

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Alfonso Percy Pew,	:	
Petitioner	:	
	:	
v.	:	
	:	
Department of Corrections	:	
(Office of Open Records),	:	No. 1037 C.D. 2025
Respondent	:	Submitted: September 14, 2026

BEFORE: HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: October 19, 2026

Alfonso Percy Pew (Requester) petitions *pro se* for review from the August 5, 2025, final determination of the Office of Open Records (OOR). The OOR denied Pew's appeal from the denial by the Department of Corrections (Department) of Pew's request for documents under the Right-to-Know Law (RTKL).¹ Upon review, we affirm.

I. Background

Requester is an inmate currently incarcerated at the State Correctional Institution at Phoenix (SCI-Phoenix). Certified Record (C.R.) at 68. On May 14,

¹ Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104.

2025, Requester sought the following documents from the Department concerning Dr. Anthony Michael Letizio II, a medical provider at SCI-Phoenix:

1. Dr. Anthony Michael Letizio II, Letter In File Revoking Clearance Into SCI Phoenix
2. Letter of Suspension Without Pay
3. Letter of Termination
4. Letter of Resignation
5. Letters of Reprimand
6. Notice of PREA^[2] Sexual Harassment by Medical Personnel
7. From [Department] Automated Grievance System Computer the Total Number Amount of Grievances filed on Dr. Anthony Michael Letizio II during employment at SCI[-]Phoenix?

Id. at 13. In June 2025, after invoking a 30-day extension to respond, the Department denied the request except for a limited response to Item 7 stating that 6 grievances were filed against Dr. Letizio. *Id.* at 10-12.

In July 2025, Requester appealed to the OOR. C.R. at 8-9. The Department submitted a statement in support of its position, including an attestation by its deputy records officer. *Id.* at 27-37. Wellpath, a contractor providing mental health services to the Department, participated in the process through outside counsel and submitted a statement including an attestation by its in-house counsel. *Id.* at 53-65. On August 5, 2025, the OOR issued its final determination denying

² Requester seeks complaints filed against medical personnel at SCI-Phoenix under the federal Prison Rape Elimination Act, 34 U.S.C. §§ 30301-30309.

Requester's appeal in this matter. *Id.* at 68-77. Requester appealed to this Court and Wellpath intervened. This matter is now ripe for disposition.

II. Issues & Arguments

In his brief, Requester voluntarily waives all issues in this matter other than Item 5, where he sought access to any letters of reprimand concerning Dr. Letizio. Requester Br. at 7. He acknowledges that the Department would not have these letters and that they would be in Wellpath's possession. *Id.* He avers that disclosure of these documents would be in the public interest because of what he describes as Dr. Letizio's history of abuse, criminal misconduct, and other misdeeds while receiving pay from public funds for treatment of inmates in the prison system. *Id.* at 7-10. Requester maintains that the security concerns expressed by Wellpath are "intentionally exaggerated" for self-serving purposes. *Id.* at 10-11.

The Department responds that it possesses no records responsive to Item 5 of the request, which corresponds with Requester's acknowledgement in his own brief. Dep't Br. at 12-15. Wellpath argues that any reprimands in Dr. Letizio's personnel file are not public records under the RTKL's definition, are not directly related to the government function Wellpath provides for the Department, and also meet other reasons for non-disclosure, including that they are internal employment records. Wellpath Br. at 11-23.

III. Discussion

The RTKL allows citizens to scrutinize government activity and increase transparency through access to agency records.³ *SWB Yankees LLC v.*

³ Our review of a final determination of the OOR is *de novo* and our scope of review is plenary. *Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 n.7 (Pa. Cmwlth. 2014).

Wintermantel, 45 A.3d 1029, 1034 (Pa. 2012). The RTKL defines a “record” as: “Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.” 65 P.S. § 67.102. Records in the possession of a government agency are presumed to be public. 65 P.S. § 67.305(a). This presumption may be overcome if the record is not a “public record” because it is “exempt under Section 708,” “protected by a privilege,” or “exempt from disclosure under any other Federal or State law or regulation or judicial order or decree.” *Dep’t of Rev. v. Haverstick*, 329 A.3d 834, 842 (Pa. Cmwlth. 2025). Thus, whether a document is accessible is based only on whether it is a public record, and, if so, whether it falls within an exemption that bars disclosure. *Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 (Pa. Cmwlth. 2014).

The status of the individual requesting the record and the reason for the request are irrelevant to whether a document must be disclosed. *Hunsicker*, 93 A.3d at 913 (citing Section 301(b) of the RTKL, 65 P.S. § 67.301(b)). The agency bears the burden of proving that a record is exempt by a preponderance of the evidence. *Crouthamel v. Dep’t of Transp.*, 207 A.3d 432, 437 (Pa. Cmwlth. 2019) (citing Section 708(a) of the RTKL, 65 P.S. § 67.708(a)). This is “the lowest evidentiary standard” and “is tantamount to a more likely than not inquiry.” *Id.*

“Third-party contractors in possession of requested records are placed in the shoes of a local agency for purposes of the burden of proof when the contractor performs a governmental function on behalf of the agency, and those records directly relate to the contractor’s performance of that function.” *Allegheny Cnty. Dep’t of Admin. Servs. v. Parsons*, 61 A.3d 336, 342 (Pa. Cmwlth. 2013) (*Parsons*); see also RTKL Section 506(d), 65 P.S. § 67.506 (stating that such documents may be subject

to disclosure). A third-party contractor may invoke a Section 708 exception to disclosure in the same manner as an agency. *See id.* at 341 (discussing prior remand for third-party contractor to create a record to “substantiate” its claimed exemption).

Relevant here, one of Section 708’s exemptions applies to “the following specific records relating to an agency employee”:

(vi) Written criticisms of an employee.

....

(viii) Information regarding discipline, demotion or discharge contained in a personnel file. This subparagraph shall not apply to the final action of an agency that results in demotion or discharge.

65 P.S. 67.708(b)(7)(vi), (viii). This Court has upheld these exemptions on several occasions. *See Fruchter v. Borough of Malvern*, 303 A.3d 530, 537 (Pa. Cmwlth. 2023) (concluding that documents relating to disciplinary proceedings involving a police sergeant fell within the “clear and express language” of Section 708(b)(7) and were not subject to disclosure either on their own or because they might be “necessary to the understanding” of another record that the local agency disclosed); *Silver v. Borough of Wilkinsburg*, 58 A.3d 125, 127 nn. 3-4 (Pa. Cmwlth. 2012) (stating that the “written criticisms” exemption is “not limited to the contents of a personnel file, the final action exception, or any other exception” and “exempts from production discipline contained in a personnel file”); *Lutz v. City of Phila.*, 6 A.3d 669, 675 (Pa. Cmwlth. 2010) (clarifying that in the absence of a final arbitration order or award, or other “formal legal adjudication,” Sections 708(b)(7)(vi) and (viii) shield documents in an employee’s personnel file from disclosure).

Here, the OOR concluded that the information in Item 5 of the request, which sought any “letters of reprimand” concerning Dr. Letizio, did not directly

relate to Wellpath’s government function, which is the provision of medical services to inmates, so under Section 506(d) of the RTKL, the documents were not subject to disclosure. C.R. at 75. Rather, the OOR characterized the documents as relating to Dr. Letizio’s employment relationship with Wellpath and stated that the RTKL “does not enable requesters to audit contractors’ internal personnel files.” *Id.* However, we need not reach this issue because any “letters of reprimand” concerning Dr. Letizio’s work for Wellpath on the Department’s behalf fit clearly within the “written criticisms of an employee” and “information regarding discipline, demotion or discharge contained in a personnel file.” *See* 65 P.S. 67.708(b)(vi), (viii).⁴

Wellpath was not barred from invoking this exemption. *Parsons*, 61 A.3d at 341. It needed to show only by a preponderance of the evidence that the exemption applied; if so, the documents would be exempt from disclosure. *Crouthamel*, 207 A.3d at 437. Regarding the exemption, this case resembles *Fruchter* and *Lutz*, where this Court concluded that documents from an employee’s personnel file that included criticism or disciplinary matters, but fell short of being formal or final adjudications, were shielded from disclosure by Section 708(b)(7) of the RTKL.

Requester argues that disclosure is in the public interest in light of his allegations against Dr. Letizio. Requester Br. at 9-10. The law is clear, however, that the identity and motive of the requester are not relevant to this analysis. *See Hunsicker*, 93 A.3d at 913. Notably, Requester’s *pro se* brief does not respond to

⁴ Wellpath’s in-house counsel raised this basis for non-disclosure in his attestation and Wellpath asserted it in their position statement, so it was not waived. C.R. at 60, 65. Although the OOR did not expressly cite Section 708(b)(7) as the reason for denying disclosure, its conclusion that the RTKL “does not enable requesters to audit contractors’ internal personnel files” suggests a tacit invocation of this rationale. *Id.* at 75.

Wellpath's argument that the documents are part of Dr. Letizio's personnel file and exempt under Section 708(b)(7). Accordingly, the OOR did not err in denying Requester's appeal with regard to Item 5 of his request.

IV. Conclusion

In light of the foregoing, the August 5, 2025, final determination of the OOR, which denied Requester's appeal from the Department's denial of his RTKL request, is affirmed.

CHRISTINE FIZZANO CANNON, Judge

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ORDER

AND NOW, this 19th day of October, 2026, the August 5, 2025, final determination of the Office of Open Records is AFFIRMED.

CHRISTINE FIZZANO CANNON, Judge