



**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

<b>PENNSYLVANIA INTERSCHOLASTIC ATHLETIC ASSOCIATION, INC.,</b>	:	
	:	
	:	
<b>Petitioner,</b>	:	
	:	
v.	:	<b>NO. 661 M.D. 2020</b>
	:	
<b>COMMONWEALTH OF PENNSYLVANIA and PENNSYLVANIA OFFICE OF OPEN RECORDS,</b>	:	
	:	
	:	
<b>Respondents,</b>	:	

**PRELIMINARY OBJECTION TO  
THE PETITION FOR REVIEW**

AND NOW, pursuant to Pa.R.C.P. 1028, Respondent, Pennsylvania Office of Open Records (“OOR”), files this Preliminary Objection to the Petition for Review, and, in support thereof, states as follows:

1. Petitioner, Pennsylvania Interscholastic Athletic Association, Inc. (“PIAA”) filed a Petition for Review in this Court’s original jurisdiction, naming the Commonwealth of Pennsylvania (“Commonwealth”) and the OOR. *Petition.*
2. The Petition seeks declaratory and injunctive relief regarding the applicability of the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, to PIAA. *Id.*
3. Specifically, the Petition seeks a declaration that the RTKL is unconstitutional to the extent that it applies to PIAA, and, furthermore, seeks an injunction to prohibit the OOR from adjudicating any appeal of a request for records directed to PIAA. *Id.*

**PRELIMINARY OBJECTION FOR  
FAILURE TO EXHAUST A STATUTORY REMEDY**

4. The foregoing paragraphs are incorporated herein by reference.
5. This matter involves a request for records made to PIAA, pursuant to the RTKL, by a member of the public. *Petition, para. 27.*
6. PIAA responded to the request for records and objected to PIAA's inclusion in the RTKL. *Petition, para. 28.*
7. PIAA's response to the request was appealed to the OOR. *Petition, para. 29.*
8. The OOR docketed the appeal of PIAA's response to the request at Docket Number AP 2020-2639 and issued a case management order specifying the date by which evidence and argument must be submitted to the OOR. *Petition.*
9. The Petition alleges that PIAA is not subject to the RTKL. *Petition.*
10. The Petition seeks to enjoin the OOR from adjudicating any appeal under the RTKL involving PIAA. *Petition, para. 3.*
11. The RTKL classifies PIAA as a "state-affiliated agency." *Petition, para. 15.*
12. The RTKL defines a "state-affiliated agency" to be a "Commonwealth agency." *Petition, para. 14.*
13. "Commonwealth agencies" are subject to the RTKL. *Petition, para. 12.*
14. Section 1301 of the RTKL, 65 P.S. § 67.1301, provides that decisions of the OOR of RTKL appeals involving a Commonwealth agency may be appealed to the Commonwealth Court, and the OOR should not be named as a party. *Padgett v. Pa. State Police*, 73 A.3d 644,648 n.5 (Pa. Commw. Ct. 2013).
15. PIAA has not appealed any decision of the OOR concerning the aforementioned

RTKL appeal to the Commonwealth Court.

16. Declaratory and injunctive relief is not available where the petitioner has an adequate remedy at law. *Mazin v. Bureau of Prof'l & Occupational Affairs*, 950 A.2d 382 (Pa. Commw. Ct. 2008).

17. PIAA has an adequate remedy at law thorough the appeals process set forth in the RTKL and has not exhausted that statutory remedy.

WHEREFORE, the OOR prays this Court sustain its Preliminary Objection and dismiss the Petition for failing to exhaust a statutory remedy. Pa.R.C.P. 1028(a)(7).

Respectfully submitted,

/s/ Charles Rees Brown

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Supreme Court No. 70612

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Dated: January 13, 2021

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ATHLETIC ASSOCIATION, INC., :  
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COMMONWEALTH OF PENNSYLVANIA :  
and PENNSYLVANIA OFFICE OF :  
OPEN RECORDS, :  
 :  
Respondents, :

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and correct copy of the foregoing Preliminary Objection on behalf of the Office of Open Records upon the following via PAC File, email and regular mail which satisfies Pa.R.A.P. 121:

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Dated: January 13, 2021