the agency possesses or constructively possess that can electronically redact DOT PDF files."**

This request was believed to be subject to denial on grounds that it does not seek a record which would constitute a public record of the agency as that term is defined in Section 102 of the Right to Know Law. Nevertheless, the District has exercised its discretion to grant this request and the record will be provided to Mr. Campbell in separate correspondence on which the Appeals Officer will be copied.

...

- **Item 4: "The current employment contract for Human Resource Director Michelle Simpson."**

This request is granted and the record will be provided to Mr. Campbell in separate correspondence on which the Appeals Officer will be copied.

- **Item 5: "The most recently agreed Retention Agreement between the School District and Beard Legal Group. Specifically, any document or**

written statements that reflect the "basis or rate of the fee" as those words have meaning in rule 1.5(b)..."

This request is granted in part and denied in part. To the extent the request seeks a "retention agreement between the School District and Beard Legal Group the request is denied because no such document exists in the custody, possession or control of the District, as confirmed in the attached attestation. To the extent that the request seeks any document or written statement that reflects the "basis or rate of the fee" this request is granted and Mr. Campbell is referred to the School District's June 26, 2018 Board meeting minutes reflecting approval of the retention of Beard Legal Group and the corresponding rate/fee to be charged. These meeting minutes are available on the Bellefonte Area School District's website at www.basd.net.

- **Item 6: "All Itemized Invoices received from Beard Legal Group between the dates of January 1, 2018 and the present."**

This request is granted in part and denied in part. Itemized Invoices will be provided to Mr. Campbell as an attachment to separate correspondence which will copy this Appeals Officer. However, the request is denied, in part to the extent that the invoices have been redacted to protect information deemed exempt from disclosure under Section 708 of the Right to Know Law.

The exemptions applicable to the redactions appearing on the invoices provided to Mr. Campbell pertain to the redaction of particular subject matter(s) identifying the name of employee(s) about whom and in regard to whom communications were exchanged between legal counsel from Beard Legal Group, P.C. and the School District. If not redacted, this information when read together with the remaining information disclosed on the invoices, would reveal record information relating to or otherwise potentially confirming information and/or the existence of the following relative to the employee(s) discipline, demotion, or discharge; grievance material and/or proceedings; written criticisms; performance rating material pertinent to the employee, as well as information pertinent to any non-criminal investigation being conducted.

It is therefore maintained by the District that redaction is necessary to prevent the disclosure of exempt personnel information and exempt non-criminal investigative information protected from disclosure under Section 708(b)(7) addressing records relating to an agency employee, and Section 708(b)(17) pertaining to records of an agency relating to a non-criminal investigation, the revelation of which might constitute an unwarranted invasion of privacy of an agency employee subject to said investigation. As such, and in keeping with the general principles applied to the disclosure of general descriptions of work

contained within legal invoices, the District has redacted the subject matter identifying the specific employee(s) to which the description of work applies. See 65 P.S. § 708(b)(7); (17). See also, Attestation of Carl P. Beard, Esquire, and Exemption Log attached hereto. A copy of the District's notice to the Pennsylvania State Education Association Representative advising of their potential status as an interested party is also attached.

- **Item 7: "All emails and/or email attachments sent or received between the dates of January 1, 2018 and the present that have the work email address (msimpson@basd.net) of Human Resources Director Michelle Simpson in any or all of the following email address fields: From; To; Cc; Bcc; and which relate in subject matter/content, in whole or in part, to the calendar booking activity of Mrs. Simpson (i.e. who she was scheduling/was being scheduled to meet in person, for a work related matter, and any cancellations relating to the same). Also, to the extent it exists, & regardless of who the sender, I seek written correspondence in letter form regarding the same agency activity (i.e. Mrs. Simpson's calendar booking activity) for the same time period, that was sent or received via postal/courier mail and/or via facsimile."**

This request is denied on multiple grounds as outlined below.

First, the request is insufficiently specific pursuant to Section 703 of the Right to Know Law, which states that a written request should identify or describe the record sought with sufficient specificity to enable the agency to ascertain which records are being requested. 65 P.S. § 67.703. It is likewise asserted that this request is overbroad and unduly burdensome, which is a factor that may be considered in any determination of the 3-part balancing test employed by the OOR to determine whether a request is sufficiently specific. This test entails the following inquiries: 1) whether the subject matter of the request identifies the "transaction or activity" of the agency for which the record is sought; 2) whether the scope of the request identifies a discrete group of documents (e.g., type or recipient), and 3) whether "the timeframe of the request identifies a finite period of time for which the records are sought." See *Seybert v. West Chester University of Pennsylvania*, Docket No. AP 2018-2102, citing *PA Department of Education v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Cmwh. Ct. 2015). While a failure to identify a finite timeframe does not automatically render a sufficiently specific request over broad, a short timeframe will not transform an overly broad request into a specific one.

The District maintains that this request fails to identify any subject matter, i.e. any transaction or activity of the agency, to which this request is limited and that reference to Mrs. Simpson's "calendar booking activity (i.e. who she was scheduling/being schedule to meet in person, for a work related matter, and any cancellations relating to the same)" does not reference any specific transaction or activity of the agency, i.e. any specific business of the District or Ms. Simpson. Even if it is assumed, *arguendo*, that such "calendar booking activity" for "work-related matters" could constitute a transaction or activity of the agency, however, this subject matter is unduly broad and combined with the absence of any identification of other senders or recipients to the correspondence at issue, is insufficiently specific pursuant to Section 703.

In the similar case of *St. Hilare and ABC27 News v. Manheim Township School District*, the requester sought "all emails and text messages from 2013 to the present among School Board Members, the Superintendent, high school teachers, and/or high school staff and/or high school security about the Alternative Education Program and students in the Alternative Education Program;" ("Item 2") and "all emails and text messages from 2013 to present amongst School Board Members, the Superintendent, high school teachers, and/or high school staff and/or high school security about betting, wagering, gambling, lotteries, or polls." ("Item 3") See OOR Docket AP 2017-0269. The District denied these items on grounds that they were insufficiently specific to ascertain which records are being requested. On appeal before the OOR, the District asserted that Item #2 of the request sought records related to a broad subject matter over an extended time period while Item #3 broadly sought documents about general terms, a search for which returned a total of over 87,000 pages of records. The OOR agreed with the District that Item #2, though it sought a discrete group of documents (emails and text messages) over a specified timeframe, had a subject matter that was overly broad relative to referencing only "the Alternative Education Program and students in the Alternative Education." As such, the item was deemed insufficiently specific. See *Id.*

In the instant matter Item 7 of the request contains nothing akin to the limitation of a particular program or topic area such as an alternative education program, but rather references all "work-related matters." As noted in the attached attestation, Ms. Simpson serves as the District's Human Resource Director and her work within the District is not limited to any one program but rather relates to all activity involving the staffing of the

School District, including but not limited to applicant hiring and interviews, labor relations and negotiations, employee performance monitoring, internal investigation of complaints regarding personnel, disciplinary matters, retirement, and the administration of employee benefits. In the absence of any limitation of any kind relative to the "work-related matters," and where there is no limitation identifying any other senders or recipients of the communications and correspondence other than Ms. Simpson, for a time period exceeding one year, the District contends that Item 7, on its face, is insufficiently specific to the same extent, if not a greater degree, as the request denied on such grounds in *St. Hillare, supra*.

Additionally, the District does not interpret Item 7 as providing any specific search terms for this item. However, to extent it would be deemed to do so, the District again notes that the terms "calendar booking activity" and "work-related matters," particularly in the absence of any other parties to the correspondence other than Mrs. Simpson, are incredibly broad and fail to limit the subject matter in any meaningful way, as was the case with Item #3 addressed in the *St. Hillare* case, *supra*. See *Id. at Page 5 & 6, citing Montgomery County v. Iverson*, 50 A.3d 281 (Pa. Cmwlth. Ct. 2012) ("Incredibly broad search terms do not provide a limiting subject matter").

By way of further example, in *Seybert v. West Chester University of Pennsylvania*, Docket No. AP 2018-2102, the OOR determined that a request seeking communications that "mention or refer to, any of 5 names listed within a request, and identifying senders, but not recipients," was insufficiently specific inasmuch as it did not identify any transaction or activity of the agency to which these communications must relate and because the request would require the agency to do more than simply locate key words in the emails but also provide communications which refer to the named parties, without identifying any limiting subject matter to guide the search. As such, the request was deemed to not include a subject matter and therefore was not sufficiently specific. See *Seybert* OOR Docket No. AP 2018-2102, citing *Brown v. Office of the Governor* OOR Docket No. AP 2017-1118 (A request requiring an agency to make judgments as to whether potentially responsive records are "related to" a request is insufficiently specific). See *Seybert at Page 6, citing Brown v. Office of the Governor* OOR Docket AP 2017-1118. See *Palochko v. Executive Education Academy Charter School*, OOR Docket AP 2018-1397 (2018); *LeConte-Spink v. Butler County* OOR Docket AP 2018-1268 (a request for a

key word search over the course of two years is insufficiently specific where the key words consisted only of 4 names).

In the instant matter, as noted above, the District maintains that Item 7 is overly broad and burdensome and just as in *Seybert*, the request, on its face, requires that the School District do more than simply locate any keywords in the emails but would rather require the School District to make judgments as to whether potentially responsive records "related to" or otherwise document calendar booking activity on work-related matters. To that end, this request is akin to that of the request deemed insufficiently specific in *Seybert* and in fact is less specific than the request deemed insufficiently specific in the matter of *St. Hillare and ABC27 News v. Manheim Township School District*, which had identified a subject matter of "Alternative Education Program," and was still deemed insufficiently specific. See *Seybert and St. Hillare, Supra*.

Additionally, in *Mollick v. Township of Worcester*, 32 A.3d 859, 871 (Pa. Cmwlth. Ct. 2011) it was noted that an open-ended request that gives an agency little guidance regarding what to look for may be so burdensome that it will be considered overly broad. Within that case, the Commonwealth Court considered a request that sought 1) "All emails between the supervisors regarding any township business and/or activities for the past 1 and 5 years;" and 2) "all emails between the supervisors and the township employees regarding any township business and/or activities for the past 1 and 5 years." The Commonwealth Court held that this request was insufficiently specific because it failed to "specify what category or type of township business or activity for which the requester was seeking information." As such, the court noted that "it would place an unreasonable burden on an agency to examine all of [the responsive] emails for an extended time period without knowing, with sufficient specificity, to what township business or activity the request is related. See *Id.* at 871, cited in *Montgomery County v. Iverson*, 50 A.3d 281 (Pa. Commonwealth Court 2012).

Here, as in *Mollick*, the request places an unreasonable burden on the School District to similarly examine all of the emails containing Michelle Simpson's email address for an extended time period of one year, without knowing with sufficient specificity to what business or activity the request is related, other than including reference to her calendar booking activity and scheduling of meetings on "work-related matters." As noted above, the reference to calendar booking activity on any work-related matter requires the School District to make judgments as to what is a "work-related matter"

and what comprises "calendar booking activity," to determine which records are responsive to the request.

An Attestation of Superintendent Michelle Saylor is attached regarding the difficulty of an initial, cursory search conducted in this matter and further confirming the foregoing. In relation to same, it is noted that the mere "identification of potentially responsive records... is not sufficient to satisfy Section 703 of the Right to Know Law on its own." See *Silver NWXP-TV v. PA Department of Education*, 119 A.3d 1128.

Second, and not in derogation of the foregoing, the District maintains that Item 7, on its face, can be denied to the extent it seeks any internal communications exchanged between Mrs. Simpson, an employee of the School District, and any other employees of the District, because said communications do not constitute public records as defined under the Right to Know Law. See *Nelle v. Penn-Delco School District*, OOR Docket No. AP 2009-0478 (OOR Final Determination 2009) (Internal communications among employees are not subject to disclosure).

Third, and not in derogation of the foregoing, in the event that the OOR would determine that the request set forth in Item 7 is sufficiently specific to merit a response as to any records that do not constitute internal communications between District employees and Mrs. Simpson, the School District respectfully asserts that it has been incapable of reasonably discerning and confirming further exemptions applicable to records potentially responsive to Item 7, though as detailed below, it is believed that many such exemptions would apply due to the nature of Mrs. Simpson's position. This is because the District has not had the time or resources to fully review the volume of emails produced by even an initial, cursory search conducted in accordance with the request, within the statutory time period it was given to do so, i.e., within the initial 5-day period for a response and the additional 14 business day period (following extension) allotted by the OOR with respect to the above-referenced appeal.

In *Pennsylvania State System of Higher Education v. Association of State College and University Faculties*, the Commonwealth Court recognized the difficulties of facing a voluminous request and the obligation to respond within the statutory timeframe set forth, and noted an opportunity for agencies to obtain additional time to evaluate whether the requested records are subject to public access, providing as follows:

Just because a request is large does not mean that an agency should be foreclosed from carrying out its statutory duty to determine whether exemptions apply when it is incapable of reviewing the requested documents within the time period it is given.

If the request is so large that an agency does not have the ability to process the request in a timely manner given the enormous number of records requested, it would... undermine the specific legislative intent that every record be reviewed so that free and open discussions can take place within government when a decision is being deliberated, and that agencies should be afforded a sufficient opportunity to conduct investigations to protect the Commonwealth's security interest and the public's privacy rights.

Nonetheless, just because an agency claims it neither has the time nor resources to conduct a document-by-document review within the time period required by the Right to Know Law does not make it so. The agency making such a claim has to provide the OOR with a valid estimate of the number of documents being requested, the length of time that people charged with reviewing the request are required to conduct this review, and if the request involves documents in electronic format, the agency must explain any difficulty it faces when attempting to deliver the documents in that format. Based upon the above information, the OOR can then grant any additional time warranted so that the agency can reasonably discern whether any exemptions apply.

142 A.3d 1023, 1031 (Pa. Cmwlth. 2016) (addressing OOR's ability to afford additional time for review and identification of exemptions in relation to a deemed denial.)

To that end, and in light of all the foregoing establishing the degree to which the request is insufficiently specific, voluminous and overly burdensome to the District, the District alternatively and respectfully requests additional time to conduct a review of the emails produced in response to its initial, cursory search conducted while this appeal was pending.

As set forth in the attached Attestation of Superintendent Saylor, an initial, cursory search resulted in 4,337 records, separate and apart from any attachments and/or additional written and/or faxed correspondence that may additionally be responsive to the request. By virtue of Mrs. Simpson's position it is anticipated that the majority of any responsive records will constitute internal communications between employees as well as other correspondence dealing with internal personnel matters relating to applicants, employee benefits, employee discipline, employee performance, non-criminal investigation, as well as potential pre-decisional deliberations occurring among administrators, and communications relayed for purposes of obtaining legal advice that would be protected by attorney-client privilege or could otherwise include the mental impressions and recommendations of an attorney under the Attorney Work Product Doctrine, further rendering them non-public records exempt from release. See 65 P.S. 67.102; 67.708.

With this being the case, it is reasonably estimated that a period of review and compilation of the electronic and paper records by the School District would require at least another 2 weeks, and an additional 30 to 45-day period would be required for purposes of referral to agency counsel and potential redaction of any exempt information otherwise contained within records subject to release. To that end, and based on the Attestations made in good faith by the School District representatives, the District requests that if Item 7 is not deemed insufficiently specific, in the alternative, it be afforded an additional 60 days to review the records and identify any exemptions which apply to preclude disclosure or otherwise require redaction of records rather than be directed to simply release all records without any further review of potential exemption, which could compromise not only attorney-client privilege and Attorney Work Product Doctrine but also matters pertinent to employees privacy relative to internal human resource information addressing employee discipline, performance, personal identification information, etc.

Fourth, and finally, the following, as set forth in the attached Attestation, is a listing of some of the exemptions believed likely to apply, and hereby asserted, with respect to any records produced and/or deemed responsive to this request, and which further serve and/or would serve as the basis for denial of Item 7:

- a. Some or all of the records may not satisfy the definition of a "public record" as that term is defined under the Right to Know Law at Section 102, to the extent that they may not document a transaction or activity

of the agency, consist of purely factual information that is not pertinent to same, or otherwise consist solely of internal communications between employees addressing dates of meetings and confirming meetings, etc. See *Nelle v. Penn-Delco School District*, OOR Docket No. AP 2009-0478 (OOR Final Determination 2009) (internal communications among employees are not subject to disclosure).

- b. Some or all of the records may be protected by attorney-client privilege to the extent that they constitute communications made to or from the District's legal counsel for purposes of obtaining advice, and/or may further be protected by Attorney Work Product Doctrine to the extent that any communications received may include the mental strategy, impressions or other recommendations of the School District's attorneys. Some or all of the records may be protected by other federal or state law relative to the subject and/or individuals with whom they have been exchanged. Any such records would be not be deemed a "public record" as that term is defined under the Right to Know Law. See 65 P.S. § 67.102.
- c. Some or all of the records produced may be deemed exempt or to otherwise contain exempt information pursuant to the following exemptions identified under Section 708(b) of the Right to Know Law:
 - Section 708(b)(5) regarding an individual's medical, psychiatric or psychological history or disability status, enrollment in a healthcare program or a program designed for participation by persons with disabilities including vocational rehabilitation, worker's compensation, unemployment compensation, or related information that would disclose individual identifiable health information;
 - Section 708(b)(6)'s exemption for personal identification information;
 - Section 708(b)(7)'s exemption of certain records relating to an agency's employee's personnel and/or employment-related information including but not limited to performance ratings or reviews, written criticisms of an employee, grievance material, and information regarding discipline, demotion or discharge;
 - Section 708(b)(8) protection for records pertaining to strategy or negotiations relating to labor relations or collective bargaining;
 - Section 708(b)(10)'s exemption for records reflecting internal, predecisional deliberations of an agency, its members, employees, or officials, or those of another agency relating to recommendations and/or contemplated or proposed policy or courses of action;

- Section 708(b)(12) protection for notes or working papers prepared by or for a public official or agency employee that do not have an official purpose; Section 708(b)(13) protection for records of an agency relating to or resulting in a criminal investigation;
- Section 708(b)(17)'s exemption for records of an agency relating to or resulting in a non-criminal investigation;
- Section 708(b)(21)'s exemption for records of discussions held in executive session;
- Section 708(b)(27)'s exemption for records or information relating to communication between an agency and its insurance carrier, administrative service organization or risk management office;
- Section 708(b)(28)'s exemption for records or information identifying an individual who applies for or receives social services including record information related to an agency decision to grant, deny, reduce or restrict benefits and/or eligibility to receive social services; and
- Section 708(b)(30)'s exemption for records identifying the name, home address, or birth of a child 17 years of age or younger.

See generally, 65 P.S. § 708(b) and attached Attestation of School District Representatives. 65 P.S. § 67.708(b).

In light of all the foregoing, the School District maintains that the request set forth in Item 7 is insufficiently specific pursuant to Section 703, and/or that as stated, it seeks records that would not constitute or document a transaction or activity of the agency relative to the extent it only seeks records addressing calendar booking activity on "work-related matters" pertinent to the Human Resource Director Mrs. Simpson.

Alternatively, and not in derogation of the foregoing, in the event that the OOR would deem the request to be sufficiently specific, the School District respectfully requests additional time to address and review the records requested for potential exemption and/or other bases for non-disclosure in light of the burdensome and voluminous nature of the request, the fact that this appeal emanated from claims of a deemed denial significantly shortening the timeframe for response, the fact that the District undertook a good faith efforts in attempting to issue a 30-day extension notice for

purposes of allowing further review of the request, and the District's good faith efforts to respond to the best of its ability within the limited timeframe afforded to it for purposes of this appeal. *See Pennsylvania State System of Higher Education v. ASCUF*, 142 A.3d, 1023, 1031 (Pa. Cmwith. 2016).

We thank you for your attention and consideration of these matters.

Sincerely

A handwritten signature in cursive script, appearing to read "Elizabeth A. Benjamin", written in dark ink.

Elizabeth A. Benjamin

EAB/bja

Enclosures

cc: Simon Campbell
Carl P. Beard, Esquire
Michelle Saylor
Michelle Simpson

ATTESTATION

Date: February 28, 2019

Agency: Beard Legal Group

Requester: Simon Campbell

Records Requested:

See Request attached to Official Notice of Appeal for AP 2019-0205

OOR Appeal Dkt #: AP 2019 - 0205

I hereby attest that I have reviewed this request and can confirm, upon personal knowledge and based upon a search and review to the best of my ability, the following:

- 1. I, Carl P. Beard, serve as special legal counsel for the Bellefonte Area School District and have served in such capacity since June of 2018, during all relevant times applicable to this matter, and have personal knowledge of the facts contained herein.**
- 2. I hereby confirm that any/all invoices issued to the Bellefonte Area School District from Beard Legal Group, P.C. to the District, relative to the Firm's services as special legal counsel are in the possession of the firm, as well as the School District, and I have reviewed all invoices deemed responsive to this request.**
- 3. Attached is an Exemption Log pertaining to legal invoices labeled as Exhibit A.**
- 4. Exhibit A contains information that has been redacted for the purpose of protecting from disclosure the name of employee(s) about whom in regard to whom communications were exchanged between Beard Legal Group, P.C. and the School District.**
- 5. I hereby confirm that if not redacted, this information, when read together with the remaining information disclosed on the invoices, would reveal and/or otherwise potentially confirm information related to and/or the existence of the following relative to the employee(s): discipline, demotion, or discharge information; information pertinent to grievance material and/or proceedings; written criticism; performance rating material and/or issues pertinent to the employee(s) as well as information pertinent to any non-criminal investigation being conducted.**
- 6. The employee name(s) and related identifying information included within the subject matter of certain invoices as identified in the Exemption Log is the only information that has been redacted and this redaction has occurred in order to prevent the disclosure of exempt personnel information and exempt non-criminal investigative information.**

7. I further confirm that all invoices issued to the Bellefonte Area School District between the dates of January 1, 2018 through January 31, 2019, by Beard Legal Group, P.C. have been released, albeit some have been subject to redaction as outlined herein and as identified in the attached Exhibit A.
8. I hereby further confirm that after reasonable investigation and review, there are no records which exist which are responsive to Item 5 of the Request seeking "The most recently agreed retention agreement between the school district and Beard Legal Group. Specifically, any documents or written statement that reflects the "basis or rate of the fee..." other than the June 26, 2018 Board Meeting Minutes reflecting approval of the retention of Beard Legal Group and the corresponding rate/fee to be charged, and the attached invoices.
9. I hereby further confirm that any written criticisms, performance evaluations, complaints, and/or disciplinary matters addressed within the invoices applicable to any specific employee(s) of the agency have originated in the employment context and relationship, as opposed to originating from members of the public, as referenced within the redacted invoices.

I make this statement under penalty of perjury as more fully set forth in 18 Pa. C.S. § 4904.

My contact information, including telephone number and email address, is:

Carl P. Beard, Esquire
Beard Legal Group, P.C.
3366 Lynnwood Drive
P.O. Box 1311
Altoona, PA 16603-1311
(814) 943-3304
cbeard@beardlegallgroup.com

By:



[Signature]

RTLK Log for Exemptions and Redactions

Records of Beard Legal Group, P.C.

OOR Dkt. No. AP 2019-0205

Record Date	Number of Pages	Subject Matter/Description of Legal Work Performed	Authors	Recipients	Legal Basis for Exclusion
July 12, 2018	3	Description of Legal Work Performed; specific subject matter redacted as exempt/privileged	Beard Legal Group, P.C.	Bellefonte Area School District	Exemption for certain personnel information; information pertaining to non-criminal investigation
August 13, 2018	2	Description of Legal Work Performed; specific subject matter redacted as exempt/privileged	Beard Legal Group, P.C.	Bellefonte Area School District	Exemption for certain personnel information; information pertaining to non-criminal investigation
September 13, 2018	3	Description of Legal Work Performed; specific subject matter redacted as exempt/privileged	Beard Legal Group, P.C.	Bellefonte Area School District	Exemption for certain personnel information; information pertaining to non-criminal investigation
October 12, 2018	2	Description of Legal Work Performed; specific subject matter redacted as exempt/privileged	Beard Legal Group, P.C.	Bellefonte Area School District	Exemption for certain personnel information;

RTLK Log for Exemptions and Redactions

Records of Beard Legal Group, P.C.

OOR Dkt. No. AP 2019-0205

					information pertaining to non- criminal investigation
November 8, 2018	3	Description of Legal Work Performed; specific subject matter redacted as exempt/privileged	Beard Legal Group, P.C.	Bellefonte Area School District	Exemption for certain personnel information; information pertaining to non- criminal investigation



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEKEN BEARD

Federal ID #81-3129927

July 16, 2016

Belleville Area School District
318 North Allegheny Street
Belleville, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR JUNE, 2016: \$874.50

Invoice No. 345137 \$874.50

TOTAL DUE>> \$ 874.50

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Jul 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886

Inv #: 345137

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jun-20-18	Phone conference with District representatives regarding pending personnel issue	0.30	49.50	CPB
	Review of information forwarded from District as it relates to investigation, discipline and subsequent grievance	3.40	561.00	CPB
	Conference with Superintendent, Assistant Superintendent, and Director of HR regarding personnel issue involving elementary teacher	0.30	49.50	CPB
Jun-21-18	Extended conference with Michelle Simpson regarding personnel issue	0.30	49.50	CPB
	Review Grievance and correspondence from PSEA Representative; preparation of draft grievance response; preparation of draft response to PSEA Representative; correspondence to Michelle Simpson regarding and forwarding drafts and discussing next moves	1.00	165.00	CPB
	Totals	5.30	\$874.50	

Total Fees, Disbursements

\$874.50

Balance Due Now

\$874.50

Invoice # 345137

Matter # 48886

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	5.30	\$165.00	\$874.50
	5.30		\$874.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REAR

BRENDAN J. MORAN
JENNIFER L. DANERCK
CARL DEREN BEARD

Federal ID #81-3129827

August 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR JULY, 2018:

\$313.50

Invoice No.	345500	\$99.00
Invoice No.	345501	\$165.00
Invoice No.	345502	\$49.50

TOTAL DUE>>

\$ 313.50

SEP 04 PAID

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Aug 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886

Inv #: 345500

RE: 

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jul-02-18	Conference with HR Director and Superintendent regarding pending grievance	0.20	33.00	CPB
Jul-05-18	Phone conference with PSEA Representative Michael Lehmier regarding pending grievance meeting before the Board; correspondence to Michael Lehmier regarding requesting postponement of same	0.40	66.00	CPB
	Totals	0.60	\$99.00	

Total Fees, Disbursements

\$99.00

Balance Due Now

\$99.00

Invoice # 345500

Matter # 48886

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

0.60

\$165.00

\$99.00

0.60

\$99.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal LD. #81-3129927

Aug 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49012

Inv #: 345501

RE: Act 93 Agreement Revisions

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jul-12-18	Review of inquiry from District regarding changes to agreements; correspondence to District regarding case law surrounding enforceable contracts	1.00	165.00	CPB
	Totals	1.00	\$165.00	

Total Fees, Disbursements **\$165.00**

Balance Due Now **\$165.00**

Invoice # 345501

Matter # 49012

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

1.00

\$165.00

\$165.00

1.00

\$165.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal ID. #81-3129927

Aug 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49092

Inv #: 345502

RE: Recall From Layoff

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jul-13-18	Review CBA and email correspondence from District; conference with Michelle Simpson	0.30	49.50	CPB
	Totals	0.30	\$49.50	
	Total Fees, Disbursements			\$49.50
	Balance Due Now			\$49.50

Invoice # 345502

Matter # 49092

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

0.30

\$165.00

\$49.50

0.30

\$49.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBACH
CARL DEREN BEARD

Federal ID #81-3129927

September 14, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR AUGUST, 2018: \$2,574.00

Invoice No.	345929	\$2,458.50
Invoice No.	345930	\$33.00
Invoice No.	345931	\$82.50

OCT 10 2018

TOTAL DUE>> \$2,574.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph:814 943-3304

Fax:814 943-3430

Federal I.D. #81-3129927

Sep 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886
Inv #: 345929

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-01-18	Review of all materials as provided by HR Director regarding employee's communication with the Board and upcoming grievance hearing; preparation of draft communication to Mike Lehmier regarding same; correspondence to Michelle Simpson with draft letter	1.10	181.50	CPB
	Review of information provided by district to include anecdotal records, complaint, investigative notes and report; preparation of draft suspension without pay letter	1.70	280.50	CPB
	Correspondence to Michelle Simpson forwarding draft letter for employee and outlining additional information needed	0.80	132.00	CPB
Aug-09-18	Meeting with client to review personnel matter and upcoming Board level meeting	1.00	165.00	CPB
Aug-10-18	Conference with Amy Marshall regarding communication from her client; correspondence to Amy Marshall regarding same	0.80	132.00	CPB
	Conference with Michelle Simpson regarding discussions with counsel	0.20	33.00	CPB
	Correspondence to HR Director confirming discussions with counsel regarding upcoming grievance meeting	0.90	148.50	CPB
Aug-14-18	Premeeting with Administration; representation of District in grievance level hearing; follow up discussion with Dr. Lehmier, PSRA Regional Counsel and	4.90	808.50	CPB

	personnel issue; travel to and from District for purposes of same			
	Review notes of meeting in District and with representatives of employee; correspondence to Superintendent outlining issues raised with employee's representatives and next steps in process	1.50	247.50	CPB
Aug-23-18	Review of notes of discussions at Board meeting; review of file materials including investigative report; preparation of draft correspondence to Attorney Marshall, Attorney Leete and Dr. Lehmier regarding issues to be addressed in attempt to resolve grievance	1.40	231.00	CPB
	Correspondence to Superintendent and HR Director regarding pending personnel issue and draft letter to representatives of employee	0.60	99.00	CPB

Totals	14.90	\$2,458.50	
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Total Fees, Disbursements	\$2,458.50
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Balance Due Now	\$2,458.50
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Invoice # 345929

Matter # 48886

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

14.90

\$165.00

\$2,458.50

14.90

\$2,458.50

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Sep 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49017

Inv #: 345930

RE: Labor Services

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-29-18	Conference with Gina McFalls relative to special education issue	0.20	33.00	CPB
	Totals	0.20	\$33.00	
	Total Fees, Disbursements			\$33.00
	Balance Due Now			\$33.00

Invoice # 345930

Matter # 49017

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	0.20	\$165.00	\$33.00
	0.20		\$33.00

BEARD LEGAL GROUP, P.C.

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Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Sep 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49092
Inv #: 345931

RE: Recall From Layoff

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-01-18	Review CBA and email correspondence from Michelle Simpson; correspondence to Michelle Simpson confirming recommendations regarding matter	0.50	82.50	CPB
	Totals	0.50	\$82.50	
	Total Fees, Disbursements			\$82.50
	Balance Due Now			\$82.50

Invoice # 345931

Matter # 49092

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

0.50

\$165.00

\$82.50

0.50

\$82.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REFAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEEEN BEARD

Federal ID #81-3129927

October 15, 2018

Belleville Area School District
318 North Allegheny Street
Belleville, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR SEPTEMBER, 2018: \$792.00

Invoice No.	346349	\$115.50
Invoice No.	346350	\$33.00
Invoice No.	346351	\$643.50

OCT 26 2018

TOTAL DUE>> \$ 792.00

OCT 26 2018

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
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ALTOONA, PA 16603

Ph:814 943-3304

Fax:814 943-3430

Federal ID. #81-3129927

Oct 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886

Inv #: 346349

RE:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-17-18	Conference with PSEA Representative regadring pending personnel issue	0.20	33.00	CPB
Sep-18-18	Correspondence to District regarding discussions with PSEA Representative and pending personnel issue	0.30	49.50	CPB
Sep-28-18	Phone conference with Mike Lehmier regarding pending personnel issue and scheduling meeting	0.20	33.00	CPB
	Totals	0.70	\$115.50	

Total Fees, Disbursements

\$115.50

Balance Due Now

\$115.50

Invoice # 346349

Matter # 48886

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	0.70	\$165.00	\$115.50
	0.70		\$115.50

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
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ALTOONA, PA 16603

Ph:814 943-3304

Fax:814 943-3430

Federal I.D. #81-3129927

Oct 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49017
Inv #: 346350

RE: Labor Services

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-05-18	Conference with Gina McFalls relative to special education issue	0.20	33.00	CPB
	Totals	0.20	\$33.00	
	Total Fees, Disbursements			\$33.00
	Balance Due Now			\$33.00

Invoice # 346350

Matter # 49017

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

0.20

\$165.00

\$33.00

0.20

\$33.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Oct 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49370

Inv #: 346351

RE: **Loaner Agreement for AT Device**

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-11-18	Review of information and draft form from District to parents for assistive technology device; correspondence to District regarding same to include recommendations and other sample forms	1.60	264.00	CPB
	Review of information and draft form from District to parents for assistive technology device; correspondence to District regarding same to include recommendations and other sample forms	1.60	264.00	CPB
Sep-13-18	Conference with Special Ed director regarding assistive technology student issue	0.40	66.00	CPB
Sep-18-18	Review agreement provided previously to include other related information; correspondence to Gina MacFalls regarding terms of same	0.30	49.50	CPB
	Totals	3.90	\$643.50	

Total Fees, Disbursements

\$643.50

Balance Due Now

\$643.50

Invoice # 346351

Matter # 49370

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

3.90

\$165.00

\$643.50

3.90

\$643.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMECK
CARL DEREN BEARD

Federal ID #81-3128927

November 8, 2018

**Beliefonte Area School District
318 North Allegheny Street
Beliefonte, PA 16823**

FOR PROFESSIONAL SERVICES RENDERED FOR OCTOBER, 2018: \$957.00

Invoice No. 346805 \$957.00

TOTAL DUE>> \$ 957.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal LD. #81-3129927

Nov 08, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886
Inv #: 346805

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Oct-01-18	Review of correspondence from District regarding pending issue; phone conference with District representative; conference with Mike Lehmier regarding scheduling meeting; correspondence to District regarding discussions with Mike Lehmier and confirming meeting	0.50	82.50	CPB
Oct-05-18	Review of file documentation in preparation of meeting with Association and private attorney along with school administrators	0.60	99.00	CPB
Oct-08-18	Premeeting with Administrative team; representation of District in meeting with PSEA Regional Director, PSEA Legal Counsel, and private counsel for employee; follow up discussions regarding meeting; travel to and from District for same	3.80	627.00	CPB
Oct-22-18	Review of information forwarded from District; preparation of Talking Points for discussion with employee; correspondence to District regarding scheduling meeting with employee	0.90	148.50	CPB
	Totals	5.80	\$957.00	

Total Fees, Disbursements

\$957.00

Balance Due Now

\$957.00

Invoice # 346805

Matter # 48886

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

5.80

\$165.00

\$957.00

5.80

\$957.00



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEEEN BEARD

Federal ID #81-3129827

December 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR NOVEMBER, 2018: \$363.00

Invoice No. 347195 \$363.00

TOTAL DUE>> \$ 363.00

PAID
JAN 1 1 2019

WWW.BEARDLEGALGROUP.COM
3365 LYNNWOOD DRIVE • PO BOX 1311 • ALTOONA, PENNSYLVANIA 16603-1311 • PHONE 814-943-3304 • FAX 814-943-3430
OFFICES ALSO LOCATED IN JOHNSTOWN, PA

BEARD LEGAL GROUP, P.C.

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3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Dec 11, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49692

Inv #: 347195

RE: Support Staff RSP Negotiations - 2019

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Nov-11-18	Meeting in District with Board President, HR Director and Superintendent regarding support staff negotiations	1.00	165.00	CPB
Nov-12-18	Review of support CBA in preparation of meeting with HR Director, Superintendent and Board President	0.70	115.50	CPB
Nov-13-18	Correspondence to HR Director requesting information for contract negotiations	0.50	82.50	CPB
	Totals	2.20	\$363.00	

Total Fees, Disbursements

\$363.00

Balance Due Now

\$363.00

Invoice # 347195

Matter # 49692

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	2.20	\$165.00	\$363.00
	2.20		\$363.00



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. RIFAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEVEN BEARD

Federal ID #81-3129927

January 11, 2019

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR DECEMBER, 2018: \$2,656.50

Invoice No.	347524	\$2,326.50
Invoice No.	347525	\$330.00

TOTAL DUE>> \$2,656.50

FEB 06 PMD

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Jan 09, 2019

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49692
Inv #: 347524

RE: Support Staff ESP Negotiations - 2019

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Dec-12-18	Review of notes of meeting; review of CBA; preparation of draft Initial Proposal for review by District in anticipation of upcoming negotiation meeting	3.60	594.00	CPB
	Correspondence to District with draft Initial Proposal for review	0.50	82.50	CPB
Dec-17-18	Premeeting with District negotiating team; revisions to District Proposal	1.70	280.50	CPB
	Representation of District in contract negotiations with support staff association and State Mediator; travel to and from District for purposes of same	6.00	990.00	CPB
Dec-18-18	Review of notes of negotiations; preparation of draft Tentative Agreement for review by District; correspondence to Michelle Simpson with draft Tentative Agreement for review and comment	2.30	379.50	CPB
	Totals	14.10	\$2,326.50	

Total Fees, Disbursements

\$2,326.50

Balance Due Now

\$2,326.50

Invoice # 347524

Matter # 49692

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

14.10

\$165.00

\$2,326.50

14.10

\$2,326.50

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal ID, #81-3129927

Jan 09, 2019

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49894

Inv #: 347525

RE: Unlawful Harassment Policy Review

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Dec-03-18	Review/analysis of unlawful harassment policies forwarded from Bellefonte with inquiry about appeal procedure and related Title IX Guidance relative to appeal procedures within unlawful harassment policies, as well as proposed amendments to Title IX regulations	0.90	148.50	EAB
	Correspondence to Michelle Simpson regarding unlawful harassment appeal procedures and potential amendments to same	0.80	132.00	EAB
Dec-05-18	Analysis and final preparation of opinion letter addressing Unlawful Harassment Policy	0.30	49.50	EAB
	Totals	2.00	\$330.00	

Total Fees, Disbursements **\$330.00**

Balance Due Now **\$330.00**

Invoice # 347525

Matter # 49894

Page

Lawyer

Hours

Rate

Amount

Elizabeth A. Benjamin

2.00

\$165.00

\$330.00

2.00

\$330.00

ATTESTATION

Date: February 28, 2019

Agency: Bellefonte Area School District

Requester: Simon Campbell

Records Requested:

See Request attached to Official Notice of Appeal for AP 2018-0205

OOR Appeal Dkt #: AP 2019 - 0205

I, Michelle Saylor, Ed.D., am the Superintendent of Schools of the Bellefonte Area School District, and I make this statement under penalty of perjury as more fully set forth in 18 Pa. C.S. § 4904:

I hereby attest that I have reviewed this request and can confirm, upon personal knowledge and based upon a search and review to the best of my ability, the following:

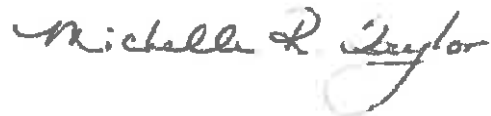
- 1. I, Michelle Saylor, Ed.D., serve as the Superintendent of Schools of the Bellefonte Area School District during all relevant times applicable to this matter, and have personal knowledge of the facts contained herein.**
- 2. The School District received a series of Right to Know Requests from the requester Mr. Campbell, including the Right to Know Request underlying this appeal, beginning on January 30, 2019 and continuing through February 7, 2019, one of which was withdrawn by Mr. Campbell and contributed to some confusion regarding the issuance of responses setting forth a 30-day extension notice in response to each request.**
- 3. Mr. Campbell subsequently advised the School District of a potential discrepancy with a 30-day extension notice relative to the instant request dated January 30, 2019 and the School District promptly issued a 30-day extension notice to Mr. Campbell on February 8, 2019.**
- 4. At all times the District has operated in good faith with respect to its efforts to provide an initial response to Mr. Campbell's request, and has continued to do so to date.**
- 5. Relative to Item 7 of the Right to Know Request underlying this appeal, I caused to be conducted, with the assistance of the District's IT personnel, an initial cursory search of the School District's email server utilizing arbitrarily selected search terms of "scheduling," and "cancellation," relative to the email address of msimpson@basd.net contained within various address fields.**
- 6. The search conducted as described in Paragraph 2 resulted in a total of 4,337 email records.**

7. I hereby further confirm that the District did not have sufficient time or resources to both conduct this search and complete a record-by-record review of the initial records produced, nor did the District have sufficient time or resources to conduct further search and/or review of any/all paper correspondence potentially responsive to Item 7.
8. I hereby further confirm that without further definition or clarification of a subject matter for the emails and correspondence pertaining to calendar booking activity on work-related matters, it is impossible and unduly burdensome to determine or confirm whether we have produced any/all records potentially responsive to the request, in the absence of specified search terms, a specified subject matter, and/or a record by record review of all of Mrs. Simpson's emails issued and/or received during the relevant time period of Item 7.
9. I hereby further confirm that relative to Item 6 of the request underlying this appeal, the Minutes of the June 26, 2018 Board Meeting are available on the Bellefonte Area School District website at www.basd.net.
10. Alternatively, and not in derogation of the foregoing, if deemed necessary we believe a reasonable estimate of time for retrieval, review and further compilation of records, including paper correspondence, by the District would be approximately 14 additional days and referral to agency counsel for purposes of discerning what exemptions might apply to the records produced, is reasonably estimated at 30-45 days.

I make this statement under penalty of perjury as more fully set forth in 18 Pa. C.S. § 4904.

My contact information, including telephone number and email address, is:

Michelle Saylor, Ed.D.
Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823
(814) 355-4814
msaylor@basd.net



By:

[Signature]

ATTESTATION

Date: February 28, 2019

Agency: Bellefonte Area School District

Requester: Simon Campbell

Records Requested:

See Request attached to Official Notice of Appeal for AP 2018-0205

OOR Appeal Dkt #: AP 2018 - 0205

I, Michelle Simpson, am the Human Resource Director for the Bellefonte Area School District, and I make this statement under penalty of perjury as more fully set forth in 18 Pa. C.S. § 4904:

I hereby attest that I have reviewed this request and can confirm, upon personal knowledge and based upon a search and review to the best of my ability, the following:

- 1. I, Michelle Simpson, serve as the Human Resource Director for the Bellefonte Area School District during all relevant times applicable to this matter, and have personal knowledge of the facts contained herein.**
- 2. In the course of my duties, I send and receive email correspondence, written correspondence, and facsimile correspondence in which I may discuss or otherwise confirm scheduling of meetings with a variety of individuals both inside and outside the School District.**
- 3. The vast majority of meetings that I would schedule via this type of correspondence would be exchanged with other School District personnel, to include employees, and administrators.**
- 4. Additionally, these communications to schedule meetings would likewise at times consist of communications with School District attorneys and/or Board Members.**
- 5. Within communications in which meetings are scheduled, it is not uncommon and in fact fairly frequent for me to identify the nature of the topics to be discussed in said meetings.**
- 6. I hereby confirm that correspondence of the nature described above, occurring from the time period of January 1, 2018 through January 30, 2019, could include, and in some cases would include discussions and/or references to**

applicants for employment, employee benefit information, employee discipline to include pre-disciplinary conferences, investigatory meetings and meetings to address grievances, employee performance issues, investigatory interviews with employees related to complaints, including but not limited to topics such as alleged discrimination and harassment, as well as discussions regarding proposed courses of actions and/or policy, and information relayed to attorneys for purposes of obtaining legal advice and/or referencing or receiving recommendations of attorneys whom the District has retained for purposes of legal representation.

7. Additionally, correspondence of the nature described above, occurring from the time period of January 1, 2018 through January 30, 2019 is likely to include, and in some cases would in fact include communications exchanged solely between myself and other employees of the District that are internal, discussions and/or records regarding an individual's medical, psychiatric or psychological history, personal identification information such as personal/non-public email addresses and related contact information, employee identification numbers and at times social security numbers; discussions of strategy relative to negotiation meetings for collective bargaining; notes or working papers prepared by or for myself or other public officials or agency employees; records pertinent to a criminal and/or non-criminal investigation to include complaints and other records underlying said investigation which I am required to conduct pursuant to statutes, including but not limited to Title IX, Title VII of the Civil Rights Act, and the Pennsylvania Human Relations Act, among others, discussions held in Executive Session; communications/discussions with the District's insurance carriers, discussions related to employee applications for social services; and discussions that may identify the name, home address, or birth of a child 17 years of age or younger.

I make this statement under penalty of perjury as more fully set forth in 18 Pa. C.S. § 4904.

My contact information, including telephone number and email address, is:

Michelle Simpson
Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823
(814) 355-4814
msimpson@basd.net

By:


[Signature]



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DIENEN BEARD
KRYSTAL T. EDWARDS

ELIZABETH A. BENJAMIN

DIRECT DIAL: 814.940.8671
FAX: 814.283.7050
ebenjamin@beardlegallgroup.com

February 27, 2019

Via Email: blandis@psaa.org
Brian Landis
PSEA UniServ
400 Shiloh Road
State College, PA 16801

In Re: Campbell v. Bellefonte Area School District
OOR Docket No. AP 2019-0205

Dear Mr. Landis:

On January 31, 2019, Simon Campbell filed a Right to Know Request with the School District seeking access to certain records as outlined in that request. In particular they asked us to produce records of correspondence exchanged with the District's Human Resource Director Michelle Simpson which may include information that impacts individuals within bargaining units represented by PSEA, and in regard to which you recently contacted the School District requesting notification relative to any such records.

The requesting party filed an appeal with the Office of Open Records asserting that the request was deemed denied as of February 8, 2019. We received notice of the appeal from the Office of Open Records shortly thereafter. The notice and all related documents including the January 31, 2019 Right to Know Requests are enclosed with this letter. Due to the fact that the appeal may affect your rights and/or the rights of those represented by you, you may request to participate in this appeal. Failure to participate in this appeal may result in a waiver of objections regarding any release of requested records.

Thank you for your attention to this matter. If you have any questions regarding this appeal, please contact us.

Sincerely,

Elizabeth A. Benjamin, Counsel for Bellefonte Area
School District

Enclosures



pennsylvania
OFFICE OF OPEN RECORDS

February 11, 2019

Via Email Only:

Mr. Simon Campbell
668 Stony Hill Rd #298
Yardley, PA 19067
psbahorror@gmail.com

Via Email Only:

Kenneth Bean, Open Records Officer
Agency Open Records Officer
Bellefonte Area School District
318 North Allegheny St
Bellefonte, PA 16823
rightToKnow@basd.net

RE: OFFICIAL NOTICE OF APPEAL-DOCKET #AP 2019-0205

Dear Parties:

Please review this information carefully as it affects your legal rights.

The Office of Open Records ("OOR") received this appeal under the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101, *et seq.* on February 11, 2019. This letter describes the appeal process. A binding Final Determination will be issued pursuant to the timeline required by the RTKL. In most cases, that means within 30 calendar days. The OOR's Final Determination is currently due on March 13, 2019.

OOR Mediation: This is a voluntary, informal process to help parties reach a mutually agreeable settlement on records disputes before the OOR. To participate in mediation, both parties must agree in writing. The Parties agreement to mediate stays the Final Determination Deadline. If mediation is unsuccessful, both parties will be able to make submissions to the OOR, and the OOR will have 30 calendar days from the conclusion of the mediation process to issue a Final Determination, unless the Requester agreed to an additional 30 calendar day extension on the appeal form.

Note to Parties: Statements of fact must be supported by an affidavit or attestation made under penalty of perjury by a person with actual knowledge. Any factual statements or allegations submitted without an affidavit will not be considered. The agency has the burden of proving that records are exempt from public access (see 65 P.S. § 67.708(a)(1)). To meet this burden, the agency must provide evidence to the OOR. The law requires the agency's position to be supported by sufficient facts and citation to all relevant sections of the RTKL, case law and OOR Final Determinations. An affidavit or attestation is required to show that records do not exist. Blank sample affidavits are available on the OOR's website.

Submissions to OOR: Both parties may submit information and legal argument to support their positions by 11:59:59 p.m. on February 21, 2019. The record closing date is seven (7) business days from the date of this letter unless the proceedings have been stayed for the parties to submit a completed mediation agreement form, then the record will remain open for seven (7) additional business days beyond the mediation agreement submission deadline. *Submissions sent via postal mail and received after 5:00 p.m. will be treated as having been received the next*

business day: The agency may assert exemptions on appeal even if it did not assert them when the request was denied (*Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013)).

Include the above docket number on all submissions related to this appeal. Also, any information you provide to the OOR must be provided to all parties involved in this appeal. Information shared with the OOR that is not also shared with all parties will not be considered.

Agency Must Notify Third Parties: If records affect a legal or security interest of an employee of the agency; contain confidential, proprietary or trademarked records of a person or business entity; or are held by a contractor or vendor, the agency must notify such parties of this appeal immediately and provide proof of that notice by the record closing date set forth above. Such notice must be made by: (1) providing a copy of all documents included with this letter; and (2) advising that interested persons may request to participate in this appeal (see 65 P.S. § 67.1101(e)).

Commonwealth Court has held that "the burden [is] on third-party contractors ... to prove by a preponderance of the evidence that the [requested] records are exempt." (*Allegheny County Dep't. of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw., Ct. 2011)). Failure of a third-party contractor to participate in an appeal before the OOR may be construed as a waiver of objections regarding release of the requested records.

Law Enforcement Records of Local Agencies: District Attorneys must appoint Appeals Officers to hear appeals regarding criminal investigative records in the possession of a local law enforcement agency. If access to records was denied in part on that basis, the Requester should consider filing a concurrent appeal with the District Attorney of the relevant county.

Public Record Notices: All dockets, filings and OOR orders and opinions in this appeal will be public records and subject to public access with limited exception. The OOR's Final Determination will generally include a summary of the case including the identity of the parties and the relevant factual background. Final Determinations are available on the OOR's website and searchable on-line.

If you have general questions about the appeal process, please contact the OOR at (717) 346-9903. If you have questions specific to your appeal, please email the assigned Appeals Officer (contact information is enclosed) - and be sure to provide a copy of any correspondence to all other parties involved in this appeal.

Sincerely,



Erik Arneson
Executive Director

Enc.: Assigned Appeals Officer contact information
Entire appeal as filed with OOR



pennsylvania
OFFICE OF OPEN RECORDS

APPEALS OFFICER:

Magdalena Zappas, Esq.

CONTACT INFORMATION:

**Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234**

FACSIMILE:

(717) 425-5343

EMAIL:

mzappas@pa.gov

**Preferred method of contact and
submission of information:**

EMAIL

Please direct submissions and correspondence related to this appeal to the above Appeals Officer. Please include the case name and docket number on all submissions.

You must copy the other party on everything you submit to the OOR. The Appeals Officer cannot speak to parties individually without the participation of the other party.

The OOR website, <https://openrecords.pa.gov>, is searchable and both parties are encouraged to review prior final determinations involving similar records and fees that may impact this appeal.

The OOR website also provides sample forms that may be helpful during the appeals process. OOR staff are also available to provide general information about the appeals process by calling (717) 346-9903.

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: _____

Today's date: _____

Name: _____

PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.

Address/City/State/Zip _____

E-mail _____

Fax Number: _____

Name of Requester: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____

E-mail _____

Name of Agency: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____

E-mail _____

Record at issue: _____

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☐ Other: (attach additional pages if necessary)

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted, _____

(must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.

Devenyi, Dylan

From: no-reply@openrecords.pa.gov
Sent: Monday, February 11, 2019 2:48 PM
To: psbahorror@gmail.com
Subject: PA Office of Open Records - Appeal Confirmation



pennsylvania
OFFICE OF OPEN RECORDS

You have filed an appeal of an agency's response to a request for records under the Right-to-Know Law.

Name: Simon Campbell
Address 1: 668 Stony Hill Rd #298
Address 2:
City: Yardley
State: Pennsylvania
Zip: 19067
Phone: 267-229-3165
Fax:
Email: psbahorror@gmail.com
Agency (list): Bellefonte Area School District
Agency Address 1: 318 North Allegheny Street
Agency Address 2:
Agency City: Bellefonte
Agency State: Pennsylvania
Agency Zip: 16823
Agency Phone:
Agency Fax:
Agency Email: rightToKnow@basd.net
Records Requested: Please see attached.

RECEIVED

FEB 11 2019

OFFICE OF OPEN RECORDS



Request Submitted to Agency Via:	e-mail
Request Date:	01/30/2019
Response Date:	02/08/2019
Deemed Denied:	No
Agency Open Records Officer:	Kenneth Bean, Open Records Officer
Additional Reasons for Appeal:	My request was deemed denied because the agency's response fell outside of the initial five (5) business days. I am not challenging the deemed denials of Request Items 2 and 3. Only Request Items 1, 4, 5, 6 & 7 remain in dispute.
Attached a copy of my request for records:	Yes
Attached a copy of all responses from the Agency regarding my request:	Yes
Attached any letters or notices extending the Agency's time to respond to my request:	No
Agree to permit the OOR an additional 30 days to issue a final order:	No
Interested in resolving this issue through OOR mediation:	No
Attachments:	<ul style="list-style-type: none"> • 1-30-19 RTKL Request (BASD).pdf • 2-8-19 Untimely Response.pdf

I requested the listed records from the Agency named above. By submitting this form, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.



pennsylvania
OFFICE OF OPEN RECORDS

Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: Bellefonte Area School District (Attn: AORO)

Date of Request: 1-30-19 **Submitted via:** ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Simon Campbell **Company (if applicable):** _____

Mailing Address: 668 Stony Hill Rd #298

City: Yardley **State:** PA **Zip:** 19067 **Email:** psbahorror@gmail.com

Telephone: 267-229-3165 **Fax:** _____

How do you prefer to be contacted if the agency has questions? ☒ Telephone ☐ Email ☐ U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.*

Please see attached for details. Electronic copies only sought. If the agency alleges that any copy fees are owed please do not actually incur any such costs without first obtaining my approval.

See 65 P.S. § 67.1304(a)(1) (agency required to act in good faith).

DO YOU WANT COPIES? ☒ Yes, electronic copies preferred if available (electronic only)

☐ Yes, printed copies preferred

☐ No, in-person inspection of records preferred (may request copies later)

Do you want certified copies? ☐ Yes (may be subject to additional costs) ☒ No

RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than ☐ \$100 (or) ☒ \$0.00

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ **Date Received:** _____ **Response Due (5 bus. days):** _____

30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) **Actual Response Date:** _____

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied **Cost to Requester:** \$ _____

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: *In most cases, a completed RTKL request form is a public record.
More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Nov. 27, 2018

ITEM 1

Screenshot image showing the name of the software program that the agency possesses or constructively possesses that can electronically redact .pdf files.

ITEM 2

The most recently received tax duplicate from the County of Centre or the local tax collector (the expression "tax duplicate" means the list of all property owners and their associated property addresses within the geographic confines of the Bellefonte Area School District).¹

ITEM 3

All currently enforceable collective bargaining agreements between the Bellefonte Area School District and unions.

ITEM 4

The current employment contract for Human Resources Director Michelle Simpson.

ITEM 5

The most recently agreed retention agreement between the school district and Beard Legal Group. Specifically, any document or written statement that reflects the "basis or rate of the fee" as those words have meaning in Rule 1.5(b). Fees. of the Rules of Professional Conduct, 204 Pa. Code § 81.4.

ITEM 6

All itemized invoices received from Beard Legal Group between the dates of January 1, 2018 and the present.

ITEM 7

All emails and/or email attachments sent or received between the dates of January 1, 2018 and the present that have the work email address (msimpson@basd.net) of Human Resources Director Michelle Simpson in any or all of the following e-mail address fields: From:, To:, Cc:, Bcc:, and which relate in subject matter/content, in whole or in part, to the calendar booking activity of Mrs. Simpson (i.e. who she was scheduling/was being scheduled to meet in person, for a work related matter, and any cancellations relating to the same). Also, to the extent it exists, & regardless of who the sender was, I seek written correspondence in *letter form* regarding the same agency activity (i.e. Mrs. Simpson's calendar booking activity) for the same time period, that was sent or received via postal/courier mail and/or via facsimile.

¹ See *Butler Area School District v. Pennsylvanians for Union Reform*; 172 A.3d 1173 (Pa. Commw. Ct. 2017)



Bellefonte Area School District

318 North Allegheny Street
Bellefonte, PA 16823
Telephone: (814) 355-4814

Dr. Michelle R. Saylor, Superintendent
Mrs. Tammie Barnard, Assistant Superintendent
Mr. Kenneth G. Bean, Jr., CMA, Director of Fiscal Affairs

February 8, 2019

Via Email: pahorron@gmail.com
Simon Campbell
668 Stony Hill Road #110
Yardley, PA 19067

RE: 7-Item Right to Know Request dated January 30, 2019

Dear Mr. Campbell:

On January 30, 2019, Bellefonte Area School District received the attached request for information pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §67.101 et seq. ("RTK Law").

Pursuant to Section 902 of Pennsylvania's Right-to-Know Law, you are hereby notified that the District is reviewing your request and will require up to an additional thirty (30) business days to prepare a written response. The reason for the imposition of the extension, in this instance, is because both a legal review is necessary to determine whether and what records exist that are responsive to your request, and whether and to what extent the records are subject to access under the Act. 65 P.S. §67.902(a)(4).

In addition, the District anticipates that if any record requested is identified and determined to be a record subject to access, redaction may be required pursuant to Section 706 and 708 of the Right-to-Know Law. See 65 P.S. §67.902(a)(1). Furthermore, the nature and extent of your request precludes a response within the initial five (5) day response period. See 65 P.S. §67.902(a)(7).

The District will provide a final written response to your request no later than March 8, 2019. At that time, in the event your request is granted, you will be provided with an estimated cost of fees for copying and other information regarding access, if necessary.

You have a right to appeal this determination. Any appeal should be directed, in writing, to Executive Director Erik Arneson at the Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120. Please note that if you choose to file an appeal, you must do so within fifteen (15) business days of the mailing date of the agency's response. See 65 P.S. §67.1101.

Sincerely,

Kenneth G. Bean, Jr.
Open Records Officer

An Equal Opportunity Employer

www.basd.net

Zeppos, Magdalene

From: Brenda Adelman <badelman@beardlegalgroup.com>
Sent: Thursday, February 28, 2019 5:17 PM
To: psbahorror@gmail.com
Cc: Elizabeth A. Benjamin; Carl P. Beard; Saylor, Michelle; Zeppos, Magdalene; Elder, Leslie
Subject: [External] Simon Campbell re response to OOR Appeal No. 2019-0205
Attachments: 20190228PDFSimon Campbel response with documentation.PDF

Follow Up Flag: Follow up
Flag Status: Flagged

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Please see the attached correspondence from Attorney Benjamin with the accompanying documentation.

Thanks – Brenda

Brenda J. Adelman,
Assistant to Elizabeth A. Benjamin
814-940-8671
ebenjamin@beardlegalgroup.com
BEARD LEGAL GROUP, P.C.
3366 Lynnwood Drive
P.O. Box 1311
Altoona, PA 16603
(814) 296-2306



Although email is a convenient way of communicating, there are drawbacks to email. First, it may not be secure or confidential. Second, there is no certainty or guarantee that email will be delivered to our inbox or that it won't be mistakenly deleted. Therefore, if you are concerned at all about the lack of confidentiality, do not use email to transmit communications to us and tell us about your concerns so that we can accommodate your needs. Further, to our clients, we cannot accept any assignment by email alone, unless you hear from us that we received the email and will be acting on it. If there is anything that we are expected to do, and you have not heard from us promptly acknowledging receipt of the assignment and agreement to perform the work, please ensure that you contact us and talk to a "live" person to ensure that we received the assignment. Thank you.

PRIVILEGED INFORMATION/NOTICE OF CONFIDENTIALITY.

This electronic message, and any/all content within or attached to it is sent by an attorney and/or his/her agent and is confidential. This information within or attached to it may be protected by attorney/client privilege, work product immunity, or other privileges/immunities. It is meant solely and expressly for the intended recipient(s) only, as indicated by the sender. Any disclosure, copying, or distribution of this email, or any other action taken or omitted in reliance on this email, by any person other than the intended recipient(s), is strictly prohibited and may be unlawful. If you are not the intended recipient(s), or have received this email in error, please notify the sender immediately and promptly delete this email.



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEREN BEARD
KRYSTAL T. EDWARDS

ELIZABETH A. BENJAMIN

DIRECT DIAL: 814.940.8671
FAX: 814.283.7050
ebenjamin@beardlegalgroup.com

February 28, 2019

Via Email: psbahorror@gmail.com
Simon Campbell
668 Stony Hill Road #298
Yardley, PA 19067

In Re: OOR Appeal 2019-0205

Dear Mr. Campbell:

Relative to the above-referenced Appeal, the District has exercised its discretion to move forward in granting Items 1 and 4 of your request, for which responsive records are enclosed. Likewise, Items 5 and 6 of your request are partially granted, as described below. Item 7 remains denied on grounds, including but not limited to the fact that it is insufficiently specific pursuant to section 703 of the Right to Know Law, as further detailed in the District's submission to the Office of Open Records Appeals Officer Magdalene Zeppos Issues on this same date.

Relative to Item 5 of your request, this item has been granted in part and denied in part. To the extent the request seeks a retention agreement between the School District and Beard Legal Group, the request is denied because no such document currently exists. To the extent that the request seeks any document or written statement reflecting the "basis or rate of the fee" this request is granted and you are referred to the School District's June 26, 2018 Board Meeting Minutes reflecting approval of the retention of Beard Legal Group and the corresponding rate/fee to be charged. These meetings are available on the Bellefonte Area School District's website at www.basd.net.

Relative to Item 6 of your request, this Item has been granted in part and denied in part, and records responsive to your request are enclosed, with redaction. Relative to the partial denial, please be advised that this denial has occurred relative to redaction of certain record information within subject matters that when read together with the totality of the invoice would serve to identify employee(s) to whom disciplinary proceedings, grievance proceedings, and/or a non-criminal investigation may have been considered and/or applicable. As such this record

February 28, 2019
Page 2

information was deemed exempt pursuant to Section 708(b) of the Right to Know Law and redacted accordingly. See 65 P.S. § 708(b)(7); (10); (17).

Thank you for your attention to these matters.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth A. Benjamin".

Elizabeth A. Benjamin

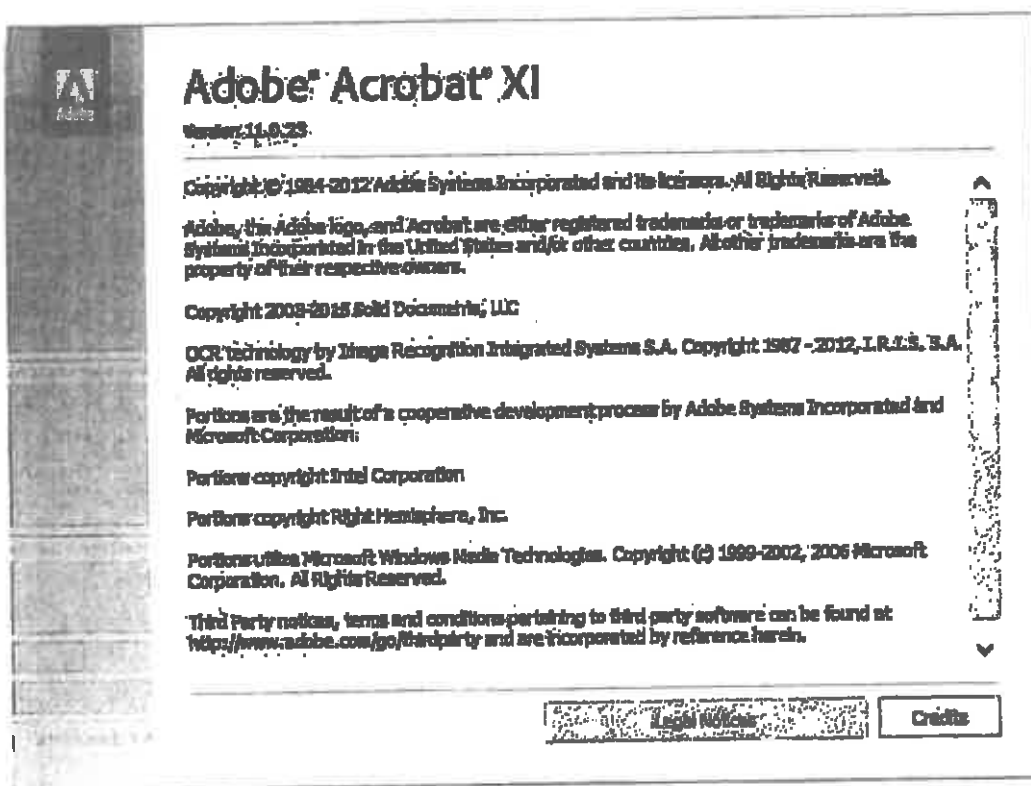
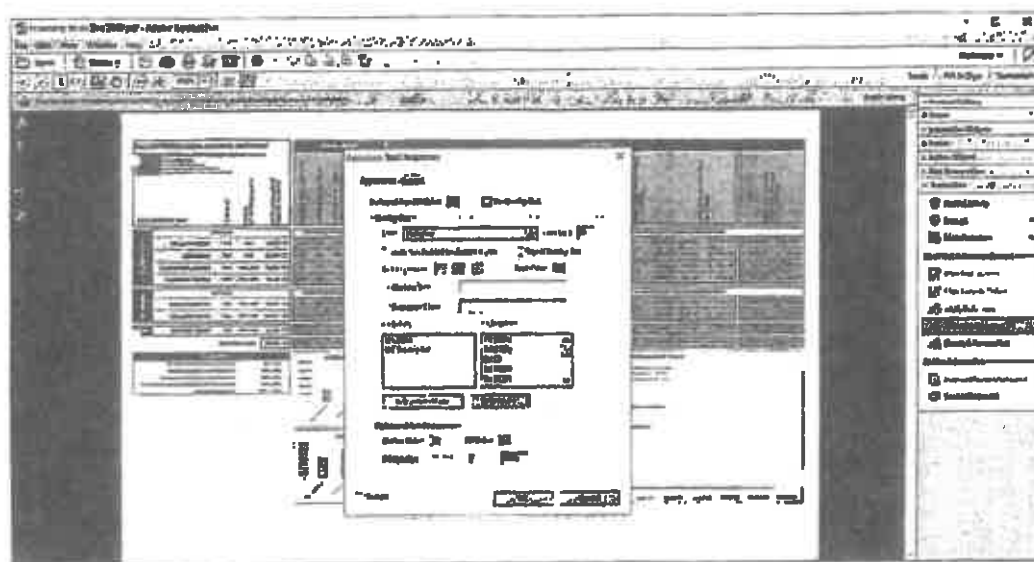
Enclosures

cc: Magdalene Zeppos
Michelle Saylor
Carl P. Beard, Esquire

In regards to Item #1 - Redaction Software.

The software program is Adobe Acrobat XI, Version 11.0.23.

Screenshots Identifying the software.



**DIRECTOR OF HUMAN RESOURCES
EMPLOYMENT AGREEMENT**

ARTICLE I - AGREEMENT

THIS Agreement made and entered into the 1st day of July, 2019 by and between the Board of School Directors of the Bellefonte Area School District, a school district of the third class formed and existing under the Public School Code of Pennsylvania and having its administrative offices at 318 Allegheny Street, Bellefonte, PA 16823 (hereinafter "School District")

A N D

Michelle R. Simpson, an individual with an address of 345 East Mountain Road, Port Matilda, PA 16870 (hereinafter referred to as "Simpson")

ARTICLE II - PREAMBLE

WHEREAS, there is a position of Director of Human Resources for the School District; and

WHEREAS, the School District had determined that "Simpson" is a qualified person to occupy that position; and

WHEREAS, the School District and "Simpson" desire to enter into this contract setting forth the terms and conditions of the employment of "Simpson" as Director of Human Resources.

NOW THEREFORE, the parties hereto intending to be legally bound and in consideration of mutual covenants herein contained do hereby agree as follows:

ARTICLE III - DURATION

The School District does hereby employ "Simpson" in the capacity of Director of Human Resources for a term of three (3) years with up to a five (5) year renewal or if the Board, in the exercise of its discretion chooses not to renew the contract, unless this Agreement is terminated earlier for reason of death, permanent disability, or for reasons set forth in the PA School Code. During the term of this agreement, "Simpson" agrees to serve as the Director of Human Resources of the School District and to perform the duties of that position in a competent and professional manner in accordance with the laws of the Commonwealth of Pennsylvania, the policies of the School District, and the provisions of this agreement. On or before February 1, 2022, the Board shall advise Simpson whether it intends to enter into a new contract with her. It shall be Simpson's responsibility to ensure that this item is on the Board's Agenda for action at one of the regular Board meetings in January, 2022.

ARTICLE IV - COMPENSATION

The District and Simpson agree to the following annual salary and conditions:

- A. The District agrees to pay Simpson for the performance of her duties under the terms and conditions of this agreement an annual salary of \$98,345.43. This amount shall be paid in equal installments in accordance with the policies of the District governing salary payments

to the regularly employees and the professional employees and administrators of the District.

- B. Increases to Simpson's salary shall be made in accordance with the terms and conditions of the then in force Act 93 Agreement.
- C. The Board shall not reduce the annual salary of this Director of Human Resources at any time during the term of this agreement, or through any amendment or extension of this agreement, unless agreed to in writing by the Director of Human Resources.

ARTICLE V - BENEFITS

"Simpson" shall receive all benefits provided to other administrative personnel of the School District not otherwise enumerated in this agreement as set forth in the Administrative Benefit and Compensation Plan for the Administrative Personnel in the School District except for the following:

- A. Simpson may accumulate unused vacation days to a maximum of thirty-five (35) days. Simpson shall receive payment for unused vacation days upon death, permanent disability, retirement, or upon leaving the District whether voluntarily or involuntarily, based upon the per diem rate of compensation as certified by the Business office. This provision vests immediately, and shall apply to all vacation days accumulated as of the execution of this agreement, and all that accrue during the term hereof.
- B. Simpson shall receive payment for one-half (1/2) of unused sick days upon death, permanent disability, retirement, or upon leaving the District, based upon the per diem rate of compensation as certified by the Business office.

ARTICLE VI - PERFORMANCE EVALUATION

It is agreed by the parties hereto that a regular annual formal assessment of performance shall be the means by which the District shall assess Simpson's performance. The performance assessment shall be conducted in a private session between the Superintendent and Simpson. An evaluation instrument or format shall be agreed upon by both parties to this Agreement and based upon annual goals and objectives mutually agreed upon shall be utilized. Each judgment shall be supported by rational and objective evidence. Both parties agree that performance assessment shall be privileged and the Superintendent shall not disclose the confidential information about Simpson's appraisal results. The purpose of the performance shall be as follows:

- A. To strengthen the working relationship between the District, the Superintendent, and Simpson, to enhance its effectiveness, and clarify for Simpson the responsibilities the Superintendent relies on for Simpson to fulfill; and
- B. To establish compensation and benefits for the ensuing year in accordance with the Compensation Benefits provision of this Agreement.

ARTICLE VII - OTHER EMPLOYMENT

Simpson further agrees to devote her time, skill, labor and attention to her employment during the term of this Agreement, provided however that Simpson at her discretion and to the extent not prohibited by the laws of Commonwealth of Pennsylvania, or the policies of the Board or the regulations of the Board, may undertake speaking engagements, writing, lecturing or other professional duties and

activities, so long as any such undertakings do not interfere with the performance of her duties as Director of Human Resources. Any compensation for such undertakings shall belong to Simpson.

ARTICLE VIII - PROFESSIONAL ACTIVITIES

Simpson's professional growth is important to the District. Therefore, Simpson, with the prior approval of the Board and/or the Superintendent, which shall not be unreasonably withheld, may attend professional meetings and conferences at the local, state, and national levels, and all costs therefore shall be borne by the District up to \$3,500 annually unless otherwise approved by the Board of School Directors and/or designee.

ARTICLE IX - INDEMNIFICATION

The Board agrees that it shall indemnify, hold harmless, and defend the Director of Human Resources from any and all demands, claims, suits, actions and legal proceedings brought against the Director of Human Resources in her individual capacity or her official capacity provided the incident arose while the Director of Human Resources was acting within the range and scope of her employment.

ARTICLE X - INCOME PROTECTION

Income Disability Insurance will be provided at the maximum amount allowable beginning on the 31st day following the disability for a benefit period of twelve (12) months.

ARTICLE XII - TERMINATION

This contract shall be subject to termination by the District prior to the expiration of the term or any renewal thereof as provided in 514 of the Public School Code, the terms of which are incorporated herein by reference.

The contract shall also be subject to termination during the term of the Agreement or any renewal thereof should Simpson be unable to perform her duties by reason of illness, accident or other causes beyond her control and said disability continues for a period of four (4) months or more.

IN WITNESS WHEREOF, the District has executed this Agreement by and through its officers and Simpson has executed the same the day and year first above written.

Dated this 22 day of January, 2019.

ATTEST:


Secretary of Board of School Directors


President of Board of School Directors

Witness:



Michelle R. Simpson



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRANDAN J. MORAN
JENNIFER L. DAMMECK
CARL DENEN BEARD

Federal ID #81-3129927

July 18, 2018

Belleville Area School District
318 North Allegheny Street
Belleville, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR JUNE, 2018:

\$874.50

Invoice No. 345137 \$874.50

TOTAL DUE>> \$ 874.50

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Jul 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886

Inv #: 345137

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jun-20-18	Phone conference with District representatives regarding pending personnel issue	0.30	49.50	CPB
	Review of information forwarded from District as it relates to investigation, discipline and subsequent grievance	3.40	561.00	CPB
	Conference with Superintendent, Assistant Superintendent, and Director of HR regarding personnel issue involving elementary teacher	0.30	49.50	CPB
Jun-21-18	Extended conference with Michelle Simpson regarding personnel issue	0.30	49.50	CPB
	Review Grievance and correspondence from PSEA Representative; preparation of draft grievance response; preparation of draft response to PSEA Representative; correspondence to Michelle Simpson regarding and forwarding drafts and discussing next moves	1.00	165.00	CPB
	Totals	5.30	\$874.50	

Total Fees, Disbursements

\$874.50

Balance Due Now

\$874.50

Invoice # 345137

Matter # 48886

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

5.30

\$165.00

\$874.50

5.30

\$874.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. HEPAR

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEKEN BEARD

Federal ID #81-3129827

August 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR JULY, 2018:

\$313.50

Invoice No.	345500	\$99.00
Invoice No.	345501	\$185.00
Invoice No.	345502	\$49.50

TOTAL DUE>>

\$ 313.50

SEP 04 PAID

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph:814 943-3304

Fax:814 943-3430

Federal LD. #81-3129927

Aug 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886
Inv #: 345500

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jul-02-18	Conference with HR Director and Superintendent regarding pending grievance	0.20	33.00	CPB
Jul-05-18	Phone conference with PSEA Representative Michael Lehmier regarding pending grievance meeting before the Board; correspondence to Michael Lehmier regarding requesting postponement of same	0.40	66.00	CPB
	Totals	0.60	\$99.00	

Total Fees, Disbursements

\$99.00

Balance Due Now

\$99.00

Invoice # 345500

Matter # 48886

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

0.60

\$165.00

\$99.00

0.60

\$99.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal L.D. #81-3129927

Aug 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49012

Inv #: 345501

RE: Act 93 Agreement Revisions

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jul-12-18	Review of inquiry from District regarding changes to agreements; correspondence to District regarding case law surrounding enforceable contracts	1.00	165.00	CPB
	Totals	1.00	\$165.00	

Total Fees, Disbursements **\$165.00**

Balance Due Now **\$165.00**

Invoice # 345501

Matter # 49012

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

1.00

\$165.00

\$165.00

1.00

\$165.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Aug 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49092

Inv #: 345502

RE: Recall From Layoff

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jul-13-18	Review CBA and email correspondence from District; conference with Michelle Simpson	0.30	49.50	CPB
	Totals	0.30	\$49.50	

Total Fees, Disbursements

\$49.50

Balance Due Now

\$49.50

Invoice # 345502

Matter # 49092

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	0.30	\$165.00	\$49.50
	0.30		\$49.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMECK
CARL DEREN BEARD

Federal ID #81-3129927

September 14, 2018

Bellefonte Area School District
316 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR AUGUST, 2018: \$2,574.00

Invoice No.	345929	\$2,458.50
Invoice No.	345930	\$33.00
Invoice No.	345931	\$82.50

OCT 10 2018

TOTAL DUE>> \$2,574.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Sep 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886
Inv #: 345929

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-01-18	Review of all materials as provided by HR Director regarding employee's communication with the Board and upcoming grievance hearing; preparation of draft communication to Mike Lehmier regarding same; correspondence to Michelle Simpson with draft letter	1.10	181.50	CPB
	Review of information provided by district to include anecdotal records, complaint, investigative notes and report; preparation of draft suspension without pay letter	1.70	280.50	CPB
	Correspondence to Michelle Simpson forwarding draft letter for employee and outlining additional information needed	0.80	132.00	CPB
Aug-09-18	Meeting with client to review personnel matter and upcoming Board level meeting	1.00	165.00	CPB
Aug-10-18	Conference with Amy Marshall regarding communication from her client; correspondence to Amy Marshall regarding same	0.80	132.00	CPB
	Conference with Michelle Simpson regarding discussions with counsel	0.20	33.00	CPB
	Correspondence to HR Director confirming discussions with counsel regarding upcoming grievance meeting	0.90	148.50	CPB
Aug-14-18	Premecting with Administration; representation of District in grievance level hearing; follow up discussion with Dr. Lehmier, PSEA Regional Counsel and	4.90	808.50	CPB

	personnel issue; travel to and from District for purposes of same			
	Review notes of meeting in District and with representatives of employee; correspondence to Superintendent outlining issues raised with employee's representatives and next steps in process	1.50	247.50	CPB
Aug-23-18	Review of notes of discussions at Board meeting; review of file materials including investigative report; preparation of draft correspondence to Attorney Marshall, Attorney Leste and Dr. Lehmier regarding issues to be addressed in attempt to resolve grievance	1.40	231.00	CPB
	Correspondence to Superintendent and HR Director regarding pending personnel issue and draft letter to representatives of employee	0.60	99.00	CPB
	Totals	14.90	\$2,458.50	

Total Fees, Disbursements	\$2,458.50
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Balance Due Now	\$2,458.50
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Invoice # 345929

Matter # 48886

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	14.90	\$165.00	\$2,458.50
	14.90		\$2,458.50

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Sep 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49017

Inv #: 345930

RE: Labor Services

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-29-18	Conference with Gina McFall's relative to special education issue	0.20	33.00	CPB
	Totals	0.20	\$33.00	

Total Fees, Disbursements \$33.00

Balance Due Now \$33.00

Invoice # 345930

Matter # 49017

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	0.20	\$165.00	\$33.00
	0.20		\$33.00

BEARD LEGAL GROUP, P.C.

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ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal ID. #81-3129927

Sep 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49092
Inv #: 345931

RE: Recall From Layoff

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Aug-01-18	Review CBA and email correspondence from Michelle Simpson; correspondence to Michelle Simpson confirming recommendations regarding matter	0.50	82.50	CPB
	Totals	0.50	\$82.50	

Total Fees, Disbursements \$82.50

Balance Due Now \$82.50

Invoice # 345931

Matter # 49092

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	0.50	\$165.00	\$82.50
	0.50		\$82.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMMECK
CARL DEEEN BEARD

Federal ID #81-3129927

October 15, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR SEPTEMBER, 2018: \$782.00

Invoice No.	346349	\$116.50
Invoice No.	346350	\$33.00
Invoice No.	346351	\$643.50

OCT 26 2018

TOTAL DUE>> \$ 782.00

26 OCT 2018

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal ID. #81-3129927

Oct 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886

Inv #: 346349

RE:

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-17-18	Conference with PSEA Representative regarding pending personnel issue	0.20	33.00	CPB
Sep-18-18	Correspondence to District regarding discussions with PSEA Representative and pending personnel issue	0.30	49.50	CPB
Sep-28-18	Phone conference with Mike Lehmier regarding pending personnel issue and scheduling meeting	0.20	33.00	CPB
	Totals	0.70	\$115.50	

Total Fees, Disbursements

\$115.50

Balance Due Now

\$115.50

Invoice # 346349

Matter # 48886

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	0.70	\$165.00	\$115.50
	0.70		\$115.50

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Oct 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49017
Inv #: 346350

RE: Labor Services

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-05-18	Conference with Gina McFalls relative to special education issue	0.20	33.00	CPB
	Totals	0.20	\$33.00	
	Total Fees, Disbursements			\$33.00
	Balance Due Now			\$33.00

Invoice # 346350

Matter # 49017

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	0.20	\$165.00	\$33.00
	0.20		\$33.00

BEARD LEGAL GROUP, P.C.

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ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal L.D. #81-3129927

Oct 12, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49370
Inv #: 346351

RE: **Loaner Agreement for AT Device**

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Sep-11-18	Review of information and draft form from District to parents for assistive technology device; correspondence to District regarding same to include recommendations and other sample forms	1.60	264.00	CPB
	Review of information and draft form from District to parents for assistive technology device; correspondence to District regarding same to include recommendations and other sample forms	1.60	264.00	CPB
Sep-13-18	Conference with Special Ed director regarding assistive technology student issue	0.40	66.00	CPB
Sep-18-18	Review agreement provided previously to include other related information; correspondence to Gina MacFalls regarding terms of same	0.30	49.50	CPB
	Totals	3.90	\$643.50	

Total Fees, Disbursements

\$643.50

Balance Due Now

\$643.50

Invoice # 346351

Matter # 49370

Page

Lawyer

Hours

Rate

Amount

Beard, Carl P.

3.90

\$165.00

\$643.50

3.90

\$643.50



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. RETAK

BRANDAN J. MOHAN
JENNIFER L. DAMMECK
CARL DEVEN BEARD

Federal ID #81-3129827

November 8, 2018

Belleville Area School District
318 North Allegheny Street
Belleville, PA 18823

FOR PROFESSIONAL SERVICES RENDERED FOR OCTOBER, 2018: \$957.00

Invoice No. 346805 \$957.00

TOTAL DUE>> \$ 957.00

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal ID. #81-3129927

Nov 08, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 48886
Inv #: 346805

RE: [REDACTED]

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Oct-01-18	Review of correspondence from District regarding pending issue; phone conference with District representative; conference with Mike Lehmier regarding scheduling meeting; correspondence to District regarding discussions with Mike Lehmier and confirming meeting	0.50	82.50	CPB
Oct-05-18	Review of file documentation in preparation of meeting with Association and private attorney along with school administrators	0.60	99.00	CPB
Oct-08-18	Premeeting with Administrative team; representation of District in meeting with PSEA Regional Director, PSEA Legal Counsel, and private counsel for employee; follow up discussions regarding meeting; travel to and from District for same	3.80	627.00	CPB
Oct-22-18	Review of information forwarded from District; preparation of Talking Points for discussion with employee; correspondence to District regarding scheduling meeting with employee	0.90	148.50	CPB
	Totals	5.80	\$957.00	

Total Fees, Disbursements

\$957.00

Balance Due Now

\$957.00

Invoice # 346805

Matter # 48886

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	5.80	\$165.00	\$957.00
	5.80		\$957.00



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. BEAK

BRENDAN J. MORAN
JENNIFER L. DAMECK
CARL DEREN BEARD

Federal ID #81-3129927

December 13, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR NOVEMBER, 2018: \$363.00

Invoice No. 347195 \$363.00

TOTAL DUE>> \$ 363.00

CAN I 1 1900

WWW.BEARDLEGALGROUP.COM
3366 LYNNWOOD DRIVE • PO BOX 1311 • ALTOONA, PENNSYLVANIA 16603-1311 • PHONE 814-943-3304 • FAX 814-943-3430
OFFICES ALSO LOCATED IN JOHNSTOWN, PA

BEARD LEGAL GROUP, P.C.

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ALTOONA, PA 16603

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Fax: 814 943-3430

Federal I.D. #81-3129927

Dec 11, 2018

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49692

Inv #: 347195

RE: Support Staff ESP Negotiations - 2019

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Nov-11-18	Meeting in District with Board President, HR Director and Superintendent regarding support staff negotiations	1.00	165.00	CPB
Nov-12-18	Review of support CBA in preparation of meeting with HR Director, Superintendent and Board President	0.70	115.50	CPB
Nov-13-18	Correspondence to HR Director requesting information for contract negotiations	0.50	82.50	CPB
	Totals	2.20	\$363.00	

Total Fees, Disbursements

\$363.00

Balance Due Now

\$363.00

Invoice # 347195

Matter # 49692

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	2.20	\$165.00	\$363.00
	2.20		\$363.00



CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. BEPAK

BRANDAN J. MORAN
JENNIFER L. DAMECK
CARL DEREN BEARD

Federal ID #81-3129927

January 11, 2019

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

FOR PROFESSIONAL SERVICES RENDERED FOR DECEMBER, 2018: **\$2,656.60**

Invoice No.	347524	\$2,328.60
Invoice No.	347525	\$328.00

TOTAL DUE>> \$2,656.60

FEB 06 PAID

BEARD LEGAL GROUP, P.C.

P.O. BOX 1311
3366 LYNNWOOD DRIVE
ALTOONA, PA 16603

Ph: 814 943-3304

Fax: 814 943-3430

Federal I.D. #81-3129927

Jan 09, 2019

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49692

Inv #: 347524

RE: Support Staff ESP Negotiations - 2019

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Dec-12-18	Review of notes of meeting; review of CBA; preparation of draft Initial Proposal for review by District in anticipation of upcoming negotiation meeting	3.60	594.00	CPB
	Correspondence to District with draft Initial Proposal for review	0.50	82.50	CPB
Dec-17-18	Premeeting with District negotiating team; revisions to District Proposal	1.70	280.50	CPB
	Representation of District in contract negotiations with support staff association and State Mediator; travel to and from District for purposes of same	6.00	990.00	CPB
Dec-18-18	Review of notes of negotiations; preparation of draft Tentative Agreement for review by District; correspondence to Michelle Simpson with draft Tentative Agreement for review and comment	2.30	379.50	CPB
	Totals	14.10	\$2,326.50	

Total Fees, Disbursements

\$2,326.50

Balance Due Now

\$2,326.50

Invoice # 347524

Matter # 49692

Page

Lawyer	Hours	Rate	Amount
Beard, Carl P.	14.10	\$165.00	\$2,326.50
	14.10		\$2,326.50

BEARD LEGAL GROUP, P.C.

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ALTOONA, PA 16603

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Fax: 814 943-3430

Federal ID. #81-3129927

Jan 09, 2019

Bellefonte Area School District
318 North Allegheny Street
Bellefonte, PA 16823

File #: 49894
Inv #: 347525

RE: Unlawful Harassment Policy Review

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Dec-03-18	Review/analysis of unlawful harassment policies forwarded from Bellefonte with inquiry about appeal procedure and related Title IX Guidance relative to appeal procedures within unlawful harassment policies, as well as proposed amendments to Title IX regulations	0.90	148.50	EAB
	Correspondence to Michelle Simpson regarding unlawful harassment appeal procedures and potential amendments to same	0.80	132.00	EAB
Dec-05-18	Analysis and final preparation of opinion letter addressing Unlawful Harassment Policy	0.30	49.50	EAB
	Totals	2.00	\$330.00	

Total Fees, Disbursements

\$330.00

Balance Due Now

\$330.00

Invoice # 347525

Matter # 49894

Page

Lawyer

Hours

Rate

Amount

Elizabeth A. Benjamin

2.00

\$165.00

\$330.00

2.00

\$330.00

Zeppos, Magdalene

From: Simon Campbell <psbahorror@gmail.com>
Sent: Monday, March 4, 2019 7:55 PM
To: Zeppos, Magdalene
Cc: Elizabeth A. Benjamin; kvoxe@psea.org
Subject: [External] OOR Appeal No. 2019-0205
Attachments: 3-4-19 Requester Interim Submission.pdf

ATTENTION: *This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.*

Dear Appeals Officer Zeppos,

Please enter the attached into the Record. My substantive legal argument on the issues remaining will be submitted tomorrow unless that deadline is revised.

If the school district would like to respond to my partial withdrawal by updating its current legal position presented to OOR I would be agreeable to that; but only if OOR also gave me an extended deadline to respond to that additional district submission (presumably OOR would also want to propose a new Final Determination date).

If the OOR would like to delay its decision on my request for *in camera* review in order to allow the district to first respond to my partial withdrawal and request for in camera review/evidentiary hearing, that would be acceptable so long as I can have a rebuttal opportunity. I am willing to be flexible on the deadline for Final Determination to accommodate development of the Record.

Thank you for your consideration.

Regards,
Simon Campbell
Tel: 267-229-3165

Simon Campbell
668 Stony Hill Rd #298
Yardley, PA 19067
Email: psbahorror@gmail.com
Tel: (267) 229-3165

PENNSYLVANIA OFFICE OF OPEN RECORDS ("OOR")

SIMON CAMPBELL
Requester

v.

BELLEFONTA AREA
SCHOOL DISTRICT
Agency

Dkt No. AP 2019-0205

PARTIAL WITHDRAWAL OF APPEAL;
REQUEST FOR EVIDENTIARY HEARING;
REQUEST FOR *IN CAMERA* REVIEW

AND NOW comes the Requester, Simon Campbell ("T"), and files the following interim appeal submission, representing in support thereof the following:

FACTUAL BACKGROUND

1. On January 30, 2019, I made a seven (7)-part Right to Know Law ("RTKL") request of the Bellefonte Area School District. Request Item 7 sought:

"All emails and/or email attachments sent or received between the dates of January 1, 2018 and the present that have the work email address (msimpson@basd.net) of Human Resources Director Michelle Simpson in any or all of the following e-mail address fields: From:, To:, Cc:, Bcc:, and which relate in subject matter/content, in whole or in part, to the calendar booking activity of Mrs. Simpson (i.e. who she was scheduling/was being scheduled to meet in person, for a work related matter, and any cancellations relating to the same). Also, to the extent it exists, & regardless of who the sender was, I seek written correspondence in letter form regarding the same agency activity (i.e. Mrs. Simpson's calendar booking activity) for the same time period, that was sent or received via postal/courier mail and/or via facsimile."

2. The school district did not respond to my RTKL request within the required timeframe of five (5) business days. 65 P.S. § 67.901. Consequently, and not yet knowing what the district's final answer would look like, I filed a deemed denial appeal to the OOR on February 11, 2019. 65 P.S. § 67.1101(a)(1).
3. In my initiating appeal submission to OOR I decided not to appeal the deemed denial of Request Items 2 and 3. I exercised my right to restrict the items submitted on appeal.¹
4. On February 28, 2019 in an appeal submission to the OOR the district, for the first time, gave me and the OOR information as to its legal position on Item 7. The district alleged, through affidavit of the Superintendent, that potentially 4,337 email records would need to be reviewed for Item 7.
5. On February 28, 2019 the district released records responsive to request items 1, 4, and 5. I am satisfied these releases are responsive to what I am looking for. Therefore, the OOR may dismiss my appeal as moot as to these items.

PARTIAL WITHDRAWAL ACTION TAKEN (ITEM 7)

6. The district may not deny a request for records under the RTKL on the mere assertion that it would be burdensome to search for and produce them. *See Commw. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012) ("The fact that [an agency] does not catalogue or otherwise organize [its records] in a way that permits them to be easily located, does not render the request overbroad... [t]here is simply nothing in the RTKL that authorizes an agency to refuse to search for and produce documents based on the contention it would be too burdensome to do so")(emphasis added).

¹ The reasons I limited my appeal are irrelevant but I do not mind explaining why. Subsequent to filing the request, Item 2 (tax rolls) was granted to me by a RTKL request I had made of the County of Centre. And I noticed, subsequent to the request, that Item 3 records (collective bargaining agreements) were actually posted on the district's website.

7. Nevertheless, and not in derogation of the foregoing, I am willing to lessen the alleged burden on the school district as a gesture of good faith. I will restrict the time-period of the requested Item 7 records (Mrs. Simpson's calendar booking activity) to the period April 1, 2018 through August 31, 2018 (as opposed to the original time-period of January 1, 2018 to the present). This reduces the time-period to be searched from 13 months to 5 months. Of these 5 months, 3 of them are summer months when Mrs. Simpson's calendar booking activity would presumably be less busy than during the school year. This withdrawal action should substantially reduce the number of responsive Item 7 records.
8. Therefore, by copy, I am informing the school district that my Item 7 request is **WITHDRAWN** *except* for those records responsive to the time period April 1, 2018 through August 31, 2018.
9. I am similarly informing the OOR that my appeal as to Item 7 is **WITHDRAWN** *except* for those records responsive to the time period April 1, 2018 through August 31, 2018. The OOR may dismiss as moot my original appeal as to Item 7 that seeks records outside of this narrower time period.

ARGUMENT

10. Today's partial withdrawal of Request Item 7 does not constitute an amendment of my original request. The remaining Item 7 records sought are the exact same records as have always been sought. I am merely seeking records for a 5-month period not a 13-month period. I am narrowing the judicable controversy at OOR not because I need to, but because I choose to. The district's initial bad faith action in refusing to issue any response to my RTKL request within five (5) business days, as required by Section 901, is being met with an action in good faith. A Requester does not expand upon or modify the

request when all records subject to appeal consideration are subsumed within the original request. See e.g. OOR Final Determination, Dkt. No. AP 2018-1208, *Brambila v. PA Dept of Health* ("it is reasonable for the Requester to infer that the responsive records would include [certain records] ...[t]herefore, by making the argument that these records were improperly withheld by the Department, the Requester did not modify the Request on appeal").

11. The substantive remaining issues present for OOR appeal adjudication are:

- Item 6 redactions
- Item 7 records (April 1, 2018 through August 21, 2018 only)
- Whether the alleged third party interest of two local unions meets the requirements of Section 1101(c)(1) sufficient to be accepted by OOR.

REQUEST FOR EVIDENTIARY HEARING

12. I request that OOR conduct an evidentiary hearing on the Item 6 and Item 7 records that remain in dispute. If this request is granted then I will approve any new reasonable Final Determination deadline date of the OOR's choice.

REQUEST FOR *IN CAMERA* REVIEW OF RECORDS

13. I request that OOR issue an Order on the district to submit all Item 6 and Item 7 records that remain in dispute for *in camera* review by the OOR in unredacted form. If this request is granted then I will approve any new reasonable Final Determination deadline date of the OOR's choice.

CONCLUSION

Absent a new OOR-approved deadline I will present my appeal argument on the remaining issues in dispute by 11:59:59pm on March 5, 2019 which is the current deadline assigned to me by the OOR appeals officer.

By:



Simon Campbell
668 Stony Hill Rd #298
Yardley, PA 19067
psbahorror@gmail.com
Tel: 267-229-3165

Date: March 4, 2019

Cc: Bellefonte Area School District, *via email*

Cc: Bellefonte Area Education Association & Bellefonte Area Educational Support Professionals Association, *via email*

Zeppos, Magdalene

From: Zeppos, Magdalene
Sent: Tuesday, March 5, 2019 11:19 AM
To: 'Simon Campbell'
Cc: Elizabeth A. Benjamin
Subject: RE: [External] OOR Appeal No. 2019-0205

Dear Parties:

In light of Mr. Campbell's response, and in an effort to further develop the record in this matter, I propose the following:

1. The District shall have through March 12, 2019, to file a supplemental position statement, if it so chooses;
2. Mr. Campbell shall have through March 19, 2019, to file a reply, if he so chooses; and
3. The Final Determination in this matter shall be issued on or before April 22, 2019.

Mr. Campbell, please confirm if you are agreeable to extending the Final Determination deadline. Also, please keep in mind that the OOR may seek additional time, if needed, for further development of the record. Lastly, the OOR may afford the District additional time to submit argument in response to your reply, if requested, as it is the Agency's burden.

Please let me know if you have any questions. Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903 | mzeppos@pa.gov
<https://openrecords.pa.gov> | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)

Confidentiality Notice: This electronic communication is privileged and confidential and is intended only for the party to whom it is addressed. If received in error, please return to sender.

From: Simon Campbell <psbahorror@gmail.com>
Sent: Monday, March 4, 2019 7:55 PM
To: Zeppos, Magdalene <mzeppos@pa.gov>
Cc: Elizabeth A. Benjamin <ebenjamin@beardlegallgroup.com>; kvoye@psea.org
Subject: [External] OOR Appeal No. 2019-0205

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Dear Appeals Officer Zeppos,

Please enter the attached into the Record. My substantive legal argument on the issues remaining will be submitted tomorrow unless that deadline is revised.

If the school district would like to respond to my partial withdrawal by updating its current legal position presented to OOR I would be agreeable to that; but only if OOR also gave me an extended deadline to respond to that additional district submission (presumably OOR would also want to propose a new Final Determination date).

If the OOR would like to delay its decision on my request for *in camera* review in order to allow the district to first respond to my partial withdrawal and request for in camera review/evidentiary hearing, that would be acceptable so long as I can have a rebuttal opportunity. I am willing to be flexible on the deadline for Final Determination to accommodate development of the Record.

Thank you for your consideration.

Regards,
Simon Campbell
Tel: 267-229-3165

From: Simon Campbell <psbahorror@gmail.com>
Sent: Tuesday, March 5, 2019 12:34 PM
To: Zeppos, Magdalene
Cc: Elizabeth A. Benjamin; kvoye@psea.org
Subject: Re: [External] OOR Appeal No. 2019-0205

Dear Ms. Zeppos,

Yes, I agree to these time-lines and the proposed date for OOR Final Determination. With March 19, 2019 the new deadline for my rebuttal argument I will wait until then to submit my rebuttal argument, rather than submit it today. In the meantime I encourage the district to search for and release records responsive to Item 7.

The district's legal strategy is disjointed. There is surely no doubt that my RTKL request was deemed denied as a factual matter. Had I waited until the district's invalid 30-day extension was over and then filed an appeal at that time, OOR would likely have dismissed it as untimely. I had 15 business days from the date of the deemed denial. The district had no "right" to an invalid extension. The three business day mailing guideline relates only to situations where the Requester hears nothing in the first five (5) business days. In such situations the OOR wants the Requester to wait an additional three mailing days to make an appeal, to see if a letter postmarked on the fifth business day arrives by postal mail to establish the "fact" of a deemed denial. Here, the "fact" of the deemed denial was stated in writing by the agency itself. The district acknowledged my request on 2-8-19 (late) and stated in writing that the request was received on 1-30-19.

OOR Interim Guideline IV.C.4.5.b.ii. makes this clear:

"If an Agency's Response or Extension notice is untimely (beyond the five (5) business day deadline), the Request is deemed denied and the appeal must be filed within fifteen (15) business days of the date the Request is deemed denied and not the date of the Agency's Response."

It is not a Requester's job to abandon his/her own appeal rights (i.e. risk OOR dismissal of an untimely appeal) by waiting for an invalid extension to run out. The district's problems with timelines are entirely of the district's making because the district ignored the Section 901 requirement to respond within five (5) business days. The district never had a "right" to ignore the law (Section 901) in the first place. Thus, the entire premise that it is owed more time is built on a foundation of legal quicksand.

Moreover, the district's primary argument is that my request lacks specificity not that it needs more time to process the request. This argument that does not need any more time for the district to develop. Only the district's "in the alternative" argument posits that more time is needed for processing. The district's disjointed legal strategy on Item 7 so far is to suggest that (a) it has a right to violate Section 901's 5-business day response time without consequences, (b) it doesn't need more time because the request is insufficiently specific, and (c) if the agency is wrong about (b) then the agency has a legal right to more time for processing. None of this makes sense. It is akin to saying the agency thinks the OOR can (or should) issue two Final Determinations. One on the agency's primary argument (that doesn't need more time), and then a second on its alternative argument (that does need more time).

It is bad faith action. I have now agreed to extend the deadline for Final Determination *twice*, in good faith. The district needs to stop acting in bad faith by (a) recognizing that it has lost the argument that a deemed denial didn't occur (a problem of its own creation), (b) abandoning its argument that Request Item 7 isn't sufficient enough, and (c) substantively responding to Item 7 by releasing responsive records as soon as possible and justifying any and all partial denials/redactions that occur.

In the meantime I cannot see anything that could justify the highly speculative interest of two third party unions being allowed to make a submission under Section 1101(c)(1). No standing has been articulated. Nonetheless, PSEA Attorney Voyer is FYI courtesy copied this time only.

--
Regards,
Simon Campbell
Tel: 267-229-3165

On Tue, Mar 5, 2019 at 11:19 AM Zeppos, Magdalene <mzeppos@pa.gov> wrote:

Dear Parties:

In light of Mr. Campbell's response, and in an effort to further develop the record in this matter, I propose the following:

1. The District shall have through March 12, 2019, to file a supplemental position statement, if it so chooses;
2. Mr. Campbell shall have through March 19, 2019, to file a reply, if he so chooses; and
3. The Final Determination in this matter shall be issued on or before April 22, 2019.

Mr. Campbell, please confirm if you are agreeable to extending the Final Determination deadline. Also, please keep in mind that the OOR may seek additional time, if needed, for further development of the record. Lastly, the OOR may afford the District additional time to submit argument in response to your reply, if requested, as it is the Agency's burden.

Please let me know if you have any questions. Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor

Harrisburg, PA 17101-2234

(717) 346-9903 | mzeppos@pa.gov

Zeppos, Magdalene

From: Zeppos, Magdalene
Sent: Tuesday, March 5, 2019 4:03 PM
To: 'Simon Campbell'
Cc: Elizabeth A. Benjamin
Subject: RE: [External] OOR Appeal No. 2019-0205

Dear Parties:

This will confirm that Mr. Campbell has agreed to extend the deadline for issuance of the Final Determination in the above matter. The Final Determination will now be issued on or before **April 22, 2019**. As stated in my earlier email, the District shall have through March 12, 2019, to file a supplemental position statement, if it so chooses, and Mr. Campbell shall have through March 19, 2019, to file a reply, if he so chooses. Also, the OOR may afford the District additional time to submit argument in response to Mr. Campbell's reply, if requested, as it is the Agency's burden. Thank you.



Magdalene C. Zeppos, Esquire
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Harrisburg, PA 17101-2234
(717) 346-9903 | mzeppos@pa.gov
<https://openrecords.pa.gov> | [@OpenRecordsPA](#)

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From: Simon Campbell <psbahorror@gmail.com>
Sent: Tuesday, March 5, 2019 12:34 PM
To: Zeppos, Magdalene <mzeppos@pa.gov>
Cc: Elizabeth A. Benjamin <ebenjamin@beardlegalgroup.com>; kvoye@psea.org
Subject: Re: [External] OOR Appeal No. 2019-0205

Dear Ms. Zeppos,

Yes, I agree to these time-lines and the proposed date for OOR Final Determination. With March 19, 2019 the new deadline for my rebuttal argument I will wait until then to submit my rebuttal argument, rather than submit it today. In the meantime I encourage the district to search for and release records responsive to Item 7.

The district's legal strategy is disjointed. There is surely no doubt that my RTKL request was deemed denied as a factual matter. Had I waited until the district's invalid 30-day extension was over and then filed an appeal at that time, OOR would likely have dismissed it as untimely. I had 15 business days from the date of the deemed denial. The district had no "right" to an invalid extension. The three business day mailing guideline relates only to situations where the Requester hears nothing in the first five (5) business days. In such situations the OOR wants the Requester to wait an additional three mailing days to make an appeal, to see if a letter postmarked on the fifth business day arrives by postal mail to establish the "fact" of a deemed denial. Here, the "fact" of the deemed denial was stated in writing by the agency itself. The district acknowledged my request on 2-8-19 (late) and stated in writing that the request was received on 1-30-19.

OOR Interim Guideline IV.C.4.5.b.ii. makes this clear:

"If an Agency's Response or Extension notice is untimely (beyond the five (5) business day deadline), the Request is deemed denied and the appeal must be filed within fifteen (15) business days of the date the Request is deemed denied and not the date of the Agency's Response."

It is not a Requester's job to abandon his/her own appeal rights (i.e. risk OOR dismissal of an untimely appeal) by waiting for an invalid extension to run out. The district's problems with timelines are entirely of the district's making because the district ignored the Section 901 requirement to respond within five (5) business days. The district never had a "right" to ignore the law (Section 901) in the first place. Thus, the entire premise that it is owed more time is built on a foundation of legal quicksand.

Moreover, the district's primary argument is that my request lacks specificity not that it needs more time to process the request. This argument that does not need any more time for the district to develop. Only the district's "in the alternative" argument posits that more time is needed for processing. The district's disjointed legal strategy on Item 7 so far is to suggest that (a) it has a right to violate Section 901's 5-business day response time without consequences, (b) it doesn't need more time because the request is insufficiently specific, and (c) if the agency is wrong about (b) then the agency has a legal right to more time for processing. None of this makes sense. It is akin to saying the agency thinks the OOR can (or should) issue two Final Determinations. One on the agency's primary argument (that doesn't need more time), and then a second on its alternative argument (that does need more time).

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In the meantime I cannot see anything that could justify the highly speculative interest of two third party unions being allowed to make a submission under Section 1101(c)(1). No standing has been articulated. Nonetheless, PSEA Attorney Voyer is FYI courtesy copied this time only.

—
Regards,
Simon Campbell
Tel: 267-229-3165

On Tue, Mar 5, 2019 at 11:19 AM Zeppos, Magdalene <mzeppos@pa.gov> wrote:

Dear Parties:

In light of Mr. Campbell's response, and in an effort to further develop the record in this matter, I propose the following:

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2. Mr. Campbell shall have through March 19, 2019, to file a reply, if he so chooses; and

3. The Final Determination in this matter shall be issued on or before April 22, 2019.

Mr. Campbell, please confirm if you are agreeable to extending the Final Determination deadline. Also, please keep in mind that the OOR may seek additional time, if needed, for further development of the record. Lastly, the OOR may afford the District additional time to submit argument in response to your reply, if requested, as it is the Agency's burden.

Please let me know if you have any questions. Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor

Harrisburg, PA 17101-2234

(717) 346-9903 | mzeppos@pa.gov

<https://openrecords.pa.gov> | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)

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From: Simon Campbell <psbahorror@gmail.com>
Sent: Monday, March 4, 2019 7:55 PM
To: Zeppos, Magdalene <mzeppos@pa.gov>
Cc: Elizabeth A. Benjamin <ebenjamin@beardlegalgroup.com>; kvoye@psea.org
Subject: [External] OOR Appeal No. 2019-0205

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Dear Appeals Officer Zeppos,

Please enter the attached into the Record. My substantive legal argument on the issues remaining will be submitted tomorrow unless that deadline is revised.

If the school district would like to respond to my partial withdrawal by updating its current legal position presented to OOR I would be agreeable to that; but only if OOR also gave me an extended deadline to respond to that additional district submission (presumably OOR would also want to propose a new Final Determination date).

If the OOR would like to delay its decision on my request for *in camera* review in order to allow the district to first respond to my partial withdrawal and request for in camera review/evidentiary hearing, that would be acceptable so long as I can have a rebuttal opportunity. I am willing to be flexible on the deadline for Final Determination to accommodate development of the Record.

Thank you for your consideration.

Regards,

Simon Campbell

Tel: 267-229-3165

Zeppos, Magdalene

From: Brenda Adelman <badelman@beardlegalgroup.com>
Sent: Tuesday, March 12, 2019 5:04 PM
To: Zeppos, Magdalene
Cc: Saylor, Michelle; Michelle Simpson; Carl P. Beard; Elizabeth A. Benjamin; psbahorror@gmail.com
Subject: [External] Campbell/Bellefonte Area Sshool District - OOR Appeal 2019-0205
Attachments: 20190312PDFMagdalene Zeppos in response to Campbell's submission of March 4 2019.PDF

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Please see the attached correspondence from Attorney Benjamin. Thanks – Brenda

Brenda J. Adelman,
Assistant to Elizabeth A. Benjamin
814-940-8671
ebeniamin@beardlegalgroup.com
BEARD LEGAL GROUP, P.C.
3366 Lynnwood Drive
P.O. Box 1311
Altoona, PA 16603
(814) 296-2306



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CARL P. BEARD
ELIZABETH A. BENJAMIN
RONALD N. REPAK

BRENDAN J. MORAN
JENNIFER L. DAMBECK
CARL DEREN BEARD
KRYSTAL T. EDWARDS

ELIZABETH A. BENJAMIN

DIRECT DIAL: 814.940.8671
FAX: 814.283.7050
ebenjamin@beardlegalgroup.com

March 12, 2019

VIA EMAIL – mzeppos@pa.gov

Magdalene Zeppos, Esquire
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

**Re: Simon Campbell v. Bellefonte Area School District OOR Appeal Docket
No. AP 2019-0205**

Dear Ms. Zeppos:

This correspondence is being submitted in response to the submission by the Requester Simon Campbell dated March 4, 2019, in which he has withdrawn certain items of his request and likewise seeks an evidentiary hearing and in-camera review of records relevant to the remaining Items 6 and 7 of his request.

To the extent that Mr. Campbell has referenced any update by the School District as to its legal position, we wish to note that while the District appreciates the requester's efforts to withdraw certain pending items and likewise reduce the time period applicable to Item 7 of his request, the District has not changed its legal position relative to the basis for redaction of Item 6, and the bases identified for denial of Items 7, including most specifically, but not limited to, the fact that Item 7 remains insufficiently specific even with the adjusted time period applied.

Furthermore, the District's legal position with respect to a request for an evidentiary hearing and an in-camera review of records is that neither of these are necessary in this instance. As outlined within the District's original submission to the OOR dated February 28, 2019, the basis for the partial denial of Item 6 and the denial of Item 7 are sufficiently supported and able to be ruled upon by the OOR in the absence of an evidentiary hearing and in-camera review.

Specifically, with respect to Item 6, the District has submitted an Attestation in support of the basis for redaction of the invoices from a person with individual knowledge, i.e., Attorney Carl P. Beard, whose office created and issued the invoices to the School District. Under the Right to Know Law, an attestation of this nature may serve as sufficient evidentiary support of a statement of fact, and the District asserts that Mr. Beard's attestation is sufficient with respect to

the assertions of fact regarding the type of information redacted from the relevant invoices. See *Sherry v. Radnor Township School District*, 20 A.3d 515, 520-521 (Pa. Cmwlth. Ct. 2011); *Moore v. OOR*, 992 A.2d 907 (Pa. Cmwlth. Ct. 2010).

Furthermore, with respect to Item 7, and as outlined in the February 28, 2019 submission, this request, as written, is insufficiently specific and overbroad to the extent that it fails to identify any subject matter to which the request is limited and requires the agency to exercise judgment to determine whether potentially responsive records are "related to" the request, and provides no meaning for limitation of any kind relative to "work-related matters." See *Seybert v. West Chester University of Pennsylvania*, OOR Docket AP 2018-2102 (OOR 2018) citing *Brown v. Office of the Governor*, OOR Docket AP 2017-1118 (Requester requiring an agency to make judgments as to whether potentially responsive records are "related to" a request is insufficiently specific); See also, *St. Hilare and ABC27 News v. Manheim Township School District*, OOR Docket AP 2017-0629 (OOR 2017) (Request for all emails and text messages among school board members, superintendent, teachers, and staff "about the alternative education program and students within said program" was insufficiently specific as to subject matter). Furthermore, a short[er] timeframe will not transform an overly broad request into a specific one. See *Id.* The adjustments made by the requester likewise do nothing to further identify any other senders or recipients, other than Ms. Simpson, applicable to the correspondence at issue.

The District further incorporates and reiterates all arguments set forth within its February 28th submission with respect to Items 6 and 7.

Alternatively, and not in derogation of the foregoing in the event that the OOR would order in-camera review of the records, the District reiterates its request for sufficient time to review, identify, and outline exemptions to records at issue, as further delineated in its February 28th letter.

Sincerely,



Elizabeth A. Benjamin

EAB/bja

cc: Simon Campbell
Carl P. Beard, Esquire
Michelle Saylor
Michelle Simpson

Zeppos, Magdalene

From: Zeppos, Magdalene
Sent: Friday, April 12, 2019 2:07 PM
To: Voye, Katherine [PA]
Cc: Simon Campbell; ebenjamin@beardlegallgroup.com
Subject: RE: [External] AP 2019-0205 Request to Participate

Dear Attorney Voye:

I write in regard to the above appeal. Upon review of the submissions made in this matter, please be advised that the Requests to Participate submitted by the Bellefonte Area Education Association and the Bellefonte Area Educational Support Professionals Association (collectively, the "Associations") are hereby denied, as the District has adequately represented the Associations' interests in this appeal. See 65 P.S. § 67.1101(c)(2)(III) (permitting an appeals officer to deny a request to participate in the event that the information is not probative); 65 P.S. § 67.1101(a)(2) ("The appeals officer may limit the nature and extent of evidence found to be cumulative").

Thank you.



Magdalene C. Zeppos, Esquire
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903 | mzeppos@pa.gov
<https://openrecords.pa.gov> | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)

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From: Voye, Katherine [PA] <KVoye@psea.org>
Sent: Thursday, February 28, 2019 1:37 PM
To: Zeppos, Magdalene <mzeppos@pa.gov>
Cc: Simon Campbell <psbahorror@gmail.com>; ebenjamin@beardlegallgroup.com
Subject: [External] AP 2019-0205 Request to Participate

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Ms. Zeppos:

Please see the attached correspondence regarding this matter.

Thank you.

Katherine M. Voyer
Assistant General Counsel
Pennsylvania State Education Association
400 N. Third Street
Harrisburg, PA 17101
(717)255-7077

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Zeppos, Magdalene

From: Simon Campbell <psbahorror@gmail.com>
Sent: Tuesday, March 19, 2019 11:48 PM
To: Zeppos, Magdalene
Cc: Elizabeth A. Benjamin
Subject: [External] Re: Campbell/Bellefonte Area Sshool District - OOR Appeal 2019-0205
Attachments: 3-19-19 Campbell Appeal Submission.pdf

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Dear Appeals Officer Zeppos,

Please find attached my rebuttal brief. Thank you.

—
Regards,
Simon Campbell
Tel: 267-229-3165

Simon Campbell
668 Stony Hill Rd #298
Yardley, PA 19067
Email: psbahorror@gmail.com
Tel: (267) 229-3165

PENNSYLVANIA OFFICE OF OPEN RECORDS ("OOR")

SIMON CAMPBELL
Requester

v.

BELLEFONTA AREA
SCHOOL DISTRICT ("BASD")
Agency

Dkt No. AP 2019-0205

**REQUESTER APPEAL SUBMISSION IN RESPONSE TO
BASD'S SUPPLEMENTAL ARGUMENT**

AND NOW comes the Requester, Simon Campbell ("I"), and files the following appeal submission, representing the argument that BASD's supplemental appeal submission of March 12, 2019 following my partial withdrawal of March 4, 2019, cures none of the deficiencies in its initial appeal submission of February 28, 2019.

1. My Request Was Deemed Denied and BASD is Not Entitled As a Matter of Law to More Processing Time To process It

BASD dated its response, and actually sent its response, to my RTKL request of January 30, 2019 (which it acknowledged in writing was the date my request was received) on February 8, 2019. BASD does not have eight (8) business days to send a response. It has five (5) business days to send a response. 65 Pa. C.S. 67.901. The three (3) day mailing rule used by OOR is designed to ensure that Requesters wait at least three (3) business days after the expiration of the fifth business days to see if a timely sent postmarked response arrives by postal mail. This mailing rule does not

permit an agency to convert a statutory deadline of five (5) business days to issue a response into eight (8) business days. OOR procedural guideline IV.C.5. makes this point clear. As a matter of law, the timeframe on a Requester to file a timely appeal is constrained to (15) business days from the date of deemed denial, not a later date that might suit BASD's needs; but which would result in any appeal I filed being dismissed by OOR as untimely. My request was (willfully) deemed denied.

2. BASD is not Entitled to More Processing Time Having Acted in Bad Faith to Ignore the Law

BASD argues that it is entitled to more processing time to respond to my request. It is not so entitled. No case precedent supports a conclusion to the contrary. BASD chose to ignore the requirements of needing to file a timely response within five (5) business days under Section 901, and cannot be rewarded by OOR or the Courts for such negligence. Moreover, BASD's argument that it needs or is entitled to more processing time is disconnected from its argument that my request was not sufficiently specific and can be denied on that basis. That argument, stated and restated by BASD, needs no extra processing time. BASD's position appears to be that it is entitled to two 'bites at the apple' i.e. if its primary argument fails then it needs more time, and it needs more time on the back of creating its problem by ignoring the requirements of Section 901. Its argument for more time is waived by BASD's decision not to advance this argument in its March 12, 2019 submission in the face of my partial withdrawal of March 4, 2019 in which I sought far fewer records than originally requested. BASD does not dispute my previously made argument that restricting the number of records I am seeking to a smaller time period does not constitute amending my request and OOR should not reach to that matter sua sponte.

3. BASD Failed To Meet It's Burden of Proof For the Redactions on Request Item 6

The attestations relied upon are conclusions of law not evidence. I repeat my request that the records be reviewed by OOR in camera. “A generic determination or conclusory statements are not sufficient to justify the exemption of public records.” *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) (en banc); see also *Office of the Dist. Attorney of Phila. v. Bagwell*, 155 A.3d 1119, 1130 (“Relevant and credible testimonial affidavits may provide sufficient evidence in support of a claimed exemption; however, conclusory affidavits, standing alone, will not satisfy the burden of proof an agency must sustain to show that a requester may be denied access to records under the RTKL”) (citations omitted); *Pa. Dep’t of Educ. v. Bagwell*, 131 A.3d at 659 (“Affidavits that are conclusory or merely parrot the exemption do not suffice”) (citing *Scolforo*, supra).

Argument Cannot be Converted To Fact

Affiant Carl Beard (acting as a witness to his own client) cannot convert legal argument about his invoices into evidence about his invoices, by swearing that his argument is true. The blending of alleged facts and advocacy/argument inside affiant Beard’s 2-28-19 attestation would, if accepted, permit affiant Beard to be the Judge of his own argument. This concept must be rejected by the OOR and our Courts. Paragraph #5 for example, in affiant Beard’s attestation, is pure argument. There are literally no alleged facts inside #5. The same is true of #4. Affiant Beard swears only to the “purpose” of a denial. Stating a purpose is a far cry from stating an alleged fact. What we actually see in this supposed attestation is legal *argument* as to why BASD thinks it can redact a descriptor as to what taxpayers were paying Beard Legal Group to do. Unsworn statements of counsel do not constitute evidence. *Office of the Governor v. Davis*, 122 A.3d 1185, 1193 (Pa. Commw. Ct. 2015) (“Position statements are akin to briefs or proposed findings of fact, which, while part of the record, are distinguishable from the evidentiary record”) (citations

omitted); *see also Hous. Auth. of Pittsburgh v. Van Osdol*, 40 A.3d 209, 216 (Pa. Commw. Ct. 2012) (noting that “assertions in briefs” are “not evidence of record”); and *City of Phila. v. Juzang*, July Term 2010, No. 2048 (Phila. Com. Pl. June 28, 2011) (“Because the letter written by City’s counsel is a legal brief, it cannot be ... evidence at all”). Affiant Attorney Beard is attempting an “an end run” around this case law by trying to disguise position statements as facts. This must be rejected by OOR and our Courts. It is bad faith conduct for a licensed attorney to serve as a witness for his own client, then place arguments and position statements inside an attestation as opposed to inside a brief.

BASD’s Argument on Item 6 Fails

Legal invoices are financial records. Public employee names cannot be held as secret when used as mere descriptors on financial records given that financial records are held to a different legal standard than non-financial records. 65 Pa. C.S. 67.708(c). The RTKL is remedial legislation and exemptions under the RTKL are to be narrowly construed. Only the “identity of an individual performing an undercover or covert law enforcement activity” can be withheld from financial records under Section 708(c). Had the legislature intended that the identity of other types of public employees could be redacted from financial records, it could have so stated. *See See Atcovitz v. Gulph Mills Tennis Club, Inc.*, 812 A.2d 1218, 1223 (Pa. 2002) (“We must infer that, under the doctrine of *expressio un ius est exclusio alterius*, the inclusion of a specific matter in a statute implies the exclusion of other matters.”). Moreover, public employee names are not only presumptively public records under Section 305 of the RTKL they are also affirmatively public record under Section 708(b)(6)(ii). Public employee names do not qualify as exempt personnel information. Still further, the *descriptive fact* of what legal issues Beard Legal Group is billing time to taxpayers over, is not an investigative or pre-decisional record. Nor is it subject to attorney-

client or work product privilege. Controlling Centre County Court of Common Pleas case precedent exists on this issue. *See Count of Centre v. Simon Campbell*, Civil Dkt. No. 2017-1863 (September 13, 2017)(affirming OOR Final Determination).

Still further, BASD has failed to prove that a lawful noncriminal investigation took place under Section 708(b)(17). To successfully assert the noncriminal investigative records exemption, the agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe” was conducted regarding a noncriminal matter. *Pa. Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination or probe must be “conducted as part of an agency’s official duties.” *Id.* at 814. In *Chawaga v. Pa. Dep’t of Pub. Welfare*, the Commonwealth Court held that a performance audit was not part of the Department’s legislatively granted fact-finding and investigative powers, and that the audit was ancillary to the Department’s public assistance services. 91 A.3d 257, 259 (Pa. Commw. Ct. 2014). The Court noted that “[a] contrary determination of an ‘official probe’ would craft a gaping exemption, under which any governmental information-gathering could be shielded from disclosure.” *Id.* No evidence of any kind was offered in any attestation offered by any of the three affiants (Beard, Simpson, & Saylor) that a lawful noncriminal investigation did, actually, occur as pertains to the redacted invoices. Much of the Saylor & Simpson attestations focus on the Item 7 records and, even then, the affiants merely speculate as to what records might exist not what records actually exist & that they have actually reviewed. For all these reasons BASD failed to meet its burden of proof on the Item 6 financial records.

4. BASD Failed To Meet It’s Burden of Proof For the Denial of Request Item 7

BASD’s denial strategy on Item 7 is primarily to argue that my request lacked specificity, while adopting a back-up strategy of of “throw everything and the kitchen sink at it” approach to

see if something sticks (see BASD appeal submission dated 2-28-19 pages 11 and 18; a staggering eleven (11) different Section 708 denial citations). Not a shred of evidence was proffered on any of these speculative eleven (11) citations. Instead they are collectively listed under the header “some or all of the records produced may ...contain exempt information” (2-28-19 BASD brief page 10). The record shows that BASD doesn’t know what information exists in the calendar booking activity of Mrs. Simpson because BASD refuses to search for the information. Despite my narrowing the records to be released, BASD still chose not to comply with its good faith search requirement of Section 901. BASD is not entitled to more processing time on its speculative denial arguments. Any time pressure felt by BASD is a problem of BASD’s making in that it refused to follow the 5-business day deadline for an initial response, then refused to search for and review the records after I narrowed the number of records subject to appeal. I even offered an additional extension of time for Final Determination if OOR granted my request for *in camera* review and an evidentiary hearing. BASD flatly rejected this argument (which would have given it more time) instead arguing that neither are necessary. By affirmatively hooking its legal train to its insufficiently specific denial argument, BASD has waived argument that any of its *potential* denial exceptions could apply. “[A]n agency must raise all its challenges before the fact-finder closes the record.” *Levy v. Senate of Pennsylvania*, 94 A.3d 436, 441 (Pa. Cmwlth. 2014).

This leaves only one outstanding issue for OOR to adjudicate. Was my RTKL request, limited on appeal, sufficiently specific? The answer is yes. It was and is sufficiently specific. As a threshold matter, see *Commw. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012) (“[t]here is simply nothing in the RTKL that authorizes an agency to refuse to search for and produce documents based on the contention it would be too burdensome to do so”). While alleged burdensomeness in and of itself is not enough to win an insufficiently specific denial argument, an

alleged burden can be used one component in the OOR's analysis. But BASD chose not to revise its legal position in light of the partial withdrawal I made on 3-4-19. Where affiant Saylor estimated on 2-28-19 that 4,337 emails could be responsive to request Item 7 seeking records from 1-1-18 to the present, no similar revised estimated has been provided for the time period 4-1-18 to 8-31-18. OOR has no information to assess even the component of alleged burdensomeness. At its core, BASD's argument seems to be that the wording of the request is what makes it insufficiently specific. This argument is disingenuous in that BASD understood the request well enough to come up with the figure of 4,337 emails in affiant Saylor's attestation. BASD argues on 3-12-19 that the request "fails to identify any subject matter". This is not true. The subject matter was identified as being [emails and letters] "which relate in subject matter/content, in whole or in part, to the calendar booking activity of Mrs. Simpson (i.e. who she was scheduling/was being scheduled to meet in person, for a work related matter, and any cancellations relating to the same)." Taken in context my use of the expression "work related matter" is not difficult to understand. If Mrs. Simpson was emailing her husband to schedule a time the two of them would go out for dinner, this would be a personal matter not a work related matter. My specificity that the e-mail address msimpson@basd.net be in the From:, To:, Cc:, Bcc: fields further aids the specificity by making it computerized search on that specificity easy to conduct. My request is easy to understand and is sufficiently specific.

5. BASD Acted in Bad Faith

BASD refused to comply with its Section 901 statutory duty to issue an initial response within five (5) business days, and it is not a reasonable interpretation of law to say it can wait up to eight (8) business days before sending a response. Having refused to comply with the law, BASD now argues that it is entitled to more processing time on my request but only if its argument on

specificity fails. Put plainly, BASD is in violation of Section 901's mandate that it "shall make a good faith effort to determine if the record requested is a public record, legislative record or financial record and whether the agency has possession, custody or control of the identified record, and to respond as promptly as possible under the circumstances existing at the time of the request." No effort was made to determine if the records I seek are possessed by the district. No effort was made to "determine" if they are public records. All we see are arguments made in the abstract. Moreover, a licensed attorney (affiant Carl Beard) acted as a witness for his own client inside an attestation, then penned legal argument inside that attestation to try and hoodwink OOR into thinking argument is fact. Moreover, I contend that Beard Legal Group knows that the employee name redacted from their invoices is that of grievant Lynn Kipp (see attached public record released by the PA Dept. of Labor & Industry, attached as Exhibit A) and I contend that Ms. Kipp would not oppose the release of her name on Beard Legal Group invoices. The denial argument made about the employee's alleged Section 708(b)(17)(6)(C) privacy rights fails not only because BASD failed to prove it conducted a lawful noncriminal investigation but also because of lack of standing for BASD to make a privacy argument, because the attorneys involved are not operating with candor to the OOR tribunal as required by Rule 3.3. of the Rules of Professional Conduct.

BASD failed to meet its burden of proof. I respectfully ask the OOR to GRANT my appeal.

Sincerely,

Simon Campbell
668 Stony Hill Rd #298
Yardley, PA 19067
psbahorror@gmail.com
Tel: 267-229-3165

Date: March 19, 2019

Cc: Bellefonte Area School District, *via email*

EXHIBIT A

19-033



pennsylvania
OFFICE OF OPEN RECORDS

PA DEPT. OF L&I

JAN 30 2019

Standard Right-to-Know Law Request Form RTKL OFFICE

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy, it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: PA Dept. of Labor & Industry (Attn: AORO)

Date of Request: 1-30-19 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Simon Campbell Company (if applicable): _____

Mailing Address: 668 Stony Hill Rd #298

City: Yardley State: PA Zip: 19067 Email: psbahorror@gmail.com

Telephone: 267-229-3165

Fax: _____

How do you prefer to be contacted if the agency has questions? ☒ Telephone ☐ Email ☐ U.S. Mail

RECORDS REQUESTED: Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.

See attached. I am requesting copies of any/all (Form) LIMS-115's ("Request for Grievance Arbitration Panel") received by the PA Dept. of Labor & Industry between January 1, 2018 and the present, in which the employer is the Bellefonte Area School District, in Centre County, PA.

DO YOU WANT COPIES? ☒ Yes, electronic copies preferred if available
☐ Yes, printed copies preferred

☐ No, in-person inspection of records preferred (may request copies later)

Do you want certified copies? ☐ Yes (may be subject to additional costs) ☒ No
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.
Please notify me if fees associated with this request will be more than ☐ \$100 (or) ☒ \$0.00

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: 19-033 Date Received: 1-30-19 Response Due (5 bus. days): 2-6-19

30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$ _____

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: In most cases, a completed RTKL request form is a public record.
More information about the RTKL is available at <https://www.openrecords.pa.gov>

Form updated Nov. 27, 2018



19-033
pennsylvania
DEPARTMENT OF LABOR & INDUSTRY

BUREAU OF MEDIATION

Request for Grievance Arbitration Panel

PA DEPT. OF L&I

This form may be used by parties covered under PERA (Act 185); NLRA (Taft-Hartley); Section 1121-A, Act 88 (Public School Code); or Police & Firefighter's Act 111.

JAN 30 2019

RTKL OFFICE

Date of Request: _____

Parties to the Collective Bargaining Agreement

Name of Employer _____

Name of Employee Organization _____

Street or Rural No. _____

Street or Rural No. _____

City/Municipality _____

County _____

Zip Code _____

City/Municipality _____

County _____

Zip Code _____

Name and telephone number of Employer
Representative to whom Panel should be sent _____

Name and telephone number of Employee Organization
Representative to whom Panel should be sent _____

E-mail _____

E-mail _____

Arbitration Data

Location of Hearing (City, County) _____

Name of Grievant(s) _____

Date Grievance Occurred _____

Grievance Issue _____

Has the grievance been processed up to the arbitration step in accordance with the current agreement? ☐ Yes ☐ No

Filed on Behalf of:

☐ Employer

☐ Union

Representative Signature

This signature attests ONLY that the parties have failed to reach agreement on a mutually acceptable arbitrator. It does not infer agreement on any other issue or aspect of the case.

Department of Labor & Industry | Bureau of Mediation | 651 Boas Street, Rm. 413 | Harrisburg, PA 17121-0750
717.787.2803 | Fax 717.705.6329 | www.dli.state.pa.us

*Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program*



February 5, 2019

Simon Campbell
668 Stony Hill Road #298
Yardley, PA 19067

psbahorror@gmail.com

RE: Right to Know Law Request 19-033

Dear Mr. Campbell:

On January 30, 2019, the Department of Labor and Industry (Department) received your request for information pursuant to the Pennsylvania Right-To-Know Law, 65 P.S. §§ 67.101, et seq. (RTKL), which is attached.

To the extent that you requested records in the Department's possession, custody or control, your request is granted and a copy of the records responsive to your request is enclosed.

Because the cost to produce such information consistent with existing law is less than \$10.00, the Department has decided to waive such fee as a courtesy to you.

Sincerely,

Marian Bassler /tw

Marian Bassler
Agency Open Records Officer

Right to Know Law Office

651 Boas Street, Room 101| Harrisburg, PA 17121-0750 | 717.787.2889 | F 717.783.5220 | www.dli.pa.gov

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Equal Opportunity Employer/Program*



pennsylvania
DEPARTMENT OF LABOR & INDUSTRY

BUREAU OF MEDIATION

Request for Grievance Arbitration Panel

This form may be used by parties covered under PERA (Act 195); NLRA (Taft-Hartley); Section 1121-A, Act 88 (Public School Code); or Police & Firefighter's Act 111.

Date of Request: 12/20/2018

Parties to the Collective Bargaining Agreement

Bellefonte Area School District

Name of Employer

318 North Allegheny St

Street or Rural No.

Bellefonte Centre 16823

City/Municipality County Zip Code

Carl Beard 814-943-3304

Name and telephone number of Employer
Representative to whom Panel should be sent

cbeard@beardlegalgroup.com

E-mail

Bellefonte Area Education Association

Name of Employee Organization

400 Shiloh Road

Street or Rural No.

State College Centre 16801

City/Municipality County Zip Code

Anne Leete 570-724-1832

Name and telephone number of Employee Organization
Representative to whom Panel should be sent

aleete@ptd.net

E-mail

Arbitration Data

Location of Hearing (City, County) Bellefonte, Centre

Name of Grievant(s) Lynn Klpp

Date Grievance Occurred June 1, 2018

Grievance Issue Suspension

Has the grievance been processed up to the arbitration step in accordance with the current agreement? ☒ Yes ☐ No

Filed on Behalf of:

☐ Employer

☒ Union

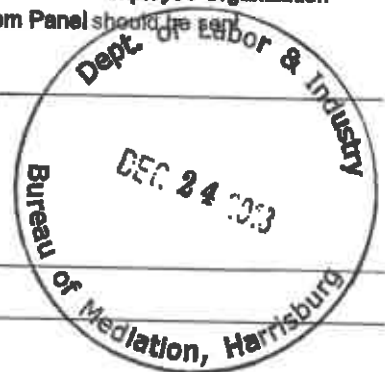
[Handwritten Signature]

Representative Signature

This signature attests ONLY that the parties have failed to reach agreement on a mutually acceptable arbitrator. It does not infer agreement on any other issue or aspect of the case.

Department of Labor & Industry | Bureau of Mediation | 651 Boas Street, Rm. 413 | Harrisburg, PA 17121-0750
717.787.2803 | Fax 717.705.6329 | www.dli.state.pa.us

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Equal Opportunity Employer/Program





pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**SIMON CAMPBELL,
Requester**

v.

**BELLEFONTE AREA SCHOOL
DISTRICT,
Respondent**

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Docket No.: AP 2019-0205

INTRODUCTION

Simon Campbell ("Requester") submitted a request ("Request") to the Bellefonte Area School District ("District") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*, seeking, among other things, the District's legal invoices. The District did not respond to the Request within five business days, and the Requester appealed to the Office of Open Records ("OOR"). For the reasons set forth in this Final Determination, the appeal is **granted in part, denied in part and dismissed as moot in part**, and the District is required to take further action as directed.

FACTUAL BACKGROUND

On January 30, 2019, the Request was filed, seeking, in part:

1. Screenshot image showing the name of the software program that the [District] possesses or constructively possesses that can electronically redact .pdf files....

4. The current employment contract for Human Resource Director Michelle Simpson.
5. The most recently agreed retention agreement between the ... [D]istrict and Beard Legal Group. Specifically, any document or written statement that reflects the "basis or rate of the fee" as those words have meaning in Rule 1.5(b). Fees. of the Rules of Professional Conduct, 204 Pa. Code § 81.4.
6. All itemized invoices received from Beard Legal Group between the dates of January 1, 2018 and the present.
7. All emails and/or email attachments sent or received between the dates of January 1, 2018 and the present that have the work email address (msimpson@basd.net) of Human Resources Director Michelle Simpson in any or all of the following email address fields: From:, To:, Cc:, Bcc:, and which relate in subject matter/content, in whole or in part, to the calendar booking activity of Mrs. Simpson (i.e. who she was scheduling/was scheduled to meet in person, for a work related matter, and any cancellations relating to the same). Also, to the extent it exists, & regardless of who the sender was, I seek written correspondence in *letter form* regarding the same [District] activity (i.e. Mrs. Simpson's calendar booking activity) for the same time period, that was sent or received via postal/ courier mail and/or via facsimile.¹

The District failed to respond to the Request within five business days, and the Request was deemed denied. *See* 65 P.S. § 67.901.²

On February 11, 2019, the Requester appealed to the OOR, stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the District to notify any third parties of their ability to participate in this appeal. *See* 65 P.S. § 67.1101(c).

On February 28, 2019, the District submitted a position statement, providing records responsive to Items 1 and 4 of the Request and asserting that the thirty-day extension notice was issued "within the 3-day mailing period afforded under the OOR procedural regulations requiring

¹ The Request contained seven Items; however, the Requester limits his appeal to Items 1, 4, 5, 6 and 7. As the Requester does not challenge Items 2 and 3 of the Request, the Requester has waived any objections regarding those Items. *See Pa. Dep't of Corr. v. Office of Open Records*, 18 A.3d 429 (Pa. Commw. Ct. 2011).

² On February 8, 2019, the District attempted to invoke a thirty-day extension during which to respond. *See* 65 P.S. § 67.902. However, the extension letter was issued after the Request was deemed denied on February 6, 2019. *See* 65 P.S. § 67.901 ("If the agency fails to send the response [to the request] within five business days of receipt of the written request for access, the written request for access shall be deemed denied.").

that said period be observed prior to the point at which an appeal is filed.” The District also provided records responsive to Items 5 and 6 of the Request, but argued that other records requested in Item 5 of the Request do not exist and that it redacted portions of the invoices responsive to Item 6 of the Request because the invoices include employee records, 65 P.S. § 67.708(b)(7), and relate to a noncriminal investigation, 65 P.S. § 67.708(b)(17). The District also submitted an Exemption Log for certain withheld records, identifying the responsive records and the corresponding grounds for withholding each record.

With respect to Item 7 of the Request, the District asserts, in part, that the Request is insufficiently specific, 65 P.S. § 67.703. In the alternative, the District states that in the event the OOR finds Item 7 of the Request to be sufficiently specific, it requests additional time to conduct a review of potentially responsive records in order to determine what other exemptions may apply. In support of its position, the District submitted the attestations of Carl Beard, Esq. (“Attorney Beard”), special legal counsel for the District; Dr. Michelle Saylor (“Dr. Saylor”), the District’s Superintendent of Schools; and Michelle Simpson (“Ms. Simpson”), the District’s Human Resources Director.

On the same day, the Bellefonte Area Education Association and the Bellefonte Area Educational Support Professionals Association (collectively, the “Associations”) each submitted a request to participate in this appeal, both stating that “the requested information may contain employee information that is exempt from disclosure under the [RTKL].” Katherine Voye, Esq., Assistant General Counsel for the Associations, explains that the Associations are the exclusive bargaining representatives for District employees. However, because the District has adequately represented the Associations’ interests, the OOR denied the requests to participate in this matter on April 12, 2019. *See* 65 P.S. § 67.1101(c)(2)(iii) (permitting an appeals officer to deny a request

to participate in the event that the information is not probative); 65 P.S. § 67.1101(a)(2) (“The appeals officer may limit the nature and extent of evidence found to be cumulative”).

On March 4, 2019, the Requester made a submission, stating that with respect to Item 7 of the Request, the appeal is “WITHDRAWN *except* for those records responsive to the time period April 1, 2018 through August 31, 2018.” The Requester also asked that the OOR conduct an *in camera* review of the responsive records and hold an evidentiary hearing in this matter. On March 12, 2019, the District submitted a reply to the Requester’s submission, reiterating its grounds for denial and stating that an *in camera* review of the responsive records and an evidentiary hearing are unnecessary.

On March 19, 2019, the Requester submitted a supplemental position statement, arguing that the Request was deemed denied and that the District is not entitled to more time to process the Request. The Requester further asserts that the attestations submitted by the District are “conclusions of law [and are] not evidence.” The Requester also maintains that the requested legal invoices are financial records and that Item 7 of the Request is sufficiently specific. Lastly, the Requester states that the District acted in bad faith.

LEGAL ANALYSIS

“The objective of the Right to Know Law ... is to empower citizens by affording them access to information concerning the activities of their government.” *SWB Yankees L.L.C. v. Wintermantel*, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important open-government law is “designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions.” *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff’d* 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. § 67.503(a). An appeals officer is required “to review all information filed relating to the request” and may consider testimony, evidence and documents that are reasonably probative and relevant to the matter at issue. 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The law also states that an appeals officer may admit into evidence testimony, evidence and documents that the appeals officer believes to be reasonably probative and relevant to an issue in dispute. *Id.* The decision to hold a hearing is discretionary and non-appealable. *Id.*; *Giurintano v. Pa. Dep’t of Gen. Servs.*, 20 A.3d 613, 617 (Pa. Commw. Ct. 2011). Here, the Requester asked that the OOR conduct an *in camera* review of the responsive records and hold an evidentiary hearing. However, because the OOR has the requisite information and evidence before it to properly adjudicate the matter, the requests for *in camera* review and an evidentiary hearing are denied.

The District is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.302. Records in possession of a local agency are presumed public unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. Upon receipt of a request, an agency is required to assess whether a record requested is within its possession, custody or control and respond within five business days. 65 P.S. § 67.901. An agency bears the burden of proving the applicability of any cited exemptions. *See* 65 P.S. § 67.708(b).

Section 708 of the RTKL places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a) states: “(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the

evidence.” 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)). 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 District provided responsive records during the appeal

During the appeal, the District provided the Requester with records responsive to Items 1, 4 and 6 of the Request. The District also directed the Requester to its publicly available website for additional responsive records regarding Item 5 of the Request. Section 704(b) of the RTKL permits an agency to respond to a request for records “by notifying the requester that the record is available through publicly accessible electronic means[.]” 65 P.S. § 67.704(b)(1). Moreover, directing a requester to an internet website satisfies an agency’s obligations under Section 704 of the RTKL³. See *Citizens for Pennsylvania’s Future v. Pa. Turnpike Comm’n*, OOR Dkt. AP 2015-0726, 2015 PA O.O.R.D. LEXIS 856. As such, the appeal as to the records provided on appeal is dismissed as moot.

2. The District has demonstrated that certain records do not exist

The District states that the retention agreement sought in Item 5 of the Request does not exist. The District explains that at the June 26, 2018 District Board meeting, the Board approved the retention of the Beard Legal Group and the corresponding rate/fee to be charged. The District further states that the approval is reflected in the Board’s meeting minutes and not in a retention

³ The Requester has not submitted a written request to the District “to have the record converted to paper.” 65 P.S. § 67.704(b)(2).

agreement.⁴ In support of its position, the District submitted the attestation of Attorney Beard, who attests that “after reasonable investigation and review, there are no records which exist which are responsive to Item 5 of the Request” seeking the retention agreement.

Under the RTKL, an attestation may serve as sufficient evidentiary support for the nonexistence of records. *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 District acted in bad faith or that responsive records exist, “the averments in [the attestation] 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)). Based on the evidence submitted, the District has met its burden of proving that the requested retention agreement does not exist in the possession, custody or control of the District. *Hodges*, 29 A.3d at 1192.

3. The District has not demonstrated that it properly redacted information that includes personnel records or information related to a noncriminal investigation

With respect to Item 6 of the Request, the District maintains that certain information contained within the legal invoices is not subject to public disclosure because it includes personnel records or relates to a noncriminal investigation. Section 708(b)(7) of the RTKL exempts from disclosure certain “records relating to an agency employee,” including “[i]nformation regarding discipline, demotion or discharge contained in a personnel file,” with the exception of “the final action of an agency that results in demotion or discharge.” 65 P.S. § 67.708(b)(7)(viii). Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation,” including “[c]omplaints submitted to an agency” and “[i]nvestigative materials, notes, correspondence and reports.” 65 P.S. § 67.708(b)(17)(i); 65 P.S. § 67.708(b)(17)(ii). To

⁴ The District directed the Requester to its publicly available website for the responsive meeting minutes.

successfully assert the noncriminal investigative records exemption, the agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe” was conducted regarding a noncriminal matter. *Pa. Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination or probe must be “conducted as part of an agency’s official duties.” *Id.* at 814. An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted fact-finding and investigative powers. *Johnson v. Pa. Convention Center Auth.*, 49 A.3d 920 (Pa. Commw. Ct. 2012); *see also Pa. Dep’t of Pub. Welf. v. Chawaga*, 91 A.3d 257 (Pa. Commw. Ct. 2014).

In the instant matter, the District states that “[i]f not redacted, this information when read together with the remaining information disclosed on the invoices, would reveal record information relating to or otherwise potentially confirming information and/or the existence of ... grievance material and/or proceedings; written criticisms; [and] performance rating material....” The District further asserts that disclosure of the redacted information could reveal “information pertinent to any non-criminal investigation being conducted.” In support of the District’s position, Attorney Beard attests, in part, as follows:

4. [The Exemption Log] contains information that has been redacted for the purpose of protecting from disclosure the name of employee(s) about whom in regard to whom communications were exchanged between Beard Legal Group, P.C. and the ... District.
5. I hereby confirm that if not redacted, this information, when read together with the remaining information disclosed on the invoices, would reveal and/or otherwise potentially confirm information related to and/or the existence of the following relative to the employee(s): discipline, demotion or discharge information; information pertinent to grievance material and/or proceedings; written criticisms; performance rating material and/or issues pertinent to the employee(s) as well as information pertinent to any non-criminal investigation being conducted.
6. The employee name(s) and related identifying information included within the subject matter of certain invoices as identified in the Exemption Log is the only

information that has been redacted and this redaction has occurred in order to prevent the disclosure of exempt personnel information and exempt non-criminal investigative information....

As stated above, an attestation is generally competent evidence to sustain an agency's burden of proof under the RTKL. *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). However, "a generic determination or conclusory statements are not sufficient to justify the exemption of public records." *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013). Here, the District argues that it properly redacted the names of employees from the responsive records because the information contains personnel records or relates to a noncriminal investigation. However, Item 6 of the Request seeks legal invoices of a school district, not grievance material, written criticisms, or information related to discipline, demotion or discharge contained in a personnel file. 65 P.S. § 67.708(b)(7). Similarly, Item 6 of the Request does not seek investigative materials, notes or reports. 65 P.S. § 67.708(b)(17). Moreover, the District has not presented any evidence establishing that a noncriminal investigation took place, or how the legal invoices relate to that noncriminal investigation. Accordingly, the District has not met its burden of proving that Section 708(b)(7) or Section 708(b)(17) applies to the records at issue. *See* 65 P.S. § 67.708(a)(1); *Katz v. Lower Merion Sch. Dist.*, OOR Dkt. AP 2014-1760, 2015 PA O.O.R.D. LEXIS 421 (finding that the school district did not demonstrate that the requested legal invoices were related to a noncriminal investigation).

4. Item 7 of the Request is insufficiently specific

The District asserts that Item 7 of the Request, which seeks, for the time period of January 1, 2018, to the present, all emails, email attachments and hard copies of correspondence "sent or received" from "Human Resources Director Michelle Simpson ..., and which relate in subject

matter/content, in whole or in part, to the calendar booking activity of Mrs. Simpson (i.e. who she was scheduling/was scheduled to meet in person, for a work related matter, and any cancellations relating to the same)” is insufficiently specific.

In response to the District’s argument, the Requester indicated that he “will restrict the time-period of ... Item 7 ... to the period of April 1, 2018 through August 31, 2018” and that the appeal is “WITHDRAWN *except* for those records responsive to the time period April 1, 2018 through August 31, 2018.” The Requester asserts that the partial withdrawal “does not constitute an amendment of [the] ... [R]equest.” In support of his assertion, the Requester cites to *Brambila v. Pa. Department of Health*, OOR Dkt. AP 2018-1208, 2018 PA O.O.R.D. LEXIS 1308.

The OOR has repeatedly held that a requester may not modify, explain or expand a request on appeal. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Commw. Ct. 2010); *Michak v. Dep’t of Pub. Welfare*, 56 A.3d 925 (Pa. Commw. Ct. 2012) (holding that “where a requestor requests a specific type of record ... the requestor may not, on appeal argue that an agency must instead disclose a different record in response to the request”). As a result, the OOR must evaluate the Request as written.

Here, the Requester specifically sought records for the time period of January 1, 2018 through the present. After the District made its submission arguing that Item 7 of the Request is insufficiently specific, the Requester attempted to alter the time period for the requested records. The Requester’s act of labeling this as a “partial withdrawal” does not alter the fact that the Requester is attempting to modify the Request on appeal. Moreover, the Requester’s reliance on *Brambila* is misplaced. Specifically, in *Brambila*, the requester asserted that the records provided by the agency were incomplete. *Brambila v. Pa. Dep’t of Health*, OOR Dkt. AP 2018-1208, 2018

PA O.O.R.D. LEXIS 1308. In the instant matter, the Requester is attempting to modify the Request by modifying the relevant time period for the records he is seeking.

Notwithstanding the above, the District argues that the Requester's "adjustments" to the Request "do nothing" to make Item 7 of the Request sufficiently 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 interpreting a RTKL request, agencies should rely on the common meaning of words and phrases, as the RTKL is remedial legislation that must be interpreted to maximize access. *See Gingrich v. Pa. Game Comm'n.*, No. 1254 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 38 at *16 (Pa. Commw. Ct. 2012) (citing *Bowling*, 990 A.2d at 824). In determining whether a request under the RTKL 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, 1124-25 (Pa. Commw. Ct. 2015) and *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013). Specifically, the OOR examines to what extent the request sets forth (1) the subject matter of the request; (2) the scope of documents sought; and (3) the timeframe for which records are sought.

First, "[t]he subject matter of the request must identify the 'transaction or activity' of the agency for which the record is sought." *Pa. Dep't of Educ.*, 119 A.3d at 1125. Second, the scope of the request must identify a discrete group of documents (*e.g.*, type or recipient). *Id.* Third, "[t]he timeframe of the request should identify a finite period of time for which records are sought." *Id.* at 1126. This factor is the most fluid and is dependent on the request's subject matter and scope. *Id.* Failure to identify a finite timeframe will not automatically render a sufficiently

specific request overbroad; likewise, a short timeframe will not transform an overly broad request into a specific one. *Id.*

In the instant appeal, the District contends that Item 7 of the Request is insufficiently specific because it “fails to identify any subject matter to which the [R]equest is limited and requires the [District] to exercise judgment to determine whether potentially responsive records are ‘related to’ the [R]equest....” Specifically, the District argues that Item 7 of the Request “requires that the ... District do more than simply locate any keywords in the emails but would rather require the ... District to make judgments as to whether ... records [are] ‘related to’ or otherwise document calendar booking activity on work-related matters.” The District explains that Ms. Simpson’s work as the District’s Human Resources Director “is not limited to any one program but rather relates to all activity involving the staffing of the ... District, including but not limited to hiring and interviews, labor relations and negotiations [and] employee performance monitoring.” The District further notes that Ms. Simpson’s duties also include the “internal investigation of complaints regarding personnel, disciplinary matters, retirement, and the administration of employee benefits.” The District thus argues that “[i]n the absence of any limitation of any kind relative to the ‘work-related matters,’ and when there is no limitation identifying any other senders or recipients ... for a time period exceeding one year,” Item 7 of the Request, “on its face,” is insufficiently specific.

By including a broad subject matter in Item 7, the District is unable to ascertain what records are responsive to the Request. *See Mollick v. Twp. of Worcester*, 32 A.3d 859, 871 (Pa. Commw. Ct. 2011) (“[I]t is the requester’s responsibility to tell an agency what records he or she wants.”). Similar to the request in *Pa. Department of Education*, Item 7 does not “limit[] the subject matter ... in any meaningful way.” *Pa. Dep’t of Educ.*, 119 A.3d at 1126. Specifically,

Item 7 requires that the District do more than simply locate keywords in records, it also requires the District to make a judgment call as to what emails, email attachments and hard copies of correspondence encompass the “calendar booking activity” of Ms. Simpson and what is considered a “work-related matter.” *See Pa. Dep’t of Env’tl. Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012) (*en banc*) (concluding a request seeking “a clearly-defined universe of documents” spanning almost four years was sufficiently specific because there [were] no judgments to be as to whether the documents [were] “related” to the request); *Brown v. Pa. Office of the Governor*, OOR Dkt. AP 2017-1118, 2017 PA O.O.R.D. LEXIS 996 (requiring an agency to examine every record and determine if it involved public funds was insufficiently specific); *Seybert v. West Chester Univ. of Pa.*, OOR Dkt. AP 2018-2102, 2018 PA O.O.R.D. LEXIS ____ (finding that a request seeking communications that “mention or refer to” five named individuals and that identifies the senders but not the recipients is insufficiently specific). Accordingly, Item 7 of the Request is insufficiently specific.

Dr. Saylor attests that she directed the District’s Information Technology Department to conduct “an initial cursory search” for emails responsive to Item 7 of the Request “utilizing arbitrarily selected search terms of ‘scheduling,’ and ‘cancellation,’” and that the search conducted “resulted in a total of 4,337 email records.” The Requester argues that the volume of responsive records has no bearing on the specificity of the Request.

Indeed, the fact that a request may be burdensome does not, in and of itself, deem the request overbroad. *See Legere*, 50 A.3d at 265; *see also Ruggiero v. Lackawanna County*, OOR Dkt. AP 2014-0043, 2014 PA O.O.R.D. LEXIS 157 (“[A] request involving the detailed review of voluminous documents does not relieve the agency of its requirements to presume the records are open and available and respond in accordance with the RTKL”). In certain situations, the

ability to identify responsive records demonstrates that a request is sufficiently specific. *See Easton Area Sch. Dist. v. Baxter*, 35 A.3d 1259, 1265 (Pa. Commw. Ct. 2012) (noting that “the request was obviously sufficiently specific because the School District has already identified potential records included within the request”). However, the mere “identification of potentially responsive records ... is not sufficient to satisfy Section 703 of the RTKL on its own.” *See Pa. Dep’t of Educ.*, 119 A.3d at 1126 n.8. In this situation, the District’s search for records demonstrates that the Request does not provide enough specificity. As set forth above, the Request contains a fairly broad scope and would require the District to make a judgment call as to what emails, email attachments and hard copies of correspondence relate to the “calendar booking activity” of Ms. Simpson for a “work-related matter.” Based on these facts, Item 7 of the Request is insufficiently specific.⁵ However, the Requester is not prohibited from filing a new request for records that satisfies the requirements of 65 P.S. § 67.703.

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

The Requester argues that the District acted in bad faith in responding to the Request. While the OOR may make findings of bad faith, only the courts have the authority to impose sanctions on agencies. *See generally* 65 P.S. § 67.1304(a) (noting that a court “may award reasonable attorney fees and costs of litigation ... if the court finds ... the agency receiving the ... request willfully or with wanton disregard deprived the requester of access to a public record ... or otherwise acted in bad faith....”); 65 P.S. § 67.1305(a) (“A court may impose a civil penalty of not more than \$1,500 if an agency denied access to a public record in bad faith”). Here, the OOR

⁵ Because the OOR finds that Item 7 of the Request is insufficiently specific, the OOR need not reach the District’s alternative grounds for denying access. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

finds no evidence that the District acted in bad faith and, accordingly, declines to make a finding of bad faith.

CONCLUSION

For the foregoing reasons, the Requester's appeal is **granted in part, denied in part and dismissed as moot in part**, and the District is required to provide the Requester with unredacted invoices that are responsive to Item 6 of the Request 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 Centre 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 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.⁶ This Final Determination shall be placed on the OOR's website at: <https://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: April 22, 2019

/s/ Magdalene C. Zeppos

MAGDALENE C. ZEPPOS, ESQ.
APPEALS OFFICER

Sent to: Simon Campbell (via email only); and
Elizabeth Benjamin, Esq. (via email only)

⁶ See *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).