

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth Charter : CASES CONSOLIDATED
Academy Charter School, :
Appellant :
v. :
Eric Epstein and Rock the Capital : Nos. 641– 642 C.D. 2025
Submitted: July 24, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: October 23, 2026

In these consolidated matters, Commonwealth Charter Academy Charter School (CCA) appeals from two April 17, 2025, orders of the Court of Common Pleas of Dauphin County (trial court). The trial court’s orders denied CCA’s appeals from the final determinations of the Pennsylvania Office of Open Records (OOR), which had granted in part two appeals by Eric Epstein and Rock the Capital (Requesters) from CCA’s response to Requesters’ April 2024 requests for records pursuant to the Right-to-Know Law (RTKL).¹ Upon review, we affirm.

I. Factual and Procedural Background

In April 2024, Requesters filed two multi-part requests for records from CCA. Reproduced Record (R.R.) at 70a-83a & 186a-96a. Relevant to this appeal, the “First Request,” filed on April 9, 2024, sought:

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

12. [T]he RFPs [Requests for Proposals] for accounting services, advertising services, actuarial services, architecture services, food services, government relations, legal services, marketing services, [and] transportation services, for 2021, 2022, 2023, and 2024.

13. [T]he invoices and amount paid for accounting services, architecture services, actuarial services, advertising services, food services, government relations, legal services, marketing services, and transportation services for 2021, 2022, 2023, and 2024.

Id. at 147a.

The “Second Request” sought information specific to CCA’s legal services and insurance contracts:

1a) [L]egal contracts [that CCA] has with individual attorneys, solicitors, and law firms for fiscal years 2020, 2021, 2022, 2023, and 2024.

....

1c) [I]nvoices submitted to [CCA] and paid by [CCA] for fiscal years 2021, 2022, 2023, and 2024.

....

16a)^[2] [A]ll insurance contracts [CCA] has with insurance carriers, including but not limited to General Liability and Workers’ Compensation, for 2021, 2022, 2023, and 2024.

Id. at 255a-56a.³

² The trial court, OOR, and parties refer to this request as “17a,” but the original request in the record indicated that it is “16a.” R.R. at 195a. In the original request, Item 17a pertained to CCA’s library budget and is not at issue in these appeals. *Id.* at 196a.

³ All other aspects of these two requests were either satisfied by CCA or are no longer in dispute.

In May 2024, following a 30-day extension, CCA denied these requests as insufficiently specific. R.R. at 148a & 256a. In early June 2024, Requesters appealed to the OOR, which took no new evidence. *Id.* at 148a & 257a. In late July and early August of 2024, the OOR issued its final determinations for the Requests. R.R. at 145a-60a & 255a-65a. In both matters, the OOR concluded that Requesters' requests were sufficiently specific and ordered CCA to provide the records at issue. *Id.* at 152a, 159a, 259a-61a & 264a. CCA appealed both matters to the trial court in August 2024. *Id.* at 162a-67a & 267a-73a. After several continuances, the trial court held a hearing in both cases on April 15, 2025. *Id.* at 51a-63a.

Robert Datorre, CCA's executive vice president, testified that CCA has one open records officer, a paralegal who reports to him. R.R. at 52a. He explained that CCA, a public cyber charter school, serves over 35,000 students across the state, roughly one-third of whom require special education services; a higher percentage of minority students than the statewide student population; and many students who are homeless, pregnant, or parents. *Id.* He stated that CCA contracts with service providers for the varied needs of its students, including school psychologists, special education professionals, and various kinds of therapists. *Id.* at 53a-54a. He added that as a cyber charter school, CCA also maintains a significant technology investment. *Id.* at 54a.

Dattore stated that CCA's main office is in Harrisburg, but it maintains physical "family service centers" across the state for educational, administrative, and social services. R.R. at 55a. The main office keeps records for central administration, but many departments keep their own records that would not be available at the main office, and the heads of those departments assist as needed with RTKL requests. *Id.* at 55a-56a. He noted that it is often difficult for CCA to discern

and gather the requested material within the time parameters of the RTKL, which gives only a 5-day response window followed by a one-time 30-day extension. *Id.* at 58a. He averred that some of the requests here seek documents that pertain to an unspecified “year,” which presents difficulties because CCA operates on a school/fiscal year basis from July through June. *Id.* at 57a.

Datorre explained that Items #12 and #13 of the First Request sought RFPs, invoices, and payment records for nine separate areas over four years. R.R. at 58a. Each request sought documents that could come from multiple CCA divisions and departments. *Id.* He stated that some RFPs are informal and others are highly detailed. *Id.* For example, CCA receives legal services from its own counsel, but also retains outside counsel for, *inter alia*, special education issues, employment matters, and real estate and zoning matters, which require counsel from multiple counties. *Id.* at 58a-59a. He noted that the First Request did not specify what kinds of legal services Requesters sought information for, which made it vague and difficult to address. *Id.*

As to the Second Request, Datorre acknowledged that, for example, Item 16a sought all insurance contracts that CCA maintained over four years. R.R. at 59a. He averred that CCA keeps multiple forms of insurance over different areas, including general liability, workers’ compensation, health, dental, and vision insurance for staff, automobile insurance for its vehicles, property insurance for its properties across the state, cyber security insurance for its educational operations, and technology insurance for its hardware and devices. *Id.* He stated that the request did not specify which type of insurance Requesters sought information for and that “we’d essentially have to go on a hunt throughout the entire school and all the division presidents or chiefs to determine what types of insurance they may have

contracts of.” *Id.* He did not testify that it was impossible to fulfill the requests but maintained that it was time-consuming and difficult to do so within the allotted time because he and his records officer also have considerable other duties and responsibilities. *Id.* at 59a-60a. He believed that the requests exceeded what the legislature envisioned as practical and possible for responders when it created the RTKL. *Id.* at 61a. The hearing concluded shortly thereafter.

On April 17, 2025, the trial court issued two identical orders denying CCA’s appeals and ordering them to provide the materials requested in the relevant requests. R.R. at 23a & 47a. CCA appealed to this Court, and the trial court subsequently issued identical opinions relying on the OOR’s reasoning. *Id.* at 24a-26a & 48a-50a. In a September 2025 order, this Court consolidated the two appeals. *See* Order, Sept. 22, 2025. These matters are now ripe for disposition.

II. Issues

CCA argues that the requests at issue lack sufficient specificity and that, as a whole, Requesters’ “limitless and indistinct requests for records amount to a fishing expedition.” CCA’s Br. at 13-22. Requesters assert that CCA has acted in bad faith in these matters such that attorneys’ fees are warranted. Requesters’ Br. at 18-20.

III. Discussion

Section 703 of the RTKL states that a request “should identify or describe the records sought with sufficient specificity to enable the agency to

ascertain which records are being requested.”⁴ 65 P.S. § 67.703. “An open-ended request that gives an agency little guidance regarding what to look for may be so burdensome that it will be considered overly broad.” *Montgomery Cnty. v. Iverson*, 50 A.3d 281, 283 (Pa. Cmwlth. 2012) (*Iverson*). The fact that a request is burdensome, however, is not sufficient in and of itself to deem the request overbroad. *Dep’t of Env’t Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Cmwlth. 2012) (*Legere*).

When considering a specificity challenge, this Court employs a three-part test focusing on “(1) the subject matter of the request; (2) the scope of documents sought; and (3) the timeframe for which records are sought.” *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121, 1124-25 (Pa. Cmwlth. 2015) (*Post-Gazette*). The test is flexible and subject to case-by-case and contextual application; no one factor is dispositive. *See Off. of Dist. Att’y v. Bagwell*, 155 A.3d 1119, 1145 (Pa. Cmwlth. 2017). For example, a request with broad subject matter may be sufficiently specific if it is limited to a narrow scope and timeframe. *See Pa. Off. of the Governor v. Brelje*, 312 A.3d 928, 937-38 (Pa. Cmwlth. 2024) (upholding a request for all emails sent and received by two specific individuals over the course of less than one month).

With regard to subject matter, a request must identify the “transaction or activity” of the agency for which the record is sought and should provide a context to narrow the agency’s search; the subject matter must be specific enough that the request is not a “fishing expedition.” *See Post-Gazette*, 119 A.3d at 1125-26. When a request identifies the area of interest with some level of detail, it is likely to meet

⁴ Where a RTKL appeal is taken from a court of common pleas, our review is limited to “determining whether findings of fact are supported by substantial evidence, or whether the lower court committed an error of law or abuse of discretion in reaching its decision.” *Gray v. Phila. Dist. Att’y’s Off.*, 311 A.3d 1230, 1236 n.8 (Pa. Cmwlth. 2024).

the test for this element. *See Commonwealth v. Engelkemier*, 148 A.3d 522, 531-33 (Pa. Cmwlth. 2016) (opining that a request pertaining to “liquor privatization” has a “better chance of passing the specificity test” than a request for general or broad terms). When the subject matter is overly generic, this element of the test will not be met. *See Iverson*, 50 A.3d at 284 (rejecting request for emails using “incredibly broad” search terms that provided insufficient context); *Mollick v. Twp. of Worcester*, 32 A.3d 859, 871 (Pa. Cmwlth. 2011) (rejecting request for emails “regarding any Township business and/or activities” because “it would place an unreasonable burden on an agency to examine all its emails for an extended time period without knowing, with sufficient specificity, [to] what Township business or activity the request is related”).

Regarding scope, a request must identify “a discrete group of documents, either by type . . . or by recipient.” *Post-Gazette*, 119 A.3d at 1125. The request must seek “a clearly-defined universe of documents” that does not require judgments to be made by the agency entertaining the request. *Legere*, 50 A.3d at 265; *see also Iverson*, 50 A.3d at 284 (rejecting a request that “does not identify specific individuals, email addresses, or even departments, but requests any applicable emails sent from the County’s domain to four other domains”); *Pa. State Police v. Off. of Open Recs.*, 995 A.2d 515, 517 (Pa. Cmwlth. 2010) (rejecting a request seeking “any and all records, files or communications” about vehicle stops, searches, and seizures conducted by state police).

Lastly, a request should identify a finite timeframe for which records are sought. *See Post-Gazette*, 119 A.3d at 1126. This is the “most fluid” element and is “generally dependent upon the specificity of the request’s subject matter and scope.” *Compare Legere*, 50 A.3d at 265 (upholding a request spanning over four

years but seeking “a clearly defined universe of documents”), *with Mollick*, 32 A.3d at 871 (rejecting a request seeking all emails between township supervisors regarding any township business or activity for a period of one to five years).

Although the burdensomeness of a particular request “does not in itself render it overbroad or insufficiently specific, the burden on agency, or lack thereof, in responding to a request is a relevant factor to consider in the specificity analysis.” *Se. Pa. Transp. Auth. v. Anderson*, 337 A.3d 575, 586 (Pa. Cmwlth. 2025) (*SEPTA*). Relatedly, an agency’s “actual ability to search for, find, and produce responsive documents identified in a request, although not controlling, constitutes evidence that the request may be sufficiently specific, *i.e.*, *that the agency has a place to start and knows what to look for.*” *Id.* (emphasis added); *see also Dep’t of Corr. v. St. Hilaire*, 128 A.3d 859, 863 (Pa. Cmwlth. 2015) (*St. Hilaire*) (stating that “[t]he central question in evaluating the adequacy of a request is whether the request sufficiently informs an agency of the records requested”) (internal quotation marks omitted). The fact that an agency’s way of organizing and maintaining its records may contribute to its difficulty in fulfilling RTKL requests “should not be held against the requester.” *St. Hilaire*, 128 A.3d at 865.

A. First Request

In the First Request, Requesters sought:

12. [T]he RFPs for accounting services, advertising services, actuarial services, architecture services, food services, government relations, legal services, marketing services, [and] transportation services, for 2021, 2022, 2023, and 2024.

13. [T]he invoices and amount paid for accounting services, architecture services, actuarial services, advertising services, food services, government relations, legal services, marketing services, and transportation services for 2021, 2022, 2023, and 2024.

R.R. at 147a.

The trial court relied on the OOR's final determination, which treated these items together. R.R. at 25a-26a & 152a. The OOR concluded that although these requests might have been burdensome, they were sufficiently specific because they sought "discrete groups of documents (*i.e.* RFPs and invoices), relate[d] to activities of CCA, and provide[d] a finite timeframe." *Id.* at 152a.

CCA argues that these requests lacked sufficiently specific subject matter parameters because they identified only "broad service areas" that collectively "encompass most, if not all, of CCA's non-instructional services, so there was not much differentiation between this request and a request for 'all agency activity.'" CCA's Br. at 19-20. CCA adds that Item 12 lacked a sufficiently limited scope because, as Dattore testified, RFPs can range from informal to highly structured and detailed and the request provided no details to assist CCA in determining what was sought. *Id.* Given the breadth of documents in this request, CCA asserts that four years is too long a timeframe to render the request feasible within the RTKL's short deadlines. *Id.*

Requesters reply that the First Request was sufficiently specific because it listed the subject matter areas of interest, sought only two kinds of documents (RFPs and invoices), and included a finite timeframe. Requesters' Br. at 16-18. Requesters critique CCA's argument that it is difficult to discern which documents are RFPs because "RFP" has a commonly understood meaning among government actors like CCA. *Id.*

We agree with the trial court and the OOR. There were nine subject matter areas in these items, which is not a short list, and these areas may well encompass the majority of CCA’s non-teaching operations. However, each area was well-defined as to the “transaction or activity” in question. *See Engelkemier*, 148 A.3d at 531. The list was also the same for both requests. CCA has not asserted that it cannot consolidate its review for responsive RFPs and invoices among the corresponding departments in order to satisfy these requests. Thus, the subject matter in these requests was appropriately framed.

The scope of these requests was also sufficiently limited to three types of documents: RFPs, invoices, and payment records. R.R. at 147a. This is different from cases like *Iverson*, where the request sought “any applicable emails sent from the County’s domain to four other domains,” and *Pennsylvania State Police*, where the request sought “any and all records, files or communications” pertaining to three subject matter areas. *Iverson*, 50 A.3d at 284; *Pa. State Police*, 995 A.2d at 517. This case is also different from *In re Mazin* (Pa. Cmwlth., No. 1126 C.D. 2022, filed Apr. 21, 2025), slip op. at 9, 2025 WL 1157074, at *4 (unreported),⁵ where this Court found overly broad a request for “all written correspondence” sent by anyone in the school district to anyone in the Department of Education; the lack of a specific type of document in the request led to its failure. Although Dattore averred that CCA’s RFPs can vary in formality and detail, there is no indication in his testimony or this record that either he or his records officer cannot distinguish what is or is not an RFP. R.R. at 58a. The request here told CCA “what to look for” and was, therefore,

⁵ Under Section 414(a) of this Court’s Internal Operating Procedures, an unpublished memorandum opinion of this Court issued after January 15, 2008, although not binding precedent, may be cited for its persuasive value. 210 Pa. Code § 69.414(a).

sufficiently specific. *SEPTA*, 337 A.3d at 586, 589; *St. Hilaire*, 128 A.3d at 863. Accordingly, the scope of these requests was suitably defined.

Lastly, the four-year timeframe in these requests was not unreasonable, particularly in light of their sufficiently specific subject matter and scope. In *Legere*, this Court upheld a request that encompassed a four-year period but sought “a clearly defined universe of documents.” 50 A.3d at 265. Here, as in *Legere*, Requesters sought RFPs, invoices, and payment records, which were clearly defined types of documents within the listed subject matter areas, over a four-year period. R.R. at 147a. These requests may have been voluminous and even burdensome, but that alone is not dispositive. *Id.* This case is unlike *Mazin*, where the requester sought a broad scope of documents that could encompass over 20 years of records. *Mazin*, slip op. at 10, 2025 WL 1157074, at *5; *see also Mollick*, 32 A.3d at 871 (concluding that request for five years’ worth of “all emails” regarding “any Township business” was insufficiently specific). Dattore stated that the First Request did not specify whether the timeframe was for calendar years or fiscal years, but the Second Request, which will be addressed below, specified that fiscal year records were sought, which suggests that the First Request’s lack of such an indication meant that calendar years were intended. *See* R.R. at 57a, 147a & 255a-56a.

Dattore stated that he works with only one records officer and that the main business office does not keep all of CCA’s records, but he also testified that he has access to the various “division presidents or chiefs” who report to him and maintain records in the requested subject matter areas, and that “various staff within the school will help support in locating records.” *See* R.R. at 56a & 59a. Moreover, the decentralized nature of CCA’s recordkeeping practices does not absolve it of disclosure if a request otherwise meets the three-part test. *St. Hilaire*, 128 A.3d at

865. Dattore also testified that whenever CCA denies a request as insufficiently specific, “we always invite the requester to resubmit – to further define what they’re looking for and resubmit.” R.R. at 59a. However, CCA’s responses to the requests at issue here include no such language. *See id.* at 84a-93a & 197a-208a. Dattore acknowledged that neither he nor the paralegal who assists him with RTKL requests either called or wrote Requesters to seek clarification of these requests. *See id.* at 61a-62a. The overall import of Dattore’s testimony was not that CCA could not figure out what was requested, but that the volume of the request made it difficult and that he did not believe that the legislature intended to allow such extensive requests within the permitted time period for a response. *See id.* at 58a-61a. The volume of a request is certainly relevant. *SEPTA*, 337 A.3d at 586. However, it is not dispositive, particularly when the request otherwise satisfies the specificity requirements. Accordingly, the trial court did not err or abuse its discretion in upholding the OOR’s determination that Items 12 and 13 of the First Request were sufficiently specific.

B. Second Request

In the Second Request, requesters sought:

1a) [L]egal contracts [that CCA] has with individual attorneys, solicitors, and law firms for fiscal years 2020, 2021, 2022, 2023, and 2024.

....

1c) [I]nvoices submitted to [CCA] and paid by [CCA] for fiscal years 2021, 2022, 2023, and 2024.^[6]

⁶ Although Item 1c was worded without indicating that the invoices sought were specific to CCA’s legal services, it was a sub-request of Item 1, which focused on legal matters. CCA has

....

16a) [A]ll insurance contracts [CCA] has with insurance carriers, including but not limited to General Liability and Workers' Compensation, for 2021, 2022, 2023, and 2024.

R.R. at 255a-56a.

The trial court relied on the OOR's final determination. R.R. at 49a-50a & 259a-61a. With regard to Items 1a and 1c, which sought CCA's contracts, invoices, and payments for legal services over four years, the OOR concluded that although these requests might be burdensome, they were sufficiently specific because they "identif[ied] discrete groups of documents, relate[d] to activities of [CCA,] and provide[d] a finite timeframe." *Id.* at 259a-60a. With regard to Item 16a, the OOR similarly acknowledged the potential volume of the request for all insurance contracts within a four-year period but concluded that the request was sufficiently specific because it sought "a clearly defined universe of responsive records." *Id.* at 261a.

CCA argues that the subject matter of Items 1a and 1c, which sought legal services contracts, invoices, and payments for fiscal years 2020 through 2024, without specifying any types of legal services, was vague and failed to account for the complexity of state and federal laws CCA must contend with as well as its varying statewide legal needs. CCA's Br. at 21. Similarly, CCA avers that the subject matter of Item 16a, which sought "all insurance contracts" for 2021 through

treated it as such and has not argued that it believed this request was for all invoices for any and all transactions and operations that it conducted during the relevant time period. *See* CCA's Br. at 21 (stating that "Items 1a and 1c of the Second Request broadly request contracts and invoices for attorneys and law firms"). The OOR also treated Item 1c as specific to legal invoices despite its lack of use of the term "legal." *See* R.R. at 259a (stating that Items 1a, 1b (not at issue in this appeal), and 1c of the Second Request "seek contracts, RFPs and invoices related to [CCA's] procurement of and payment for legal representation over four years").

2024, failed to account for its extensive insurance needs as an educational institution, employer, owner of vehicles and real estate, and a user and provider of technology. *Id.* at 20-21. CCA also critiques these requests as designating fiscal years with regard to the legal services in Items 1a and 1c but not using a similar designation for the insurance contracts in Item 16a, which, according to CCA, creates confusion about the appropriate responses. *Id.* at 22. Requesters respond that the requests at issue met the elements of the test and that the trial court and OOR did not err in upholding them. Requesters’ Br. at 16-18.

We agree with the trial court and the OOR. The subject matter of these requests was limited to legal services for Items 1a and 1c and to insurance contracts for Item 16a. Those areas may have encompassed multiple legal fields, but were far more specific than, for example, the failed requests in *Engelkemier* for emails pertaining to “the Governor” or “banking,” and in *Mollick* for emails regarding “any Township business and/or activities.” *Engelkemier*, 148 A.3d at 531 & n.9; *Mollick*, 32 A.3d at 871.

These requests were for four types of documents: legal contracts, legal invoices, payments for legal services,⁷ and payments for insurance contracts. This was sufficiently limited in scope compared to requests this Court has rejected for failure to identify at all the types of documents at issue. *See Iverson*, 50 A.3d at 284; *Pa. State Police*, 995 A.2d at 517; *Mazin*, slip op. at 9, 2025 WL 1157074, at *5.

Lastly, the timeframes in these requests were not unreasonable, given their sufficiently focused subject matter and scope. They may have been

⁷ CCA will not be required to disclose any records that would “divulge confidential client communications or an attorney’s mental impressions, legal theories or analysis, notes, strategies, and the like, which are protected by the attorney-client and work product privileges. *Couloumbis v. Senate of Pa.*, 300 A.3d 1093, 1103-04 (Pa. Cmwlth. 2023).

burdensome, but again, that alone is insufficient to reject a request. *See Legere*, 50 A.3d at 265. Although the legal services requests specified fiscal years and the insurance contracts request did not, CCA has not explained why this would hinder it from responding to each request as worded.

As noted, Dattore testified that he has access to the various “division presidents or chiefs” who report to him and maintain records in the requested subject matter areas that may not be available at CCA’s main office, as well as support staff throughout the school’s departments who can help locate records. *See R.R.* at 56a & 59a. Moreover, the decentralized nature of CCA’s recordkeeping practices does not absolve it of disclosure if a request otherwise meets the three-part test. *St. Hilaire*, 128 A.3d at 865. Dattore also testified that whenever CCA denies a request as insufficiently specific, “we always invite the requester to resubmit – to further define what they’re looking for and resubmit.” *R.R.* at 59a. However, the CCA’s responses to the requests at issue here include no such language and Dattore acknowledged that CCA did not reach out to Requesters to clarify the requests here. *See id.* at 61a-62a, 84a-93a & 197a-208a.

As above, the overall import of Dattore’s testimony was not that CCA could not figure out what was requested, but that the volume of the request made it difficult and that he did not believe that the legislature intended to allow such extensive requests within the permitted time period for a response. *R.R.* at 58a-61a. The volume of a request is certainly relevant. *SEPTA*, 337 A.3d at 586. However, it is not dispositive, particularly when the request otherwise satisfies the specificity requirements. As such, the trial court did not err or abuse its discretion in upholding the OOR’s determination that Items 1a, 1c, and 16a of the Second Request were sufficiently specific.

C. Requests as a Whole

CCA asserts that beyond the specific requests in these appeals, Requesters have repeatedly filed requests that are little more than “fishing expeditions” to “frustrate and harass” public agencies like CCA with tasks “that would unreasonably require a large expenditure of staff time and public money.” CCA’s Br. at 16-18. CCA presents no authority for the premise that requests may be rejected solely on the basis of their overall burden or volume. When this Court has rejected a request, it is because that particular request failed to meet the three elements of the test, not because it is part of a larger request. *See, e.g., Askew v. Pa. Off. of Governor*, 65 A.3d 989, 992-994 (Pa. Cmwlth. 2013) (rejecting request that was vague in scope, unlimited in time frame, and would require agency to conduct legal research to determine whether a document fit within the request’s claimed subject matter).

We see no reason to abandon this request-specific analysis for a nebulous approach that would require our courts to tally up requests, including those that may not even be in dispute, and weigh them against the resources of the agency in order to arrive at a figure that might represent “too much.” Accordingly, CCA’s argument on this issue is unavailing.

D. Attorneys’ Fees

Section 1304 of the RTKL authorizes trial courts to impose costs and attorneys’ fees on an agency if the court “reverses the final determination of the appeals officer or grants access to a record after a request for access was deemed denied” by the agency. 65 P.S. §§ 67.1304(a). The trial court must make factual findings of bad faith, described as “a willful and wanton disregard of access on the

agency's part, an unreasonable interpretation of the law, or a frivolous appeal." *Barkleyville Borough v. Stearns*, 35 A.3d 91, 98 (Pa. Cmwlth. 2012) (tracking the language of Section 1304(a)). However, our appellate rules state that "[i]ssues not raised in the trial court are waived and cannot be raised for the first time on appeal." Pa.R.A.P. 302(a). Also, "[a]n appellee may not raise issues on appeal not raised by the appellant except by filing a cross-appeal." *Sateach v. Beaver Meadows Zoning Hearing Bd. of Appeals*, 676 A.2d 747, 751 (Pa. Cmwlth. 1996).

Requesters assert that CCA "has a history" of denying requests with no better rationale than that they would be burdensome to fulfill and that in at least one prior case between these parties, the OOR *sua sponte* determined that CCA acted in bad faith. Requester's Br. at 18-20 (citing *Epstein and Rock the Capital v. Commonwealth Charter Academy*, OOR No. 2025-0931 (Off. of Open Recs. Sept. 2, 2025)). Accordingly, Requesters ask this Court to conclude that CCA has acted in bad faith in these matters and to award corresponding attorneys' fees. *Id.* CCA responds that Requesters did not raise the issue of attorneys' fees before the trial court for fact-finding or in a cross-appeal to this Court and it is, therefore, waived. CCA's Reply Br. at 2

CCA is correct. Requesters did not seek attorneys' fees on the basis of CCA's treatment of these requests before the trial court, particularly at the hearing where both sides could present evidence in support of their issues. If Requesters had done so and the trial court denied the request, Requesters would have been able to appeal the denial to this Court for review in our appellate capacity. Because Requesters failed to do so, their request for attorneys' fees is waived.⁸

⁸ In the prior dispute between these parties, the OOR acknowledged that it lacked authority to impose attorneys' fees but recommended a finding of bad faith for when that matter reached a

IV. Conclusion

For the foregoing reasons, we conclude that the trial court did not err in denying CCA's appeals from the OOR's determinations in these matters and ordering CCA to provide the records at issue to Requesters. Accordingly, the trial court's April 17, 2025, orders are affirmed. Requesters' demand for attorneys' fees is denied.

CHRISTINE FIZZANO CANNON, Judge

Judge McCullough dissents.

trial court. *Epstein and Rock the Capital v. Commonwealth Charter Academy*, OOR No. 2025-0931, at *6-7. The OOR concluded that CCA "repeatedly ignored deadlines imposed by the OOR and the RTKL," "seemingly refused to address the OOR's requests for clarification on issues before the OOR," and was generally "uncooperative" during that litigation. *Id.* The record in this matter includes no similar examples of poor conduct on CCA's part.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Commonwealth Charter	:	CASES CONSOLIDATED
Academy Charter School,	:	
Appellant	:	
	:	
v.	:	
	:	Nos. 641–642 C.D. 2025
Eric Epstein and Rock the Capital	:	

ORDER

AND NOW, this 23rd day of October, 2026, the April 17, 2025, orders of the Court of Common Pleas of Dauphin County are **AFFIRMED**. The request of Eric Epstein and Rock the Capital for an award of attorneys’ fees is **DENIED**.

CHRISTINE FIZZANO CANNON, Judge