



FINAL DETERMINATION

IN THE MATTER OF	:
	:
ALEXIS PASTERNAK,	:
Requester	:
	:
v.	: Docket No: AP 2021-0635
	:
HAVERFORD TOWNSHIP SCHOOL	:
DISTRICT,	:
Respondent	:

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law, 65 P.S. §§ 67.101 *et seq.*, (“RTKL”). For the following reasons, the appeal is **dismissed**:

On February 5, 2021, Alexis Pasternak, (“Requester”) submitted a request (“Request”) to Haverford Township School District (“District”) pursuant to the RTKL, seeking survey responses for individuals appointed to the District Parent/Guardian Equity Team. On February 16, 2021,¹ when the District failed to respond, the Request was deemed denied.² 65 P.S. § 67.902(b)(2).

¹ According to the District calendar, the District was not in session on February 12th and 15th. See https://www.haverford.k12.pa.us/calendar?cal_date=2021-02-01 (last accessed April 28, , 2021).

² On February 18, 2021, the seventh business day, the District invoked an untimely thirty-day extension of time to respond to the Request. See 65 P.S. § 67.902(b)(2). On March 15, 2021, the District denied the Request, arguing that volunteer survey responses are not records of the District, that certain information is protected by the constitutional right to privacy, that disclosure of some records would jeopardize personal security, 65 P.S. § 67.708(b)(1), and that the records contain individually identifiable disability information, 65 P.S. § 67.708(b)(5).

On March 25, 2021, the Requester appealed to the OOR, stating grounds for disclosure.³ 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. 65 P.S. § 67.1101(c).

Section 901 of the RTKL requires an agency to respond to a written request for records within five business days of the request's receipt by the agency's open-records officer. 65 P.S. § 67.901. Section 902(a) of the RTKL provides several reasons for which an agency is permitted to invoke a thirty-day extension of time to respond to a request. *See* 65 P.S. §§ 67.902(a)(1)-(7). However, the agency must provide written notice to a requester that it is invoking an extension under Section 902(a) within five business days of receipt of the Request. *See* 65 P.S. § 67.902(b)(1).

According to the District's response, which was included with the appeal, the Request was received by the District on February 5, 2021 and the extension letter was issued on February 18, 2021. Based on a review of the record, the District's thirty-day extension letter was issued beyond the five business day requirement set forth in Section 902(b)(1). Because the appeal was due on or before March 9, 2021, and the OOR received the appeal on March 25, 2021, the appeal is **dismissed as untimely**, and the District is not required to take any further action.

The file is now closed and no further action will be taken. This Final Determination is binding on the parties. Within thirty days of the mailing date of this Final Determination, either party may appeal to the Delaware County Court of Common Pleas. *See* 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 according to court rules as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper

³ The Requester granted the OOR an extension of time to issue a Final Determination until May 10, 2021. *See* 65 P.S. § 1101(b)(1).

party to any appeal and should not be named as a party.⁴ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: May 3, 2021

/s/ Kelly C. Isenberg

APPEALS OFFICER
KELLY C. ISENBERG, ESQ.

Sent to: Alexis Pasternak (via email only);
Justin O'Donoghue, Esq. (via email only);
Robert Riegel (via email only)

⁴ See *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).