

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA INTERSCHOLASTIC
ATHLETIC ASSOCIATION, INC.,

Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA
AND PENNSYLVANIA OFFICE OF OPEN
RECORDS,

Respondents.

No. 661 MD 2020

RECEIVED

FEB 11 2021

OFFICE OF OPEN RECORDS

TO: ELIZABETH WAGNENSELLER, in her Official Capacity as Executive
Director of the Office of Open Records
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (30) days after this Petition and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Petitioner. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT

AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE
PERSONS AT A REDUCED FEE OR NO FEE.

MIDPENN LEGAL SERVICES
213-A NORTH FRONT STREET
HARRISBURG, PA 17101
(717) 232-0581

DAUPHIN COUNTY LAWYER REFERRAL SERVICE
DAUPHIN COUNTY BAR ASSOCIATION
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

AVISO

USTED HA SIDO DEMANDADO/A EN CORTE. Si usted desea defenderse de las demandas que se presentan más adelante en las siguientes páginas, debe tomar acción dentro de los próximos veinte (20) días después de la notificación de esta Demanda y Aviso radicando personalmente o por medio de un abogado una comparecencia escrita y radicando en la Corte por escrito sus defensas de, y objeciones a, las demandas presentadas aquí en contra suya. Se le advierte de que si usted falla de tomar acción como se describe anteriormente, el caso puede proceder sin usted y un fallo por cualquier suma de dinero reclamada en la demanda o cualquier otra reclamación o remedio solicitado por el demandante puede ser dictado en contra suya por la Corte sin más aviso adicional. Usted puede perder dinero o propiedad u otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE UN ABOGADO, LLAME O VAYA A LA SIGUIENTE OFICINA. ESTA OFICINA PUEDE PROVEERLE INFORMACION A CERCA DE COMO CONSEGUIR UN ABOGADO.

SI USTED NO PUEDE PAGAR POR LOS SERVICIOS DE UN ABOGADO, ES POSIBLE QUE ESTA OFICINA LE PUEDA PROVEER INFORMACION SOBRE AGENCIAS QUE OFREZCAN SERVICIOS

LEGALES SIN CARGO O BAJO COSTO A PERSONAS QUE
CUALIFICAN.

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McNEES WALLACE & NURICK LLC

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Dated: February 11, 2021

*Attorneys for Petitioner Pennsylvania
Interscholastic Athletic Association*

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NOTICE TO PLEAD

TO: COMMONWEALTH OF PENNSYLVANIA
c/o Stephen Kovatis, Esq.
Pennsylvania Office of Attorney General
1600 Arch Street, 3rd Floor
Philadelphia, PA 19103

You are hereby notified to file a written response to the enclosed
Petition within thirty (30) days from service hereof or a judgment may be
entered against you.

McNEES WALLACE & NURICK LLC

By /s/ Alan R. Boynton, Jr.

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*Attorneys for Respondent/Cross-Petitioner
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c/o Charles Brown, Esq.
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

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No. 661 MD 2020

**AMENDED PETITION FOR REVIEW
IN THE NATURE OF A COMPLAINT**

Petitioner Pennsylvania Interscholastic Athletic Association, Inc.

("PIAA"), by and through its attorneys, McNees Wallace & Nurick LLC and the Law Office of Tucker Hull, LLC, invokes this Court's original jurisdiction and submits the following Amended Petition for Review in the Nature of a Complaint ("Amended Petition") against Respondents Commonwealth of Pennsylvania, the Pennsylvania Office of Open Records ("OOR"), and Elizabeth Wagenseller, in her official capacity as Executive Director of the Office of Open Records, to challenge application of the Pennsylvania Right To Know Law, 65 P.S. §§ 67.101-.3104 ("RTKL"), to PIAA. In support of this Amended Petition, Petitioner avers as follows:

I. STATEMENT OF JURISDICTION

1. This Court has jurisdiction over this matter by reason of 42 Pa. C.S. § 761. This Amended Petition is addressed to the Court's original jurisdiction and is in the nature of a Complaint for violation of 42 U.S.C. § 1983, the United States and Pennsylvania Constitutions and relating to application of the RTKL. Petitioner seeks declaratory and injunctive relief.

2. This Amended Petition seeks to declare as unenforceable and/or unconstitutional the inclusion of PIAA within the definition "State-affiliated entity" of Section 102 of the RTKL (65 P.S. § 67.102) on the grounds that (1) the provision is inherently contradictory and inconsistent as it defines a "State-affiliated entity" as "a Commonwealth authority or entity" but then expressly identifies PIAA as being within that definition when PIAA is clearly not either a Commonwealth authority or entity; (2) the express inclusion of PIAA within the definition of a "State-affiliated entity" constitutes special legislation targeting a specific corporation and imposing on PIAA obligations that are not imposed on analogous nonprofit corporations; (3) the provision at issue violates PIAA's federal and state constitutional rights of equal protection and substantive due process since the provision arbitrarily and irrationally singles out PIAA, imposes upon

PIAA obligations and duties not imposed on any other interscholastic athletic organization or any other nonprofit membership corporation in the Commonwealth, and is not rationally related to the achievement of legitimate purposes since PIAA does not meet the statutory definition of an agency of the Commonwealth as it is a private corporation receiving no state tax money, having no state-granted governmental power, and is not administered by the Commonwealth; and (4) the provision at issue is not enforceable against PIAA since it is inconsistent with the disclosure provisions of the Nonprofit Corporation Law and the RTKL expressly makes that law inapplicable where it conflict[s] with any other Federal or state law.”

3. Petitioner seeks to preliminarily and permanently enjoin application of Section 102’s definition of State-affiliated entity to PIAA and to enjoin the OOR from having jurisdiction over any matters relating to PIAA based on Section 102’s inclusion of PIAA as a State-affiliated entity.

II. PARTIES

4. Petitioner is the Pennsylvania Interscholastic Athletic Association, Inc. (“PIAA”), a Pennsylvania nonprofit voluntary membership corporation.

5. Respondent Commonwealth of Pennsylvania is established and governed by the Constitution of the Commonwealth of Pennsylvania.

6. Respondent Pennsylvania Office of Open Records is a governmental entity acting by and through the powers and authority granted it by under Section 1310 of the RTKL. 65 P.S. § 67.1310.

7. Respondent Elizabeth Wagenseller is the Executive Director of the OOR and is sued solely in her official capacity as Executive Director of the OOR.

III. STATEMENT OF FACTS

A. PIAA

8. In December 1913, the Pennsylvania Interscholastic Athletic Association was established by a group of high school principals as an unincorporated membership association.

9. On September 12, 1978, the association incorporated pursuant to the Nonprofit Corporation Law of 1972 (15 Pa. C.S.A. § 7301, *et seq.*) by filing of Articles of Incorporation with the Commonwealth Department of

State, Corporation Bureau.¹ A true and correct copy of the Articles of Incorporation is attached hereto as Exhibit A.

10. PIAA's membership consists of both public and private schools that voluntarily choose to join the organization:

B. The Right-to-Know Law and PIAA

11. In 2008, the Pennsylvania General Assembly, through Act 3 of 2008, adopted the RTKL.

12. As specified therein, the RTKL is "an Act providing for access to *public information....*" 208 Feb. 14, P.L. 6, No. 3 (emphasis added).

13. The RTKL is limited to requests made to governmental entities. See *SWB Yankees LLC v. Wintermantel*, 45 A.3d 1029, 1041 (Pa. 2012) (holding that the RTKL is intended to provide access by people to "information concerning the activities of *their government*.") (emphasis added).

14. Pursuant to Section 301(a) of the RTKL, "Commonwealth agencies" are subject to the RTKL. 65 P.S. § 67.301(a).

¹ The Nonprofit Corporation Law of 1972 has since been superseded by the Nonprofit Corporation Law of 1988, 15 Pa. C.S.A. § 5101, *et seq.*

15. Section 102 of the RTKL defines terms used in the RTKL. 65 P.S. § 67.102.

16. Section 102 of the RTKL, 65 P.S. § 67.102, defines a "Commonwealth agency" as follows:

- (1) Any office, department, authority, board, multistate agency or commission of the executive branch; and independent agency; and a State-affiliated entity. The term includes:
 - (i) The Governor's Office.
 - (ii) The Office of Attorney General, the Department of the Auditor General and the Treasury Department.
 - (iii) An organization established by the Constitution of Pennsylvania, a statute or an executive order which performs or is intended to perform an essential governmental function.

17. PIAA is not part of the Governor's Office, the Office of the Attorney General, the Department of the Auditor General or the Treasury Department.

18. PIAA is not an organization established by the Constitution of Pennsylvania, a statute or executive order.

19. PIAA is not an office, department, authority, board, multistate agency or commission of the executive branch.

20. PIAA does not meet the definition of an independent agency as that term has been defined by the RTKL and caselaw. See *Scott v. Delaware Valley Regional Planning Comm'n*, 56 A.3d 40, 45-57 (Pa. Commw. 2012); *S.A.V.E. v. Delaware Valley Regional Planning Comm'n*, 819 A.2d 1235, 1238 (Pa. Commw. 2003); *Goppelt v. Pennsylvania Automobile Theft Prevention Auth.*, No. AP 2016-0018 (OOR Feb. 3, 2016) (OOR Feb. 3, 2016), at 9 (holding that an entity was not an independent agency because it "does not provide services mandated by the Pennsylvania Constitution or required for the continued existence of the Commonwealth and is not statutorily-defined as providing essential services"); *Cf. Pennsylvania State Ass'n of Township Supervisors v. Pennsylvania Office of Open Records*, No. 2012-6207 (Cumb. Com. Pl. March 7, 2013) (holding that the Pennsylvania State Association of Township Supervisors is not an independent agency where "there is no evidence that in the absence PSATS's services, the survival of the Commonwealth would be in jeopardy").

21. PIAA does not provide services mandated by the Pennsylvania Constitution or required for the continued existence of the Commonwealth and is not statutorily-defined as providing essential services.

22. PIAA not an "independent agency" under the RTKL.

23. A "State-affiliated entity" is defined under Section 102 of the RTKL as follows:

State-affiliated entity. A Commonwealth authority or Commonwealth entity. The term includes the Pennsylvania Higher Education Assistance Agency and any entity established thereby, the Pennsylvania Gaming Control Board, the Pennsylvania Game Commission, the Pennsylvania Fish and Boat Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement Board, the State System of Higher Education, a community college, the Pennsylvania Turnpike Commission, the Pennsylvania Public Utility Commission, the Pennsylvania Infrastructure Investment Authority, the State Public School Building Authority, **the Pennsylvania Interscholastic Athletic Association** and the Pennsylvania Educational Facilities Authority. The term does not include a State-affiliated institution.

65 P.S. § 67.102 (emphasis added).

24. Although expressly identified within the scope of the definition of "State-affiliated entity," PIAA is not, nor has it ever been, a "Commonwealth authority," nor has it ever been an "authority" of any kind.

25. Although expressly identified within the scope of the definition of "State-affiliated entity," PIAA is not, nor has it ever been, a "Commonwealth entity."

26. "The financial relationship between the Commonwealth and the agency in question is a primary factor in determining whether the agency is a Commonwealth agency." *S.A.V.E. v. Delaware Valley Regional Planning Comm'n*, 819 A.2d 1235, 1238 (Pa. Commw. 2003).

27. PIAA receives no state tax money nor any other funding of any kind from the Commonwealth.

28. All of the entities identified under Section 102's definition of "State-affiliated entity," save one (PIAA), were expressly created by enabling legislation adopted by the General Assembly.

29. PIAA was not created by enabling legislation adopted by the General Assembly.

30. PIAA has not been granted any powers or authority by the General Assembly other than that possessed by all nonprofit corporations pursuant to the Nonprofit Corporation Law of 1988.

31. PIAA's authority over its member schools is contractual only. *See Rottmann v. Pennsylvania Interscholastic Athletic Ass'n, Inc.*, 349 F.Supp.2d 922 (W.D. Pa. 2004) ("The PIAA exercises no sovereign power over North Catholic or plaintiff; North Catholic and the PIAA have a contractual relationship.").

32. PIAA's power can be increased, removed or modified at any time by its membership without the consent of, or even notice to, the Commonwealth.

33. PIAA's staff and Board of Directors do not consist of any employees or members appointed by the Governor or the General Assembly.

34. PIAA member schools are free to join other organizations and participate in non-PIAA sports without any involvement by PIAA.

35. There are numerous organizations in Pennsylvania which govern athletic and academic competitions between high schools and high school students, and which are joined by public and private high schools in Pennsylvania.

36. No interscholastic competition organization other than PIAA is identified in the RTKL as a State-affiliated entity.

37. There are also multiple incorporated and unincorporated associations in the Commonwealth, including the Pennsylvania School Board Association, the Pennsylvania State Athletic Directors Association, the Pennsylvania Association of School Administrators, the Pennsylvania Association of Secondary School Principals, and the Pennsylvania

Coaches Association, which provide services to and for schools and school districts yet are not identified as State-affiliated entities.

38. PIAA has received requests for records under the RTKL.

39. PIAA has objected to requests on the basis that the RTKL does not apply to it because it is not a Commonwealth agency.

40. On January 31, 2021, the OOR took official action to declare PIAA subject to the RTKL as a State-affiliated entity and directed PIAA to produce certain corporate records to a requesting individual. *Campbell v. Pennsylvania Interscholastic Athletic Ass'n*, No. AP 2020-2639 (Jan. 31, 2021), at 7, *appeal pending*, 25 C.D. 2021 (Pa. Commw.) ("under the RTKL, the PIAA is defined as a State-affiliated entity and is considered a Commonwealth agency."). A true and correct copy of the OOR decision is attached hereto as Exhibit B.

41. The OOR's decision is in conflict with the RTKL, enforces illegal special legislation, constitutes a violation of the constitutional rights of PIAA, and is inconsistent with the provisions of the Nonprofit Corporations Law.

42. The RTKL provides no procedure nor remedy for PIAA to challenge its inclusion within the scope of the RTKL.

COUNT I: THE SECTION 102 DEFINITION OF "STATE-AFFILIATED ENTITY" PRECLUDES ITS APPLICATION TO PIAA

43. Petitioner incorporates Paragraphs 1 - 42 herein as if set forth in full.

44. The RTKL was intended to provide access to "official government information." *Office of Governor v. Bari*, 2011 Pa. Commw. LEXIS 221, *26, 20 A.3d 634, 645 (Pa. Commw. 2011), citing *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. 2010).

45. The RTKL was not intended to provide for public access to information of nonprofit corporations. See *Bari*, 2011 Pa. Commw. LEXIS 221, *26, 20 A.3d at 645 ("[W]e cannot fathom how the General Assembly could have intended to open up the records of a private [nonprofit corporation] based solely on some marginal connection between that private entity and a government agency or public official").

46. Nonprofit corporations have been determined to not be subject to the RTKL. See *Bari, supra*; *E. Stroudsburg Univ. Found. v. Office of Open Records*, 995 A.2d 496 (Pa. Commw. 2010) ("the Foundation is not an agency by definition under the Right-to-Know Law. It is a non-profit

corporation, and its Board of Directors' meeting minutes are not subject to disclosure.").

47. As set forth in the Nonprofit Corporation Law, the records of a nonprofit corporation are subject to disclosure only to its members and board of directors. 15 Pa. C.S. §§ 5508 and 5512.

48. PIAA is not a "State-affiliated entity" as that term is defined by Section 102 of the RTKL, 65 P.S. § 102, because (1) it is not, nor has it ever been, a Commonwealth authority or entity; (2) was not created by enabling legislation by the General Assembly; (3) has no power or authority granted to it by the Commonwealth; and (4) does not receive any taxes or funding from the Commonwealth.

49. Inclusion of PIAA within the definition of "State-affiliated entity" is wholly inconsistent with, and contrary to, the definition of that term.

50. Because PIAA is not a State-affiliated entity as that term is defined by the RTKL, it is not a "Commonwealth agency" as defined under Section 102 of the RTKL.

51. Because PIAA is not a Commonwealth agency as defined by the RTKL, it is not subject to requirements and obligations of the RTKL.

52. Due to Respondents' inclusion of PIAA within the scope of the definition of State-affiliated entity, and enforcement of that provision, PIAA has incurred, and is likely to further incur, significant administrative expenses and costs of compliance with the RTKL as well as disclosure of private corporate records and information to the public, which harm is irreparable to PIAA.

53. Unless Respondents are enjoined from applying the definition of "State-affiliated entity" to PIAA when PIAA does not meet the definition established by the General Assembly for that term, PIAA will be immediately and irreparably harmed by:

- (a) being treated as, and required to meet the obligations of, a Commonwealth agency when PIAA is in no way a state governmental entity;

- (b) Loss of its rights otherwise enjoyed by all other nonprofit corporations in the Commonwealth;

- (c) Present economic loss, which is uncertain at this time, and future economic loss, which is presently incalculable; and

- (d) Disclosure of private corporate records and information.

54. Such immediate and irreparable harm and loss will continue unabated if Respondents are permitted to compel PIAA to comply with the terms of the RTKL by effectuating the inclusion of PIAA within the scope of the definition of a "State-affiliated entity" under the RTKL.

WHEREFORE, Petitioner requests that judgment be entered in its favor and against Respondents, that the Court declare that Petitioner does not meet the definition of a State-affiliated entity, that Petitioner be declared not subject to the RTKL as a Commonwealth agency, that Respondents be preliminarily and permanently enjoined from enforcing the RTKL against Petitioner based on the definition of State-affiliated entity, that the Court grant such other relief in favor of Petitioner as is deemed appropriate, and that costs be awarded to Petitioner:

**COUNT II: VIOLATION OF PENNSYLVANIA
CONSTITUTION BAR ON SPECIAL LEGISLATION**

55. Petitioner incorporates Paragraphs 1 - 54 herein as if set forth in full.

56. Article III, Section 32 of the Constitution of the Commonwealth of Pennsylvania provides in pertinent part that "[t]he General Assembly

shall pass no local or special law in any case which has been or can be provided for by general law...." PA. CONST., Article III, § 32.

57. The Pennsylvania Constitution's proscription on special legislation mandates that like persons in like circumstances must be treated similarly by the Commonwealth and that specific entities may not be singled out or targeted.

58. Legislative classifications set by the General Assembly must be reasonable and have a fair and substantial relationship to a legitimate object of the legislation.

59. Courts have distinguished between "general" and "special" laws as follows:

[A] special law is the opposite of a general law. A special law is not uniform throughout the state or applied to a class. A general law is. It is well known that the Legislature has classified cities and counties. A law dealing with all cities or all counties of the same class is not a special law, but a general law, uniform in its application. But a law dealing with but one county of a class consisting of ten, would be local or special.

Wings Field Pres. Assocs., L.P. v. Com., Dept. of Transp., 776 A.2d 311, 316 (Pa. Commw. 2001) (alteration in original) (quoting *Appeal of Torbik*, 696 A.2d 1141, 1146 (Pa. 1997)) (internal quotation marks omitted).

60. "[L]egislative classifications must be founded on real distinctions in the subjects classified and not on artificial or irrelevant ones used for the purpose of evading the constitutional prohibition."

Pennsylvania Tpk. Comm'n, 587 Pa. 347, 899 A.2d 1085, 1095 (2006).

61. To survive challenge, classifications must be genuine and not illusory. See *Warren v. Ridge*, 2000 Pa. Commw. LEXIS 606, 762 A.2d 1126 (2000) (holding that an effectively closed class consisting of a single school district "creates a class of one that is merely illusory, and, therefore, does not meet the threshold determination of a 'genuine class.'").

62. A specific entity may not be singled out for special treatment. See *Pittsburgh v. Blue Cross of Western Pa.*, 4 Pa. Commw. 262, 267, 286 A.2d 475, 477-478 (1971), *rev'd on other grounds sub nom Pittsburgh v. Insurance Dep't of Pennsylvania*, 448 Pa. 466, 294 A.2d 892 (1972):

Indeed, we might test this by considering whether or not the Legislature itself could by legislative enactment pass legislation specifically referring to Blue Cross of Western Pennsylvania and stating in the legislation that a specific corporation was entitled to charge a specific rate to subscribers. There can be no question that such legislation would be special legislation which is prohibited by the Constitution.

See also *Harrisburg School Dist. v. Hickok*, 563 Pa. 391, 761 A.2d 1132 (2000) (affirming order enjoining enforcement of legislative enactment targeting Harrisburg School District for special treatment with no rational basis for the special treatment); *West Mifflin School Dist. v. Zahorchak*, 607 Pa. 153, 163, 4 A.3d 1042, 1048 (2010) ("legislation creating a class of one member that is closed or substantially closed to future membership is *per se* unconstitutional."); *Pennsylvania Tpk. Comm'n v. Commonwealth*, 587 Pa. 347, 899 A.2d 1085, 1098 (2006) (holding that "a statute may be deemed *per se* unconstitutional if, under the classification, the class consists of one member and is closed or substantially closed to future membership").

63. There are multiple incorporated and unincorporated associations which govern athletic and academic competition between Pennsylvania high schools and their students.

64. No other interscholastic athletic or academic organization in Pennsylvania is identified in the RTKL as a State-affiliated entity.

65. There are numerous nonprofit corporations in Pennsylvania which were not expressly created by the General Assembly or funded by the Commonwealth.

66. No other nonprofit corporation not expressly created by the General Assembly was identified in the RTKL as a State-affiliated entity.

67. No other entity nonprofit corporation not funded by the Commonwealth or through state legislation was identified in the RTKL as a State-affiliated entity.

68. By including PIAA within the scope of the RTKL through the definition of State-affiliated entity, the Commonwealth has singled out PIAA and imposed duties and obligations on it that do not apply to any other interscholastic athletic or academic association nor to any other nonprofit corporation not expressly created by the General Assembly and/or funded by or through the Commonwealth.

69. By including PIAA within the scope of the RTKL through the definition of State-affiliated entity when it does not meet the definition of that term, the Commonwealth has created a class in which PIAA is the only member and which cannot be expanded within the current definition.

70. The inclusion of PIAA in the definition of "State-affiliated entity" creates a class of one member which cannot be expanded because PIAA is the only entity included within that definition that is a nonprofit corporation, was not granted any power or authority by the General

Assembly, was not created by enabling legislation by the General Assembly and does not receive funds from the Commonwealth or any other through state-approved funding mechanisms.

71. The specific singling out of PIAA and inclusion of it in the definition of a State-affiliated entity under Section 102 of the RTKL renders it an unconstitutional special law as applied to PIAA.

72. Unless Respondents are enjoined from their unconstitutional application of this special legislation against PIAA, PIAA will be immediately and irreparably harmed by:

(a) Ongoing interference and infringement upon its right to be treated the same as all other nonprofit corporations in the Commonwealth; and

(b) Present economic loss, which is uncertain at this time, and future economic loss, which is presently incalculable.

73. Such immediate and irreparable harm and loss will continue unabated if Respondents are permitted to continue to discriminate against Petitioner by enforcing or otherwise effectuating the special legislation including PIAA within the scope of the definition of a "State-affiliated entity" under the RTKL.

WHEREFORE, Petitioner requests that judgment be entered in its favor and against Respondents, that Section 102's express inclusion of Petitioner as a State-affiliated entity be declared an unconstitutional and unenforceable special law and that Respondents be preliminarily and permanently enjoined from enforcing the RTKL against Petitioner, that the Court grant such other relief in favor of Petitioner as is deemed appropriate, and that costs be awarded to Petitioner.

**COUNT III: CLAIM AGAINST RESPONDENT WAGENSELLER
PURSUANT TO 42 U.S.C. § 1983 FOR VIOLATION OF
THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION**

74. Petitioner incorporates Paragraphs 1 - 73 herein as if set forth in full.

75. The 14th Amendment to the Constitution of the United States provides, in relevant part, that

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. Amend. XIV.

76. This provision of the 14th Amendment entitles PIAA to equal protection of the law and bars legislative actions that are arbitrary and not rationally related to a legitimate state interest.

77. Section 1983 of the Civil Rights Act of 1964, as amended, provides that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person with the jurisdiction thereof to the deprivation of any rights, privileges, or immunity secured by the Constitution and laws shall be liable to the party injured in an action of law, suit in equity or other proceedings for redress.

42 U.S.C. § 1983.

78. Section 1983 was enacted to enforce rights created under federal law, including those established under the United States Constitution, against infringement by the states and state actors.

79. A corporation is a person within the meaning of the Fourteenth Amendment and "it has been properly held that a corporation as well as an individual has a right to bring a suit under the Civil Rights Act."

Pennsylvania Bank & Trust Co. v. Hanisek, 426 F. Supp. 410 (W.D. Pa. 1977).

80. The equal protection clause of the Fourteenth Amendment protects a person or a corporation against intentional discrimination in the enforcement of a law, whether occasioned by express terms of a statute or by improper execution by government officials. *Kaplan v. Chertoff*, 481 F.Supp.2d 370, 392 (E.D. Pa. 2007).

81. The equal protection clause keeps governmental decision makers from treating differently persons who are in all relevant respects alike. *Keystone Redevelopment Partners, LLC v. Decker*, 631 F.3d 89 (3d Cir. 2010).

82. To establish a claim for violation of the equal protection clause based on a class-of-one, a claimant must demonstrate that: (1) it has been intentionally treated differently from others similarly situated; and (2) there is no rational basis for the difference in treatment. *Id.* See also *Phillips v. County of Allegheny*, 515 F.3d 224, 243 (3d Cir. 2008).

83. To establish a claim for violation of the substantive due process provision of the 14th Amendment, a claimant must demonstrate that a legislative action is arbitrary and not rationally related to a legitimate state interest. *County Concrete Corp. v. Twp. of Roxbury*, 442 F.3d 159, 169 (3d Cir. 2006).

84. Respondent Wagenseller, acting in her official capacity as Executive Director of the OOR, is a state actor for purposes of § 1983 and at all relevant times acted under the color of state law.

85. The actions of Respondents, as set forth herein, constitute actions of policy making and/or execution for purposes of Section 1983.

86. PIAA is a private nonprofit membership corporation registered to do business with the Department of State Corporations Bureau.

87. Pursuant to the Pennsylvania Nonprofit Corporation Law, 15 Pa.C.S. §§ 5501-6107, Pennsylvania nonprofit corporations have no duty to provide corporate records and/or documents to persons other than its members (15 Pa. C.S. § 5508) and members of its board of directors (15 Pa. C.S. § 5512).

88. With respect to members of a nonprofit corporation, they are entitled to inspect and receive corporate records only for a proper purpose. 15 Pa. C.S. § 5508.

89. With respect to members of a board of directors of a nonprofit corporation, they are entitled to inspect and receive corporate records only "to the extent reasonably related to the performance of the duties of the director." 15 Pa. C.S. § 5512.

90. Unless otherwise subject to the RTKL, the Commonwealth does not require nonprofit membership corporations to comply with the terms of the RTKL.

91. PIAA is the only nonprofit membership corporation included within the scope of the definition of State-affiliated entity under the RTKL.

92. PIAA is not the only athletic association of high schools operating in the Commonwealth of Pennsylvania, but it is the only athletic association of high schools operating in the Commonwealth of Pennsylvania that is included within the scope of the definition of State-affiliated entity.

93. PIAA is the only entity identified in Section 102's definition of State-affiliated entities that was not created by enabling legislation of the General Assembly.

94. PIAA is the only entity identified in Section 102's definition of State-affiliated entities that is not granted governmental powers and/or authority by the General Assembly.

95. PIAA is the only entity identified in Section 102's definition of State-affiliated entities that is not funded by the Commonwealth or through a legislatively-established funding mechanism.

96. The RTKL's inclusion of PIAA through Section 102's definition of State-affiliated entities violates PIAA's equal protection rights because it places PIAA into a class of one whereby PIAA is the only interscholastic athletic association and only private nonprofit corporation in Pennsylvania made subject to the RTKL through this provision.

97. Section 102 of the RTKL violates PIAA's equal protection rights because the Commonwealth irrationally treats PIAA differently than similarly situated corporations and interscholastic athletic associations and such disparate and discriminatory treatment is not supported by a legitimate governmental interest.

98. The RTKL's inclusion of PIAA through Section 102's definition of State-affiliated entities violates PIAA's equal protection rights because it places PIAA into a class of one whereby PIAA is the only entity included therein not created by enabling legislation nor having state-granted powers and funding made subject to the RTKL through this provision.

99. The inclusion of PIAA, a non-governmental entity receiving no state tax revenues, having no state-granted powers, and not administered by the Commonwealth, as a State-affiliated entity in the RTKL does not

have a rational basis, does not serve any legitimate state interest, and is arbitrary and capricious in nature.

100. The inclusion of PIAA in the RTKL through Section 102's definition of State-affiliated entity constitutes a violation of PIAA's constitutional right to equal protection and substantive due process.

101. By including PIAA within the scope of Section 102's definition of State-affiliated entity, and by enforcing that provision against PIAA, Respondents have acted with deliberate intent to single out and discriminate against PIAA.

102. The inclusion of PIAA in the RTKL through Section 102's definition of State-affiliated entity constitutes a violation of the 14th Amendment and is subject to remedy pursuant to 42 U.S.C. § 1983.

103. Unless Respondents are enjoined from their unconstitutional violation of PIAA's equal protection and substantive due process rights, PIAA will be immediately and irreparably harmed by:

(a) Ongoing interference and infringement upon its rights to equal protection and substantive due process under the 14th Amendment to the United States Constitution;

(b) Loss of its rights otherwise enjoyed by all other nonprofit corporations in the Commonwealth; and

(c) Present economic loss, which is uncertain at this time, and future economic loss, which is presently incalculable.

104. Such immediate and irreparable harm and loss will continue unabated if Respondents are permitted to continue to discriminate against Petitioner by enforcing or otherwise effectuating the inclusion of PIAA within the scope of the definition of a "State-affiliated entity" under the RTKL.

WHEREFORE, Petitioner requests that judgment be entered in its favor and against Respondents, that Section 102's express inclusion of Petitioner as a State-affiliated entity be declared an unconstitutional and unenforceable violation of Petitioner's equal protection rights under the 14th Amendment to the United States Constitution, that Respondents be preliminarily and permanently enjoined from enforcing the RTKL against Petitioner, that the Court grant such other relief in favor of Petitioner as is deemed appropriate, and that Petitioner be awarded costs and fees pursuant to 42 U.S.C. § 1988.

**COUNT IV: CLAIM FOR VIOLATION OF EQUAL
PROTECTION RIGHTS UNDER THE PENNSYLVANIA CONSTITUTION**

105. Petitioner incorporates Paragraphs 1 - 104 herein as if set forth in full.

106. Article I, Sections 1 and 26 of the Constitution of the Commonwealth of Pennsylvania entitles PIAA to equal protection of the law.

107. An act of the state is unconstitutional if it is demonstrated that (1) the state treated the claimant differently than others similarly situated; (2) the state did so intentionally; and (3) any differential treatment was without rational basis. *Cornell Narberth, LLC v. Borough of Narberth*, 2017 Pa. Commw. LEXIS 488, 167 A.3d 228 (2017); *Hill v. Borough of Kutztown*, 455 F.3d 225 (3d Cir. 2006).

108. An equal protection violation occurs when a party has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.

109. The RTKL's inclusion of PIAA through Section 102's definition of State-affiliated entities violates PIAA's equal protection rights under the Pennsylvania Constitution because it treats PIAA differently than all other

similarly situated private corporations by placing PIAA into a class of one whereby PIAA is the only private membership corporation in Pennsylvania that was not created by the Commonwealth, does not receive Commonwealth funds, does not have Commonwealth-granted powers, and is not administered by the Commonwealth made subject to the RTKL through this provision.

110. The RTKL's inclusion of PIAA through Section 102's definition of State-affiliated entities specifically identifies and singles out PIAA in an arbitrary and capricious manner.

111. The inclusion of PIAA in the RTKL through Section 102's definition of State-affiliated entity does not have a rational basis, does not serve any legitimate state interest, and is arbitrary and capricious in nature.

112. Unless Respondents are enjoined from their unconstitutional violation of PIAA's equal protection rights, PIAA will be immediately and irreparably harmed by:

(a) Ongoing interference and infringement upon its right to equal protection under the law;

(b) Loss of its rights otherwise enjoyed by all other nonprofit corporations in the Commonwealth; and

(c) Present economic loss, which is uncertain at this time, and future economic loss, which is presently incalculable.

113. Such immediate and irreparable harm and loss will continue unabated if Respondents are permitted to continue to discriminate against Petitioner by enforcing or otherwise effectuating the inclusion of PIAA within the scope of the definition of a "State-affiliated entity" under the RTKL.

WHEREFORE, Petitioner requests that judgment be entered in its favor and against Respondents, that Section 102's express inclusion of Petitioner as a State-affiliated entity be declared an unconstitutional and unenforceable violation of Petitioner's equal protection rights under the Pennsylvania Constitution, that Respondents be preliminarily and permanently enjoined from enforcing Section 102's express inclusion of Petitioner as a State-affiliated entity, and that Petitioner be awarded costs.

**COUNT V: THE RECORD ACCESS PROVISIONS
OF THE NONPROFIT CORPORATION LAW
CONFLICT WITH THE RTKL AND PRECLUDE
APPLICATION OF THE RTKL TO NONPROFIT ORGANIZATIONS**

114. Petitioner incorporates Paragraphs 1 - 113 herein as if set forth in full.

115. PIAA is a nonprofit corporation organized under the provisions of the Pennsylvania Nonprofit Corporation Law, 15 Pa.C.S. §§ 5501-6107.

116. Pursuant to the Pennsylvania Nonprofit Corporation Law, 15 Pa.C.S. §§ 5501-6107, Pennsylvania nonprofit corporations have no duty to provide corporate records and/or documents to persons other than its members (15 Pa. C.S. § 5508) and members of its board of directors (15 Pa. C.S. § 5512).

117. With respect to members of a nonprofit corporation, they are entitled to inspect and receive corporate records only for a proper purpose. 15 Pa. C.S. § 5508.

118. With respect to members of a board of directors of a nonprofit corporation, they are entitled to inspect and receive corporate records only "to the extent reasonably related to the performance of the duties of the director." 15 Pa. C.S. § 5512.

119. The Nonprofit Corporation Law does not provide for any other right of access by any person to corporate records.

120. Section 3101.1 of the RTKL provides that "If the provisions of [the RTKL] regarding access to records conflict with any other federal or

state law, the provisions of [the RTKL] shall not apply.” 65 P.S. § 67.3101.1.

121. To the extent that a nonprofit corporation registered to do business under the Nonprofit Corporation Law is somehow included within the scope of the RTKL, the record access provisions of the RTKL conflict with those found within the Pennsylvania Nonprofit Corporation Law.

122. As a result of this conflict, the RTKL does not apply and the OOR lacked jurisdiction to grant access to Petitioner’s documents. See 65 P.S. § 67.3101.1.

WHEREFORE, Petitioner requests that judgment be entered in its favor and against Respondents, that the Court declare that a conflict exists between the record access provisions of the RTKL and the Nonprofit Corporation Law, that Petitioner’s records are only accessible through the Nonprofit Corporation Law, that Respondents be preliminarily and permanently enjoined from enforcing the RTKL against Petitioner, that the

Court grant such other relief in favor of Petitioner as is deemed appropriate, and that costs be awarded to Petitioner.

McNEES WALLACE & NURICK LLC

By /s/ Alan R. Boynton, Jr.
Alan R. Boynton, Jr.
Pa. I.D. No. 39850
Logan Hetherington
Pa I.D. No. 326048
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000 (Phone)

LAW OFFICE OF TUCKER HULL, LLC

By /s/ J. Chadwick Schnee
J. Chadwick Schnee
PA I.D. 306907
108 W. Main Street
P.O. Box 330
Annville, PA 17003
Phone: 717-685-7947
chadwick@tucker-hull-law.com

Dated: February 11, 2021

*Attorneys for Petitioner
Pennsylvania Interscholastic
Athletic Association, Inc.*

VERIFICATION

I, Robert A. Lombardi, Executive Director of the Pennsylvania Interscholastic Athletic Association, Inc., hereby verify that the facts contained in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.



Dr. Robert A. Lombardi

Date: February 4, 2021

EXHIBIT A

APPLICANT'S ACCT NO.

DSCB 15-7316 (Rev. 11-72)

Filing Fee: \$75
AIN-8
Articles of
Incorporation—
Domestic Nonprofit Corporation

637396
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
CORPORATION BUREAU

(Line for numbering)

Filed 12th day of September, 19 78

Commonwealth of Pennsylvania
Department of State

Barton A. Fields
Secretary of the Commonwealth

(Box for Certification)

In compliance with the requirements of 15 Pa. S. §7316 (relating to articles of incorporation) the undersigned, desiring to be incorporated as a nonprofit corporation, hereby certifies (certify) that:

jlw

1. The name of the corporation is:

Pennsylvania Interscholastic Athletic Association Inc.

2. The location and post office address of the initial registered office of the corporation in this Commonwealth is:

1104

(NUMBER)

Fernwood Avenue

(STREET)

Camp Hill

(CITY)

Pennsylvania

17011

(ZIP CODE)

3. The corporation is incorporated under the Nonprofit Corporation Law of the Commonwealth of Pennsylvania for the following purpose or purposes:

1. Health.

To organize, develop, and direct an interscholastic athletic program which will promote, protect and conserve the health and physical welfare of all participants.

2. Education.

To formulate and maintain policies that will safeguard the educational values of interscholastic athletics and cultivate high ideals of good sportsmanship.

3. Competition.

To promote uniformity of standards in all interscholastic athletic competition.

(CONTINUED ON ATTACHED RIDER)

The corporation does not contemplate pecuniary gain or profit, incidental or otherwise.

4. The term for which the corporation is to exist is: perpetual

7841 1991

5. The corporation is organized upon a nonstock basis.
6. (Strike out if inapplicable) The corporation shall have no members.
7. (Strike out if inapplicable) The incorporators constitute a majority of the members of the committee authorized to incorporate Pennsylvania Interscholastic Athletic Association
(NAME OF UNINCORPORATED ASSOCIATION)
by the requisite vote required by the organic law of the association for the amendment of such organic law.
8. The name(s) and post office address(es) of each incorporator(s) is (are):

NAME

ADDRESS
(including street and number, if any)

I. Charles McCullough, 309 Keith Road, Mechanicsburg, PA 17055

Michael Arbutina RD #2, Box 500, Engle Road, Industry, PA 15052

William Holland West Church Street, Lock Haven, PA 17745

James Manners 100 Alexander Street, Brockway, PA 15824

** IN TESTIMONY WHEREOF, the incorporator(s) has (have) signed and sealed these Articles of Incorporation this 1st day of August, 19 78.

I. Charles McCullough (SEAL)

x William Holland (SEAL)

Michael Arbutina (SEAL)

James L. Manners (SEAL)

INSTRUCTIONS FOR COMPLETION OF FORM:

- A. For general instructions relating to the incorporation of nonprofit corporations see 19 Pa. Code Ch. 29 (relating to nonprofit corporations generally). These instructions relate to such matters as corporate name, stated purposes, term of existence, authorized share structure, inclusion of names of first directors in the Articles of Incorporation, provisions on incorporation of unincorporated associations, etc.
- B. One or more corporations or natural persons of full age may incorporate a nonprofit corporation.
- C. If the corporation is to be organized upon a stock share basis Paragraph 5 should be modified accordingly.
- D. Optional provisions required or authorized by law may be added as Paragraphs 9, 10, 11 . . . etc.
- E. The following shall accompany this form:
- (1) Any necessary copies of Form DSCB:17.2 (Consent to Appropriation of Name) or Form DSCB:17.3 (Consent to Use of Similar Name).
 - (2) Any necessary governmental approvals.
- F. 15 Pa. S. §7317 (relating to advertisement) requires that the incorporators shall advertise their intention to file or the corporation shall advertise the filing of articles of incorporation. Proofs of publication of such advertising should not be delivered to the Department, but should be filed with the minutes of the corporation.

(**SEE ATTACHED RIDER FOR ADDITIONAL PROVISIONS)

RIDER

(No. 3, continued:)

and, in addition the corporation shall have unlimited power to engage in and to do any lawful act concerning the foregoing purposes.

(Additional Provisions)

9. No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered and to make payments and distributions in furtherance of the purposes and objects set forth herein. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

10. Notwithstanding any other provision of these Articles, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws, or by an organization, contributions to which are deductible under Section 170(c)(2) of such Code or corresponding provisions of any subsequent Federal tax laws.

11. Upon the dissolution of the corporation or the winding up of its affairs, after payment of all liabilities is made or provided for, the assets of the corporation shall be distributed exclusively for charitable, religious, scientific, testing for public safety, literary, or educational purposes to organizations which are then exempt from Federal tax under Section 501(c)(3) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws, and to which contributions are then deductible under Section 170(c)(2) of such Code or corresponding provisions of any subsequent Federal tax laws.

12. Notwithstanding any other provision set forth in these Articles of Incorporation, during any period the corporation is deemed to be a private foundation as defined in Section 509 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws, the corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954 or corresponding provisions of

12. continued

any subsequent Federal tax laws; the corporation shall not engage in any act of self-dealing as defined in Section 4941(d) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws; the corporation shall not retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1954 or corresponding provisions of any Federal tax laws; the corporation shall not make any investments in such manner as to subject the corporation to the tax under Section 4944 of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws; and the corporation shall not make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent Federal tax laws.

EXHIBIT B



FINAL DETERMINATION

IN THE MATTER OF

SIMON CAMPBELL,
Requester

v.

PENNSYLVANIA
INTERSCHOLASTIC ATHLETIC
ASSOCIATION, INC.,
Respondent

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Docket No.: AP 2020-2639

INTRODUCTION

Simon Campbell ("Requester") submitted a request ("Request") to the Pennsylvania Interscholastic Athletic Association, Inc. ("PIAA") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*, seeking, among other records, various legal invoices and check copies. The PIAA partially denied the Request, asserting that certain records do not exist. 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** and **denied in part**, and the PIAA is required to take further action as directed.

FACTUAL BACKGROUND

On November 2, 2020, the Request was filed, seeking:

1. ... [E]lectronic copies of all legal invoices that already exist in electronic form that were paid by [the] PIAA to any and all attorneys/law firms between the dates of January 1, 2012 and the present....
2. [E]lectronic copies of the fronts of all electronic cleared check images that already exist in electronic form ... for all financial accounts owned/operated by [the] PIAA between the dates of June 1, 2019 and the present....
3. [E]lectronic copies of all monthly bank (or other financial institution) statements that already exist in electronic form for all financial accounts owned/operated by [the] PIAA between the dates of December 1, 2013 and the present.
4. [A]ll posted line item transactions in all bank (or other financial institution) accounts that already exist in electronic form for all financial accounts owned/operated by [the] PIAA between the dates of June 1, 2019 and the present....
5. [The] PIAA's most recent three (3) years of independent audited financial statements that already exist in electronic form....
6. [The] PIAA's most recent Form 990 filing with the IRS that already exists in electronic form....
7. [E]lectronic copies of all written communications that already exist in electronic form, and that were exchanged between [the] PIAA officials (and between [the] PIAA officials and counsel) between the dates of January 1, 2020 and the present that discuss the topic of [the] PIAA being improperly included in the RTKL....
8. [A] screenshot image showing [the Requester] the name of the software program/s in [the] PIAA's possession, custody or control that can perform electronic redactions on PDF files and/or other electronic file types....

On November 6, 2020, the PIAA invoked a thirty-day extension of time, 65 P.S. § 67.902(b), to respond to the Request. On December 7, 2020, the PIAA partially denied the Request, asserting that records responsive to Items 1, 2, 3, 4, 7 and 8 do not exist. With respect to Item 5, the PIAA stated that it "requested these records from its auditors but has not yet received them" and the records "will be produced upon receipt." In response to Item 6 of the Request, the PIAA directed the Requester to the IRS's publicly available website, www.irs.gov. The PIAA also noted a

“[g]eneral objection” to the Request, stating that the PIAA “is not a Commonwealth authority or entity” that is subject to the RTKL and that it intended “to litigate this issue in response to th[e] [R]equest.”

On December 10, 2020, the Requester appealed to the OOR, challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the PIAA to notify any third parties of their ability to participate in this appeal. *See* 65 P.S. § 67.1101(c).

On December 21, 2020, the PIAA filed a Motion to Stay Proceedings (“Motion”), asserting that the instant appeal should be stayed pending the Commonwealth Court’s consideration of the PIAA’s Petition for Review in the Nature of a Complaint for Declaratory and Injunctive Relief, which was filed with the Commonwealth Court on December 18, 2020. On December 21, 2020, the OOR afforded the Requester the opportunity to respond to the PIAA’s Motion. On December 22, 2020, the Requester submitted his response to the PIAA’s Motion, stating that he objects to the Motion. Also, on December 22, 2020, the OOR informed the parties that the PIAA’s Motion was denied, and the OOR set forth deadlines for the parties to submit evidence in the appeal.

On December 30, 2020, the PIAA submitted a position statement reiterating its grounds for denial. The PIAA also contends that the PIAA is not subject to the RTKL and that application of the RTKL to the PIAA “constitutes unconstitutional special legislation.” The PIAA further argues that the RTKL violates the PIAA’s “equal protection rights under the United States and Pennsylvania Constitutions,” and that disclosure of certain banking information “would violate privacy rights.” The PIAA also submitted the affidavit, made under penalty of perjury, of Dr. Robert Lombardi (“Dr. Lombardi”), Executive Director and Open Records Officer of the PIAA.

On December 31, 2020, the Requester made a submission, requesting that the record in this matter remain open an additional two or three business days. On the same day, the PIAA made a submission, asserting that because the Requester “submitted no timely response ... addressing any of the issues identified in the denial letter, argument on those issues in a submission addressing assertedly newly raised issues would be untimely and should not be permitted.” Also, on December 31, 2020, the Requester submitted a reply to the PIAA’s submission, stating, in part, that the PIAA acted in bad faith. On the same day, the OOR notified the parties that the record would remain open through January 5, 2021.

On January 4, 2021, the Requester made a submission, indicating that he was “ask[ing the Pennsylvania Office of the Attorney General (“AG’s Office”)] to make sure the appropriate attorney from the AG’s [O]ffice asserts the Commonwealth’s direct interest into this appeal via Section 1101(c)(1) of the RTKL.” The Requester’s submission also included a letter to the AG’s Office.

On January 5, 2021, the PIAA submitted a supplemental position statement, asserting, in part, that “any submission by [the] Requester relating to responses presented in [the] PIAA’s letter of December 7, 2020 should be rejected as untimely.”¹ On the same day, the Requester submitted a supplemental position statement, stating, in part, that “[a]ny and all redaction arguments not raised thus far have similarly now been waived” and requesting that the OOR “issue an advisory opinion finding that [the] PIAA and its counsel acted in bad faith and in wanton disregard of [the] law.”

¹ Of note, to develop the record in this matter, all submissions of both parties were considered. See 65 P.S. § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute”).

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.” 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The decision to hold a hearing is discretionary and non-appealable. *Id.* 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.* Here, neither party requested a hearing; however, the OOR has the necessary information and evidence before it to properly adjudicate the matter.

The PIAA is a Commonwealth agency² subject to the RTKL that is required to disclose public records. 65 P.S. § 67.301. Records in the possession of a Commonwealth 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. An agency bears the burden of proving the applicability of any cited exemptions. *See* 65 P.S. § 67.708(b).

² This is addressed in further detail in Section 1 of this Final Determination.

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). 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 PIAA is subject to the RTKL

As a preliminary matter, the PIAA argues that because it is not a Commonwealth authority or entity, it is not subject to the requirements of the RTKL. Specifically, the PIAA contends that “[a]s [the] PIAA does not meet the definition of State-affiliated entity, nor is it included within the scope of the RTKL based on any other provision, the RTKL is not applicable to [the] PIAA and the OOR has no jurisdiction over requests for records made to [the] PIAA.”³

Under the RTKL, the term “State-affiliated entity” is defined as “[a] Commonwealth authority or Commonwealth entity. The term includes the ... *Pennsylvania Interscholastic Athletic Association...*” 65 P.S. § 67.102 (emphasis added). Additionally, the term “Commonwealth

³ Along these lines, the PIAA also maintains that application of the RTKL to the PIAA “constitutes unconstitutional special legislation” and that the RTKL violates the PIAA’s “equal protection rights under the United States and Pennsylvania Constitutions.” However, the PIAA also states that it “recognizes that the OOR does not have the authority to grant declaratory and/or equitable relief on a challenge to the constitutionality of a statute. *See Pa. Indep. Oil & Gas Ass’n v. [Pa.] Dep’t of Envtl. Prot.*, 135 A.3d 1118, 1129 (Pa. Commw. 2015).” Accordingly, these issues will not be addressed in this Final Determination.

agency” is defined to include “[a]ny office, department, authority, board, multistate agency or commission of the executive branch, an independent agency and a *State-affiliated entity*.” *Id.* (emphasis added). As such, under the RTKL, the PIAA is defined as a State-affiliated entity and is considered a Commonwealth agency. Pursuant to the clear language of the RTKL, “[a] Commonwealth agency shall provide public records in accordance with [the RTKL].” 65 P.S. § 67.301(a).

In light of the above statutory language, the OOR has repeatedly determined that the RTKL applies to the PIAA. *See, e.g., Scicchitano v. PIAA*, OOR Dkt. AP 2019-1504, 2019 PA O.O.R.D. LEXIS 1521; *Palattella v. PIAA*, OOR Dkt. AP 2018-0743, 2018 PA O.O.R.D. LEXIS 747. To hold otherwise would disregard the legislative intent behind the RTKL to promote government transparency and would also ignore the Legislature’s unambiguous directive that the RTKL applies to the PIAA.

2. Records responsive to Item 1 of the Request are subject to disclosure

Item 1 of the Request seeks electronic copies of “all legal invoices that already exist in electronic form that were paid by [the] PIAA to any and all attorneys/law firms between the dates of January 1, 2012 and the present....” While the PIAA asserts that it “receives its legal invoices in paper format,” the PIAA further states that it “has requested electronic copies of the records from its law firms.” In support, Dr. Lombardi affirms, in part, as follows:

40. [The] PIAA has no responsive records in an electronic format.
41. [The] PIAA receives its legal invoices in a paper format.
42. I have requested electronic records from law firms which we have used but have not received them.
43. There are several thousand pages of such invoices.
44. Once the records arrive, they will need to be redacted.

45. It will take weeks to do so since none of those documents are ... currently in a redacted format and must be created by [the] PIAA.
46. Our standard redaction process involves going through entries on each printed invoice.
47. I had recently undertaken this task with the same requested records pursuant to an earlier request by another individual for the same documents, so I know how long the effort will take. However, those redacted records were destroyed once the requester informed [the] PIAA that he would not pay for the costs of reproduction. That destruction occurred prior to receiving [the R]equest. Consequently, I would need to replicate the process here.

Under the RTKL, a sworn affidavit is generally competent evidence to sustain an agency's burden of proof. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any competent evidence that the PIAA acted in bad faith, "the averments in [the affidavit] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. 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)).

Here, while the PIAA states that the relevant invoices "will need to be redacted," the PIAA presents no evidence in support of any redactions. Specifically, the PIAA's submissions fail to indicate what would need to be redacted and the basis for such redactions. Notably, although the PIAA states that it is waiting to receive the responsive invoices in electronic form from its attorneys, the PIAA acknowledges that it has in its possession the invoices in paper format. As such, the PIAA has had the opportunity to review the responsive invoices and determine any necessary redactions. Moreover, the fact that a request may entail retrieving a large number of documents does not relieve the agency's duty to comply with the RTKL. *See Pa. Dep't of Envtl. Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012); *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 [to] respond in accordance with the RTKL”); *Falcetta v. Grove City Area Sch. Dist.*, OOR Dkt. AP 2018-0908, 2018 PA O.O.R.D. LEXIS 908. Accordingly, to the extent the legal invoices currently exist in electronic format, they are subject to disclosure.⁴ See 65 P.S. § 67.708(a)(1).

3. Portions of the records responsive to Items 2, 3 and 4 of the Request are subject to disclosure

Items 2, 3 and 4 of the Request seek various check images, bank statements and posted line-item transactions from the PIAA. The PIAA contends that “information on a check, including the account number, must be redacted to protect [the PIAA’s] privacy interests.” Section 708(b)(6) of the RTKL exempts from disclosure “personal financial information,” which the RTKL defines as “[a]n individual’s personal credit, charge or debit information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual’s personal finances.” 65 P.S. § 67.102; 65 P.S. § 67.708(b)(6). Because bank account numbers constitute “bank account information” of the PIAA, it is expressly exempt under Section 708(b)(6). See *Murray v. Pa. Dep’t of Health and GGNLC Lancaster, LLP d/b/a Golden Living Center-Lancaster*, OOR Dkt. AP 2017-0461, 2017 PA O.O.R.D. LEXIS 1361 (finding the bank account number of a nursing home the department contracts with to be exempt from disclosure pursuant to Section 708(b)(6)); *Berney v. Sch. Dist. of Phila.*, OOR Dkt. AP 2016-1390, 2016 PA O.O.R.D. LEXIS 1426 (finding the bank account number of a law firm that the district contracts with to be exempt from disclosure pursuant to Section 708(b)(6)). Therefore, the PIAA may redact its bank account numbers from the responsive records.

⁴ However, if the records only exist in hard copy, the PIAA is not required to convert those records into electronic copies. See 65 P.S. § 67.705.

With respect to the remaining portions of responsive records, Dr. Lombardi affirms, in part, as follows:

50. Recent years have shown the risk to corporations from hacks of their banking and other records. Disclosure of banking account information has been determined to considerably increase those risks.
51. Additionally, assembly and redaction of the requested records is not realistically feasible. There are many thousands of individual checks which must be reviewed and redacted.
52. [The] PIAA is divided into twelve administrative districts, each ... using separate banks, almost all using volunteer treasurers working with physical, not electronic records.
53. Assembling, redaction and production of the requested records would be extremely difficult.
54. Even at the headquarters level alone, [the] PIAA pays thousands of workers (officials, referees, ticket takers, security, maintenance staff, health officials, etc.) for each season.
55. As an example, the printout of just the records for a single season of [the] PIAA's basketball tournament is over 600 pages.
56. Multiply that by 22 sports and a number of years, and then multiply that by 12 separate districts, and it quickly becomes apparent that tens of thousands of records must be reviewed, potentially redacted, and then produced.
57. Just on these requests, I estimate that it would take a full-time employee three to four months to properly comply with the [R]equest.
58. This would significantly impact on the operations of [the] PIAA.

As previously stated, the fact that a request may entail retrieving a large number of records does not relieve the agency's duty to comply with the RTKL. *See Legere*, 50 A.3d at 265. The OOR notes that an agency which does not have sufficient time to locate and review responsive records is entitled to apply to the OOR for additional time under the Commonwealth Court's decision in *Pa. State Sys. of Higher Educ. v. Ass'n of State Coll. & Univ. Faculties* ("APSCUF"), where the Commonwealth Court determined:

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 require to conduct this review, and if that request involves documents in electronic format the agency must explain any difficulties it faces when attempting to deliver the documents in that format. Based on 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, 1032 (Pa. Commw. Ct. 2016).

In this instance, the PIAA did not seek any such extension under *APSCUF*. Rather, the PIAA argues that “[t]he appeal seeking these records should be rejected.” Because the PIAA did not set forth any basis for exemptions from public access, any records responsive to Items 2, 3 and 4 of the Request that currently exist in electronic format are subject to disclosure, subject to redactions of the PIAA’s bank account numbers, as directed above.

4. Records responsive to Item 5 of the Request are subject to disclosure

Item 5 of the Request seeks the PIAA’s “most recent three (3) years of independent audited financial statements that already exist in electronic form.” In response, the PIAA states that it agrees to provide the records to the Requester, once it receives them in electronic format from the PIAA’s auditors. Specifically, Dr. Lombardi affirms that the PIAA “receives its audited financial statements in hard copy format from its auditors. Upon receipt of the [R]equest, I asked our auditors for electronic copies if they exist. Once they are obtained, I will provide them to [the Requester].”

As the PIAA agrees to provide the responsive records and has not presented any argument in support of withholding the responsive records, 65 P.S. § 67.708(a)(1), to the extent that the PIAA’s auditors have the records responsive to Item 5 of the Request in electronic format, they are subject to public access.

5. The PIAA provided electronic access to records responsive to Item 6 of the Request

In response to Item 6 of the Request, which seeks the PIAA's "most recent Form 990 filing with the IRS that already exist in electronic form," the PIAA directed the Requester to the IRS's website, www.irs.gov. The PIAA argues that its response to this portion of the Request "was correct and appropriate." 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). If a requester is unwilling or unable to access the records electronically, the requester may "submit a written request to the agency to have the record converted...." 65 P.S. § 67.704(b)(2). If the requester does not timely do so, an agency has no further obligation under the RTKL relative to a requester's access to the particular requested record(s). An appeal to the OOR is not "a written request to the agency to have the record converted" such that it triggers an agency's responsibility to take further action pursuant to Section 704(b)(2) of the RTKL. *Borden v. Ridgebury Twp.*, OOR Dkt. AP 2011-1460, 2011 PA O.O.R.D. LEXIS 1223.

Here, Dr. Lombardi affirms that "[a]s those records already exist in electronic format on the IRS website, I referred him to those documents." Under the RTKL, a sworn affidavit may serve as sufficient evidentiary support. *See Sherry*, 20 A.3d at 520-21; *Moore*, 992 A.2d at 909. The OOR has previously held that directing a requester to an internet website for the responsive records satisfies an agency's obligations under Section 704 of the RTKL. *See Rowbottom v. Dauphin County*, OOR Dkt. AP 2019-0472, 2019 PA O.O.R.D. LEXIS 542; *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 PIAA's response regarding Item 6 of the Request satisfies the requirements under Section 704 of the RTKL.

6. The PIAA has demonstrated that records responsive to Item 7 of the Request do not exist

In response to Item 7 of the Request, the PIAA contends that there are no responsive records. In support, Dr. Lombardi affirms, in part, as follows:

30. [Item] 7 of [the Request] sought copies of all written communications between [the] PIAA officials, including legal counsel between January 1, 2020 and the date of [the Request] “that discuss the topic of [the] PIAA being improperly included in the RTKL.”
31. I conducted a thorough search of all [the] PIAA records relating to that topic and found no responsive records.
32. I am also aware that any communications on that subject would be limited to me and legal counsel as no other PIAA official was involved in 2020 in discussion of that issue as of the date of the [R]equest.
33. I am also aware that all communications between me and legal counsel on that topic in 2020 were oral. There were no 2020 written communications on that subject prior to submission of the [R]equest.

Under the RTKL, a sworn affidavit may serve as sufficient evidentiary support for the nonexistence of records. *See Sherry*, 20 A.3d at 520-21; *Moore*, 992 A.2d at 909. Based on the evidence provided—the affidavit of the PIAA’s Executive Director and Open Records Officer, who would have the capacity to search for responsive records—the PIAA has demonstrated that it conducted a good faith search for responsive records. *See Hays v. Pa. State Police*, OOR Dkt. AP 2015-0193, 2015 PA O.O.R.D. LEXIS 294 (finding that an agency conducted a good faith search by “contact[ing] the Bureau most likely to possess responsive records, and ... explain[ing] why that Bureau is most likely to possess those records”); *Yakim v. Municipality of Monroeville*, OOR Dkt. AP 2017-1946, 2017 PA O.O.R.D. LEXIS 1685. Accordingly, the PIAA has met its burden of proof that it does not possess records responsive to Item 7 of the Request. *See Hodges*, 29 A.3d at 1192.

7. The PIAA has failed to demonstrate that records responsive to Item 8 do not exist

The PIAA asserts that records responsive to Item 8 of the Request, which seeks a “screenshot image showing ... the name of the software program/s in [the] PIAA’s possession, custody or control that can perform electronic redactions on PDF files and/or other electronic file types,” does not exist. In support, Dr. Lombard affirms that he “conducted a search of the PIAA records and did not locate any existing screen shot responsive to the [R]equest.”

In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, the Commonwealth Court concluded that:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession.... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors.... After obtaining potentially responsive records, an agency has the duty to review the record and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2013) (internal citations omitted); *see also Rowles v. Rice Twp.*, OOR Dkt. AP 2014-0729, 2014 PA O.O.R.D. LEXIS 602 (citing *Judicial Watch, Inc. v. United States Dep’t of Homeland Sec.*, 857 F.Supp.2d 129, 138-39 (D.D.C. 2012)). Additionally, the Commonwealth Court has held that an open records officer’s inquiry of agency members may constitute a “good faith effort” to locate records, stating that open records officers have:

a duty to inquire of [agency personnel] as to whether he or she was in the possession, custody or control of any of the ... requested emails that could be deemed public and, if so, whether the emails were, in fact, public and subject to disclosure or exemption from access by [r]equest[e]r.

Mollick v. Twp. of Worcester, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011); *see also In re Silberstein*, 11 A.3d 629, 634 (Pa. Commw. Ct. 2011) (holding that it is “the open-records officer’s duty and responsibility” to both send an inquiry to agency personnel concerning a request and to determine whether to deny access).

In this instance, although Dr. Lombardi affirms that he conducted a search for responsive records, Dr. Lombardi does not provide any additional information regarding the search he conducted, including what steps he took in conducting his search. Notably, Dr. Lombardi’s affidavit does not indicate if he inquired of other relevant personnel, such as the PIAA’s IT Department, to determine if there were any applicable software programs. Accordingly, the evidence submitted by the PIAA fails to demonstrate that the PIAA does not possess records responsive to Item 8 of the Request. Therefore, the PIAA has not proven that it conducted a good faith search in response to Item 8 of the Request. *See Mollick v. Worcester Twp.*, OOR Dkt. AP 2018-2153, 2019 PA O.O.R.D. LEXIS 90 (finding that “[w]ithout identifying the potentially responsive emails possessed by the [t]ownship’s Supervisors and providing them to [the township’s Open Records Officer], the [t]ownship is unable to prove that it conducted a good faith search...”).

The OOR is mindful that an agency cannot produce records that do not exist within its “possession, custody or control” and, accordingly, is not ordering the creation of any records. Absent the PIAA providing a sufficient evidentiary basis that no responsive records exist, the OOR will order disclosure of responsive public records. *See Sindaco v. City of Pittston*, OOR Dkt. AP 2010-0778, 2010 PA O.O.R.D. LEXIS 755; *Schell v. Delaware County*, OOR Dkt. AP 2012-0598, 2012 PA O.O.R.D. LEXIS 641.

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

The Requester asks that the OOR make a finding of bad faith. Specifically, the Requester maintains that “[o]ther than writing *something* to me in a timely manner I cannot find any aspect of the RTKL that has been complied with.” (emphasis in original). 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”).

In this instance, the PIAA properly extended its time to respond to the Request by thirty days, 65 P.S. § 67.902(b)(2), and, ultimately, issued its response in a timely manner. Moreover, while the OOR disagrees with the PIAA’s legal arguments regarding whether it is subject to the RTKL, the OOR declines to make a finding of bad faith on that basis. Likewise, the PIAA’s assertion that certain records do not exist, or that responding to portions of the Request “would significantly impact on the operations of [the] PIAA” does not rise to the level of bad faith.

CONCLUSION

For the foregoing reasons, the Requester’s appeal is **granted in part and denied in part**, and the PIAA is required to provide responsive records, as directed above, within thirty days. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond 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.⁵ This Final Determination shall be placed on the OOR website at: <https://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: January 13, 2021

/s/ Magdalene C. Zeppos-Brown

MAGDALENE C. ZEPPOS-BROWN, ESQ.
APPEALS OFFICER

Sent to: Simon Campbell (via email only);
Alan Boynton, Esq. (via email only); and
Dr. Robert Lombardi, AORO (via email only)

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

CERTIFICATE OF COMPLIANCE

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

Submitted by: J. Chadwick Schnee, Esq.

Signature: /s/ J. Chadwick Schnee, Esq.

Name: J. Chadwick Schnee, Esq.

Attorney No. (if applicable): 306907

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Interscholastic	:	661 MD 2020
Athletic Association, Inc.,	:	
Petitioner	:	
v.		
Commonwealth of Pennsylvania		
and Pennsylvania Office of		
Open Records,		
Respondents		

PROOF OF SERVICE

I hereby certify that this 11th day of February, 2021, I have served the attached document(s) to the persons on the date(s) and in the manner(s) stated below, which service satisfies the requirements of Pa.R.A.P. 121:

Service

Served:	Charles Rees Brown
Service Method:	eService
Email:	charlebrow@pa.gov
Service Date:	2/11/2021
Address:	303 Wild Cherry Lane Marietta, PA 17547
Phone:	717-42-4.1028
Representing:	Respondent Office of Open Records

Served:	Stephen Ronald Kovatis
Service Method:	eService
Email:	skovatis@attorneygeneral.gov
Service Date:	2/11/2021
Address:	21 S. 12th street, 3rd floor Philadelphia, PA 19107
Phone:	215-56-0-2940
Representing:	Respondent Commonwealth of Pennsylvania

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

/s/ J Chadwick Schnee

(Signature of Person Serving)

Person Serving: Schnee, J Chadwick
Attorney Registration No: 306907
Law Firm:
Address: Law Office Of Tucker Hull LLC
108 W Main St
Annville, PA 17003
Representing: Petitioner Pennsylvania Interscholastic Athletic Association, Inc.