

Right-to-Know Law Update

By Nicole Wingard Williams, Esq.



Nicole Wingard Williams

Board members, administrators and other district leaders should be aware of the following court decisions which reflect changes to Pennsylvania's Right to Know Law.

Response Time

Donahue v. Office of the Governor – The Pennsylvania Supreme Court

affirmed the Commonwealth Court of Pennsylvania's decision which held that the five business-day period for a response under the RTKL begins to run once the open-records office actually receives the request, not when any individual at the agency receives the request.

Validity of Request

Pennsylvania Gaming Control Board v. Office of Open Records – The Pennsylvania Supreme Court held that in order for a request to be considered a valid, written Right-to-Know request, the open-records officer must be addressed in some "meaningful" way. Therefore, requests for information that do not indicate that the open-records officer is the intended recipient, even if the request is characterized as a RTK request, may be considered as general requests for information that do not afford a requestor all of the rights and remedies provided by the RTKL. This includes the right to appeal a deemed denial if a response is not received within the statutory time frame.

Home Address Requests

Pennsylvania State Education Association ex rel. Wilson v. Commonwealth Dept. of Community and Economic Development – The Commonwealth Court has once again put in place a preliminary injunction that prohibits the disclosure of school district records that contain the home addresses of school employees.

The Court also provided rights on appeal to employees who objected to the disclosure of their home address.

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Prevention Could Ensure Professional Use of Technology

by Aimee Rankin Zundel, Esq. and Jocelyn P. Kramer, Esq.



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Technology and social media – Facebook, Twitter, Instagram, SnapChat, etc. – are everywhere and at our fingertips. Students do the majority of their socializing through social media. But it is not just the students. More and more adults, including professional

educators, school employees and volunteers are active users of social media. Social media platforms are also becoming a fixture in classrooms for educational purposes. Walking the line between appropriate personal and educational use of social media is absolutely essential. Crossing the line ruins lives and careers.

You must help your employees learn and implement appropriate separation between their personal and professional use of technology. Prevention is essential and emerges from effective staff training and appropriate policies. Whether you are considering updating existing policies or creating your district's first guidelines, you must balance the rights of your employees and students with the purpose of maintaining the safety of your students. It is also helpful to remember that technology and social media is constantly evolving, so your policies should be flexible enough to remain applicable as devices and social media platforms change.

Weiss Burkardt Kramer attorneys are engaged in ongoing research and policy development to help our clients prevent inappropriate relationships between students and district employees, including those that can grow online. We are including electronic communication prohibitions in existing conduct/disciplinary policies and freedom of speech in non-school setting policies. We are also developing individualized policies specifically addressing social media concerns.

Several avenues exist for regulating the use of social media when it involves students. We are always aware of individual freedom of expression rights, but we balance these with reasonable restrictions that can lawfully apply to interactions with students. For example, districts may want to consider policies that clarify expectations for professional employee behavior outside of school. Districts will want to consider developing clear guidelines that advise employees to maintain appropriate, professional relationships with students.

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On February 17, the Commonwealth Court held that the Office of Open Records may not order and public school districts may not, pursuant to a RTK request, disclose records maintained by the public school districts that contain the home addresses of public school employees until the affected employees have been given written notice and a meaningful opportunity to object to the request. The Court also provided rights on appeal to employees who objected to the disclosure of their home address. On February 20, a notice of appeal was filed with the Pennsylvania Supreme Court. In response, the Commonwealth Court temporarily restored its injunction and will continue to block the release of home addresses pending a decision by the Supreme Court. We will keep you up to date on developments in this case. ■

Helpful “Social” Rules for Educators

- You are the educator and the adult.
- DO NOT communicate electronically with students on an individual basis (“cc” a parent).
- DO NOT give students your personal email, cellphone, Twitter, Facebook, etc.
- Your name is Mr. Johnston, Ms. Campbell or Dr. Davis, NOT Jimmy, Skip or Mary.
- Be approachable but not chummy.
- Remember, nothing good happens when you text a student, exchange photos or “share.”
- Follow the Child Abuse Reporting Rules:
 - > Teachers are mandated reporters who are required to report abuse directly.
 - > You should notify the Superintendent or Building Principal, but you cannot pass the reporting responsibility.



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Social media guidelines may include the following types of restrictions:

- Reject any invitation to connect with a student on a social media platform;
- Refrain from posting comments or pictures of students on social media and other websites;
- Do not send staff or students sexual or explicit messages or photos;
- Avoid sending messages that could be interpreted as condoning illegal behaviors such as underage drinking and drug use;
- State clearly that your actions and comments are personal and not those of the school or district when expressing opinions online;
- Copy a parent or guardian when emailing an individual student;
- Follow the moral basics: while online do not gossip, lie or threaten people.

More guidelines and policy assistance are available by contacting Weiss Burkardt Kramer. When creating policies to address employee communications with students, districts have to balance the rights of the employee against the district’s interests in maintaining a safe school culture. Be mindful of each employee’s rights of freedom of speech and association under the U.S. and Pennsylvania constitutions and consult with WBK or your solicitor prior to implementing any policy restricting these rights.

We believe education and professional development are critical to eliminating the problem of inappropriate staff-student communications. The Pennsylvania legislature has clearly agreed, and has required schools to include maintenance of appropriate professional relationships with students as a part of their mandatory child abuse training.

The attorneys at WBK are available to conduct legal trainings for staff, including professional responsibility training. Also, the Pennsylvania School Boards Association (PSBA) recently announced it will host a workshop, “Crossing the Line: Setting Boundaries for Student/Adult Relationships,” in an effort to explicitly address appropriate and inappropriate adult-student relationships. This workshop, which will be held at PSBA’s School Leadership Conference in October, will offer practical suggestions on preventing and responding to inappropriate relationships between students and educational staff and volunteers. ■

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This issue of In Brief: School Law Update is meant to be informational and does not constitute legal advice. Should districts wish legal advice on any matter, they should contact their legal counsel or request a legal opinion from Weiss Burkardt Kramer, LLC.

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