

School's [{"Charter School"}] renewal application between 2003 and 2020." On June 29, 2021, after extending its time to respond by thirty days, 65 P.S. § 67.902(b)(2), the Department partially denied the Request, arguing that scoring and evaluation records reflect the internal, predecisional deliberations of the Department. *See* 65 P.S. § 67.708(b)(10)(i)(A).

On July 12, 2021, the Requester appealed to the OOR, challenging the denial and stating grounds for disclosure.¹ More specifically, the Requester argues that the Commonwealth Court's decision in "Payne v. Dept of Health, 240 A.3d 221, suggests the scoring sheets are subject to disclosure." The OOR invited both parties to supplement the record and directed the Department to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On August 5, 2021, after receiving an extension of time to do so, the Department submitted a position statement, reiterating its grounds for denial and further arguing that certain records are protected by the attorney-client privilege. In support of its position, the Department submitted the statements, made under the penalty of perjury, of Randall Seely, Division Chief of the Department's Division of Charter Schools, and Wallace Rejrat, an Assistant Counsel assigned to the Department's Office of Chief Counsel. The Requester did not submit any additional legal argument or evidence during the appeal.

On August 27, 2021, the OOR directed the Department to provide additional information regarding a report referenced in the Department's original submission. The OOR also directed the Department to provide unredacted copies of the records claimed to be protected by the attorney-client privilege. On September 8, 2021, the Department submitted the records to the OOR and an *in camera* review was conducted.² The Department also provided a supplemental statement, made

¹ The Request contained several other items; however, the Requester does not challenge the Department's response to those items in this appeal.

² Section V(E)(13) of the OOR Procedural Guidelines provides that "[r]eferences to specific records submitted for *in camera* inspection, or the contents of such records, in the Final Determination will be ... by reference to generic

under the penalty of perjury, from Mr. Seely and a statement, made under the penalty of perjury, from Angela Riegel, the Department's Open Records Officer, who attests that she conducted a good faith search of the Department's files and inquired of the relevant Department employees for responsive records, all of which "are described in the [Department's] *In Camera* Inspection Index."

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 decision to hold a hearing is discretionary and non-appealable. *Id.* Here, neither party requested a hearing.

The Department is a Commonwealth agency 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. Upon receipt of a request, an agency is required to

descriptions or characterizations as set forth in the *in camera* inspection index." As such, the OOR's written analysis is constrained to generic descriptions of the withheld records.

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). The burden of proof in claiming a privilege is on the party asserting that privilege. *Levy v. Senate of Pa.*, 34 A.3d 243, 249 (Pa. Commw. Ct. 2011). 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)).

1. The Department provided records during the appeal

During the course of the appeal, the Department provided the Requester with a redacted copy of email correspondence³ discovered by the Department during further review of its records. As such, the appeal, insofar as it relates to the unredacted portions of the email, is dismissed as moot.

³ By correspondence dated September 13, 2021, the OOR asked the Requester whether she intended to challenge the Department’s redaction of personal email addresses and telephone numbers; however, the Requester did not respond to this inquiry. Regardless, Section 708(b)(6) of the RTKL expressly exempts from disclosure certain “personal identification information[,]” including “personal telephone numbers” and “personal e-mail addresses....” 65 P.S. § 67.708(b)(6)(i)(A). Therefore, the issue will not be further addressed in this Final Determination.

2. The Department has proven that some records reflect internal, predecisional deliberations

The Department denied access to the requested records pursuant to Section 708(b)(10)(i)(A), which exempts from public disclosure records reflecting:

The internal, predecisional deliberations of an agency, its members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.

65 P.S. § 67.708(b)(10)(i)(A). An agency must prove three elements to establish this exemption: (1) the deliberations reflected are internal to the agency; (2) the deliberations reflected are predecisional, *i.e.*, before a decision on an action, and (3) the contents are deliberative in character, *i.e.*, pertaining to proposed action or policy-making. *Kaplan v. Lower Merion Twp.*, 19 A.3d 1209, 1214 (Pa. Commw. Ct. 2011). Furthermore, “[o]nly ... confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice [are] protected as ‘deliberative.’” *Payne v. Pa. Dep’t of Health*, 240 A.3d 221 (Pa. Commw. Ct. 2020) (citing *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 378 (Pa. Commw. Ct. 2013)).

In support of its position, the Department provides the statement, made under the penalty of perjury, of Mr. Seely, who attests, in relevant part, as follows:

As the Division Chief for the Division [of Charter Schools], my job responsibilities include, among other things, providing academic support for charters, assisting with academic accountability, coordinating with state agencies to ensure that charter schools have access to the resources of PDE, and reviewing and assisting with cyber charter application submissions and renewals. ...

By letter dated June 29, 2021, PDE issued a Final Response that granted, in part, and denied, in part, the RTKL [R]equest. ...

...the Final Response denied the [R]equest for all scorecards, notes, evaluations, and other records reflecting the PDE's evaluations of PA Cyber Charter School's renewal applications between 2003 and 2020 as pre-decisional deliberations.

Once granted, the charter of a Pennsylvania cyber charter school is for a term of between 3 and 5 years and may be renewed for five-year periods after the expiration of the initial charter.

Cyber charter schools must submit renewal applications to PDE in order to renew their charter.

PDE has the authority to review the renewal applications and has a process in place to review these applications.

As part of its review process, PDE employees from various program areas evaluate the cyber charter school by using an evaluative rubric (the "rubric").

The rubric contains several criteria relevant to the educational program area. The evaluator must write their opinion on the rubric whether the requirements in the criteria are met by the cyber charter school.

The evaluator then has the option to check a box on the rubric that the criteria has been met or it has not been met, in their opinion.

The rubric contains an area for the evaluator to leave comments related to whether the criteria has been met.

There is no scoring or tallying of the criteria met or not met in the rubric.

The opinions regarding whether certain criteria have been met in the rubric are not final or determinative on their own.

The opinions listed in the rubric help form the basis of findings or conclusions that are used in PDE's final determination on the renewal application.

The rubric is not a "scorecard," nor does PDE consider it a scorecard or scoring sheet.

In addition to the rubrics, PDE withheld additional documents that reflect PDE's evaluation of PA Cyber Charter School's renewal application. These withheld documents include email communications between PDE staff. PDE also withheld a report authored by PDE's contractor PFM that reflects PDE's evaluation of PA Cyber Charter School's renewal application.

The documents that PDE withheld in the above-captioned appeal, including the evaluative rubrics, (the "withheld documents") do not contain any scores.

The withheld documents are all internal PDE documents, with the exception of the report provided to PDE from its contractor PFM.

The withheld documents are kept confidentially in the PDE Division of Charter Schools and [are] not publicly disseminated.

The withheld documents are deliberative in nature, as each document was authorized with the purpose of assisting with PDE's decision on the cyber charter school renewal application.

The withheld documents are all pre-decisional, evidenced by the fact that the documents were created before the renewal decision was made. All of the withheld documents were created in or around 2016 and 2017, and the Pennsylvania Cyber Charter School renewal decision was made by PDE on September 11, 2019.

Under the RTKL, a statement made under the penalty of perjury is 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).

As a preliminary matter, the Department has established that the email and scoring records, as well as PFM's report, are predecisional, as they were prepared prior to the Department's decision on whether to approve the Charter School's renewal application. The Department has also demonstrated that most of the records are internal, as they were, with the exception of the report generated by PFM and the email correspondence transmitting the report to the Department, created by and shared exclusively with Department employees. Regarding the communication from PFM's Senior Managing Consultant to representatives of the Department, the Pennsylvania Supreme Court has concluded that communications from third-party contractors and consultants are not internal to the agency for purposes of Section 708(b)(10). *Chester Water Auth. v. Pa. Dep't of Cmty. and Econ. Dev.*, 249 A.3d 1106, 1113-14 (Pa. 2021) (holding that "Section 708(b)(10)(i)(a) does not serve to insulate *communications* exchanged between a Commonwealth

agency and a private consultant from the [RTKL]’s general requirement for openness”) (emphasis added). Therefore, this communication is not internal to the Department and must be disclosed.⁴

With respect to PFM’s report, as noted above, communications with third-party contractors or consultants are not considered internal to the agency, *see Chester Water Auth., supra*; however, the “origination of records from outside an agency does not preclude application” of Section 708(b)(10)(i)(A), *see Office of the Governor v. Davis*, 122 A.3d 1185, 1193 (Pa. Commw. Ct. 2015) (citing *Bagwell v. Pa. Dep’t of Educ.*, 76 A.3d 81 (Pa. Commw. Ct. 2013) (records originating with Penn State University, which is not an agency under the RTKL, may become records of an agency when records are used in agency decision-making), particularly where the records constitute “research, memos or other documents used in the predecisional deliberations.” 65 P.S. § 67.708(b)(10)(i)(A). Mr. Seely attests that the report was “generated for PDE’s exclusive use when evaluating the ... Charter School’s ... renewal application[,]” “was not shared with anyone outside of PDE” and “was authored for the sole purpose of assisting with PDE’s decision on the renewal application.” Therefore, consistent with the findings in *Davis*, the report is internal to the Department.

Finally, to be exempt under Section 708(b)(10)(i)(A), the records must be deliberative in nature. To establish that records are deliberative, an agency must show that the information relates to the deliberation of a particular decision. *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 378-88 (Pa. Commw. Ct. 2014). The term “deliberation” is generally defined as “[t]he act of carefully considering issues and options before making a decision or taking some action...” BLACK’S LAW DICTIONARY 492 (9th ed. 2009); *see also Heintzelman v. Pa. Dep’t of Cmty. &*

⁴ Notably, a review of this communication, which the inspection index identifies as Item 1, Attachment 4, Second Email Thread, demonstrates that, in addition to not being internal to the Department, the communication is not deliberative in nature; rather, it contains general statements sent for the purpose of transmitting PFM’s report to the Department.

Econ. Dev., OOR Dkt. AP 2014-0061, 2014 PA O.O.R.D. LEXIS 254, *aff'd* No. 512 C.D. 2014, 2014 Pa. Commw. Unpub. LEXIS 644 (Pa. Commw. Ct. 2014). Factual material contained in otherwise deliberative documents is required to be disclosed if it is severable from its context. *McGowan*, 103 A.3d at 385-86.

The Department argues that six email threads and three attachments (a corrective action plan, the report and a scoring rubric) are exempt from disclosure under Section 708(b)(10). Each of the email threads, with the exception of the communication from PFM's Senior Managing Consultant (see above) and the email related to the corrective action plan, contains deliberative material being used by the Department in deciding whether to approve the Charter School's renewal application. Therefore, these emails are exempt from disclosure.⁵

With respect to the email thread transmitting the corrective action plan, as well as the plan itself, Ms. Riegel attests, in relevant part, that:

the email and corrective action plan document ... were not referenced in the PDE Position Statement and Affidavits. The email and the corrective action plan document were not referenced because these records were not responsive to the [R]equest, as the email and the corrective action plan document relate to the PDE's Bureau of Special Education's Cyclical Monitoring process for Local Education Agencies. The Corrective Action Plan document does not relate to the cyber renewal review. The notes in the email reference, but do not relate to[,] the cyber renewal review.

Attachment 3 was provided in the *In Camera* Submission and Index since it was attached to a record that was responsive to the August 27, 2021 OOR Order.

Notwithstanding Attachment 3's unresponsiveness to the [R]equest, ... the second email in the thread and the corrective action plan document are protected as documents reflecting PDE's internal pre-decisional deliberations and pre-decisional deliberations between PDE and another agency regarding the Cyclical Monitoring process....

⁵ These emails are identified on the Inspection Index as Item 1, Attachment 1, Second Email Thread; Item 1, Attachment 2, Second Email Thread; Item 1, Attachment 5, Second Email Thread and Item 1, Attachment 6, Second Email Thread.

A review of the corrective action plan and corresponding email, which the Department identifies as Item 1, Attachment 3, Second Email Thread and the document attached thereto, suggests that the corrective action plan and email are not responsive to the instant Request. However, even if they were deemed to be responsive, the records reflect the deliberations of Department employees regarding ongoing and future corrective actions to be taken by the Charter School and would, therefore, be exempt from disclosure.

Regarding PFM's report,⁶ Mr. Seely, in his supplemental statement, affirms as follows:

The PFM report was prepared at PDE's request in October 2016, prior to PDE's decision on the renewal application, which occurred on September 11, 2019.

The PFM report was generated for PDE's exclusive use when evaluating the ... Charter School's ... renewal application.

The PFM report was not shared with anyone outside of PDE. It is maintained in PDE's confidential files.

The PFM report is a textbook example of a document used in predecisional deliberations of an agency.

The entire substance of the PFM report is deliberative in nature.

The PFM report was authored for the sole purpose of assisting with PDE's decision on the renewal application.

The PFM report reflects the findings and recommendations of PFM based on their October 18, 2016 site visit of PA Cyber's finances and facilities.

The PFM report contains deliberative information, including findings and recommendations, regarding whether the [C]harter [S]chool met PDE standards in areas such as (1) business management operations; (2) enrollment; (3) financial operations; (4) school facilities including leases; (5) contracted services; and (6) school governance.

The only factual information contained in the PFM report not subject to the exemption ... is non-substantive information such as the date of PFM's site visit and the PFM representatives who conducted the visit. All of the other information on the PFM report is designed for PDE's use in its deliberations regarding whether

⁶ Identified on the Inspection Index as the document attached to the Second Email Thread of Item 1, Attachment 4.

state standards had been met in relation to PDE's decision on the renewal application.

Based upon Mr. Seely's statements, as well as the OOR's review of PFM's report *in camera*, the great majority of the report contains deliberations, including discussions and recommendations, related to various facets of the application renewal process. While some information contained in the report could be categorized as factual, it is so intertwined with the deliberative material that it cannot be severed from the context of the report. *McGowan, supra.*; *see also Office of Gen. Counsel v. Bumsted*, 247 A.3d 71, 84-85 (Pa. Commw. Ct. 2021). Accordingly, PFM's report is exempt from disclosure under Section 708(b)(10)(i)(A), as it constitutes "research, [a] memo[] or other document[] used in the [Department's] predecisional deliberations" related to the Charter School's renewal application.

Finally, the Department argues that the scoring rubric attached to the Second Email Thread of Item 1, Attachment 6, as referenced on the inspection index, is exempt from disclosure because it "contains several criterial relevant to the educational program area[,] including evaluator comments and opinions which "form the basis of findings or conclusions that are used in PDE's final determination on the renewal application." Conversely, the Requester argues that the Commonwealth Court's decision in *Payne, supra*, makes scoring records subject to access under the RTKL.

In *Payne*, the Commonwealth Court analyzed whether evaluator scoring sheets for medical marijuana grower-processor permit applications were exempt from disclosure under Section 708(b)(10) of the RTKL. 240 A.3d 221. The Court concluded that, in addition to the fact that the scoring sheets were not kept confidential, the agency did not establish "how the score or scores, either preliminary or final ... disclosed ... deliberations or [the] deliberative process." *Id.* at 227-28. However, unlike the records discussed in *Payne*, the instant scoring rubrics are maintained

confidentially by the Department and do not contain whole numbers; rather, the rubrics reference key actions related to the operation of the Charter School, list criteria analyzed by the Department in determining whether the Charter School has adequately demonstrated the key actions, and include checkboxes to indicate whether, in the evaluator's opinion, the Charter School satisfied the criteria or not. In addition, evaluators are encouraged to include comments and opinions on the rubrics.

As noted in Mr. Seely's statement, there is no scoring or tallying of the criteria met or not met on the rubric, and "[t]he opinions regarding whether certain criteria have been met in the rubric are not final or determinative on their own[,]" but "form the basis of findings or conclusions that are used in PDE's final determination on the renewal application." Based upon this evidence, as well as the OOR's review of the scoring rubric provided by the Department, if disclosed in their entirety, the scoring rubrics would reveal the Department's deliberative process in determining whether to approve the Charter School's renewal application, as the criteria developed by the Department to establish whether key actions were met, the comments and opinions of the evaluators related to that criteria, and the ultimate determination of whether each criterion was satisfied is present on the rubric. Accordingly, because the scoring rubrics are not shared with individuals outside of the Department and their disclosure would reveal the Department's deliberative process related to the renewal application, the scoring rubrics are exempt from disclosure in their entirety.

3. The Department has not proven that records are privileged

The Department denied access to several emails, including attachments, arguing that the records are protected by the attorney-client privilege. The RTKL defines "privilege" as "[t]he attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the

speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.” 65 P.S. § 67.102.

In order for the attorney-client privilege to apply, an agency must demonstrate that: 1) the asserted holder of the privilege is or sought to become a client; 2) the person to whom the communication was made is a member of the bar of a court, or his subordinate; 3) the communication relates to a fact of which the attorney was informed by his client, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or assistance in a legal matter, and not for the purpose of committing a crime or tort; and 4) the privilege has been claimed and is not waived. *Bousamra v. Excelsa Health*, 210 A.3d 967, 982-83 (Pa. 2019) (citing *Nationwide Mut. Ins. Co. v. Fleming*, 924 A.2d 1259, 1263-64 (Pa. Super. Ct. 2007), *aff'd* 992 A.2d 65 (2010)). “[A]fter an agency establishes the privilege was properly invoked under the first three prongs, the party challenging invocation of the privilege must prove waiver under the fourth prong.” *Office of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2014). An agency may not, however, rely on a bald assertion that the attorney-client privilege applies. *See Clement v. Berks County*, OOR Dkt. AP 2011-0110, 2011 PA O.O.R.D. LEXIS 139 (“Simply invoking the phrase ‘attorney-client privilege’ or ‘legal advice’ does not excuse the agency from the burden it must meet to withhold records”).

In support, Attorney Rejrat attests as follows:

My job responsibilities as Assistant counsel including providing legal advice to PDE regarding charter school renewal applications.

PDE received a request pursuant to the [RTKL] on May 28, 2021 from [the Requester]....

The following documents are protected from disclosure by the attorney-client privilege for the reasons set forth below: ...

The documents listed below are between Attorney Rejrat and PDE clients.

The documents listed below are attorney-client communications regarding a matter in which the client is seeking legal assistance: the cyber charter school renewal decision.

Attorney[-]client privilege has not been waived by PDE.

Furthermore, Attorney Rejrat describes the withheld emails between representatives of the Department and legal counsel:

- Email dated November 10, 2016 from Special Assistant Steven Carney (PDE employee) to Attorney Rejrat, Attorney Elizabeth Anzalone, and Amy Munro (PDE employee) forwarding the notes of Kevin Mauro (PDE employee) which discuss the curriculum requirements for the renewal process of the ... Charter School and next steps in the renewal process. ...;
- Email dated November 10, 2016 from Special Assistant Steven Carney (PDE employee) to Attorney Rejrat and Attorney Elizabeth Anzalone forwarding the notes of Lenny Sweeney (PDE employee) which discuss the technology review for the renewal process of the ... Charter School. ...;
- Email with attachments dated August 28, 2017 from Attorney Rejrat containing the Pa Cyber Site reports from the review teams. The email was sent from Attorney Rejrat to Khaleel Desaque (PDE employee), Chris Baldrige (PDE contractor), and Attorney Elizabeth Anzalone. The attachments are notes from various PDE employees concerning ... [the] Charter School's renewal. ...;
- Email dated November 10, 2016 from Special Assistant Steven Carney (PDE employee) to Attorney Rejrat, Attorney Elizabeth Anzalone, and Amy Munro (PDE employee) forwarding the on-site visit report of PFM (PDE contractor) for ... [the] Charter School. ...;
- Email dated November 10, 2016 from Special Assistant Steven Carney (PDE employee) to Attorney Rejrat, Attorney Elizabeth Anzalone, and Amy Munro (PDE employee) forwarding the PA Cyber ESL Visitation Questions Rubric. This email also forwards the notes and findings from an on-site visit about the ... Charter School's ESL program by Eugenia Krimmel (PDE employee). ...;
- Email dated November 10, 2016 from Special Assistant Steven Carney (PDE employee) to Attorney Rejrat, and Attorney Elizabeth Anzalone forwarding the notes and findings of Douglas Ranck (PDE employee) from an on-site visit about the professional development of ... [the] Charter School....

In addition to reviewing the evidence presented by the Department, the OOR conducted an *in camera* review of the emails. Based upon this review, none of the emails described above seek or render legal advice and cannot, therefore, be protected by privilege. The body of the emails contain innocuous transmittal language describing the information being forwarded along or are devoid of text altogether. The mere act of an attorney forwarding correspondence from other representatives of the Department is not sufficient to establish that the transmittal emails constitute privileged communications. As such, the above-referenced emails are not exempt from disclosure.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part** and **dismissed as moot in part**, and the Department is required to provide responsive records, as described above, within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond 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 party to any appeal and should not be named as a party.⁷ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: 29 September 2021

/s/ Joshua T. Young

JOSHUA T. YOUNG
DEPUTY CHIEF COUNSEL

Sent to: Megan Shannon, Esq. (via email only);
Robert Tomaine, Esq. (via email only);
Julius Zeitlinger, Esq. (via email only);

⁷ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

Angela Riegel, AORO (via email only)