

October 14, 2022

**VIA EMAIL** ([smartin@pasen.gov](mailto:smartin@pasen.gov))

Senator Scott Martin  
Senate of Pennsylvania  
135 East Main Street, Suite 1-A  
Strasburg, PA 17579

**Re: Right to Know Request Dated August 31, 2022**

Dear Senator Martin:

On September 7, 2022, the Unionville-Chadds Ford School District (the “District”) received by mail your request dated August 31, 2022 (the “Request”) pursuant to Pennsylvania’s Right to Know Law (the “RTKL”), 65 P.S. § 67.101, et seq. Please accept this correspondence as the District’s formal response.

A copy of the full Request is appended hereto.

The Request is granted in part and denied in part.

Parts 1, 2 and 3 of the Request are denied. Under the RTKL, a request “should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” See 65 P.S. § 703. Pennsylvania courts utilize a three-part balancing test to determine whether a RTKL request is sufficiently specific by “examining the extent to which the request sets forth (1) the subject matter of the request; (2) the scope of documents sought; and (3) the timeframe for which records are sought.” See Pa. Dept. of Educ. v. Pittsburgh Post-Gazette, 119 A.3d 1121, 1124-1125 (Pa. Commw. Ct. 2015) (citing Carey v. Dept. of Corr., 61 A.3d 367, 372 (Pa. Commw. Ct. 2013); Aliota v. Millcreek Township School Dist., OOR Docket No. AP 2016-0757, p. 5.

It is vital for a request to identify specific *senders* or *recipients* of the requested documents. For example, in Brock v. Phila. School Dist., 2021 WL 2366472 OOR Dkt. AP 2021-0720, the OOR determined that a request seeking “all communication, emails, presentations, and documents, received by any/all [] staff, school board directors, or union leaders,” even if the request listed specific terms, was insufficiently specific. Id.

Here, Parts 1, 2, and 3 the Request use overly broad, insufficiently specific language without identifying particular records custodians, a specific date range, and/or types of records. As a result, these portions of the Request are denied.

As to Part 4 of the Request, versions of Policy 203 were presented at the public meetings of the District's Board of School Directors. The District's Board meeting agendas and attachments thereto are publicly available and can be accessed at the following link:

<https://go.boarddocs.com/pa/uncf/Board.nsf/Public?open&id=meetings#>.

For ease of reference, relevant meeting agendas where Policy 203 reading occurred are as follows: first readings occurred on March 8, 2021 and March 15, 2021; second readings occurred on April 12, 2021 and April 19, 2021; and final readings occurred on May 10, 2021 and May 17, 2021.

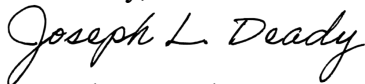
Part 5 of the Request is denied. The RTKL defines a public record, in part, as a record that is "not exempt from being disclosed under [ ] Federal or State law. See 65 P.S. § 102. Pennsylvania's Child Protective Services Law states, in pertinent part, that "reports made . . . including, but not limited to, report summaries of child abuse and reports made pursuant to § 6313 (relating to reporting procedure) as well as any other information obtained, reports written or photographs or x-rays taken concerning alleged instances of child abuse . . . shall be confidential." See 23 Pa. C.S. § 6339. As a result, Part 5 of the Request is denied.

Parts 6 and 7 of the Request are granted in part and denied in part. As with Parts 1, 2, and 3 of the Request, Parts 6 and 7 similarly fail to identify any particular records custodian, type of records, and/or date range. As a result, Parts 6 and 7 of the Request are denied in part. However, in the interest of transparency, the District has located the attached records, which appear to be responsive. To the extent these records are produced, Parts 6 and 7 are granted in part.

You have the right to appeal the District's response in writing to: Liz Wagenseller, Executive Director, Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234; by fax at 717-425-5343; by email to [openrecords@pa.gov](mailto:openrecords@pa.gov); or [www.openrecords.pa.gov](http://www.openrecords.pa.gov).

Should you choose to file an appeal, you must do so within fifteen (15) business days of the mailing date of this letter, as outlined in § 1101 of the RTKL.

Sincerely,



Joseph L. Deady  
Director of Finance  
Open-Records Officer

13TH DISTRICT  
**SCOTT MARTIN**

SENATE BOX 203013  
HARRISBURG, PA 17120-3013  
PHONE: (717) 787-6535  
FAX: (717) 772-5471

135 EAST MAIN STREET, SUITE 1-A  
STRASBURG, PA 17579  
PHONE: (717) 397-1309  
FAX: (717) 299-7798

[www.senatorscottmartinpa.com](http://www.senatorscottmartinpa.com)

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## Senate of Pennsylvania

Questions for Dr. Sanville and Mr. Hellrung.

1. Please provide copies of any written requests submitted to the District from any District resident demanding that the District provide a detailed statement or written opinion of counsel setting forth the source of its legal authority to enforce its pandemic related policies including but not limited to mandatory masking and providing in-person schooling.
2. If the District received any such written requests from a District resident, please provide copies of any written responses from the District to the requesting resident. If the response was discussed in a public meeting, please provide copies of the transcript or minutes from the public meeting.
3. In May 2021, the Unionville school board unanimously adopted amendments to District Policy 203. During the March 2021 work session and board meetings, school board member John Murphy stated on the record that such amendments were directed by "the State" and were necessary for "legal liability reasons." Please provide copies of written communication from "the State" identifying legal liability concerns and/or directing the District's school board to adopt the amendments to Policy 203.
4. Please provide copies of all versions of Policy 203 which have been in effect at any time between May 2021 and the present.
5. Please provide copies of any District reports detailing the aggregate number of suspected child abuse reports made by District employees to ChildLine between March 2020 and March 2022.
6. Please provide copies of any written communication from any Pennsylvania State agency to the District defining or outlining circumstances under which mandatory reporters were not required to make or forward reports of alleged harm under the Child Protective Services Law (CPSL) (such as, for example, any instructions that mandated reporters were not required to make or forward complaints that mask-wearing constituted child abuse under the CPSL).
7. Please provide copies of any written communication from the District to any District employee defining or outlining circumstances under which District employees were not required to make or forward reports of alleged harm under the CPSL (such as, for example, any instructions that mandated reporters were not required to make or forward complaints that mask-wearing constituted child abuse under the CPSL).

**From:** John Sanville <jsanville@ucfsd.net>  
**Sent:** Tuesday, October 05, 2021 8:14 AM  
**To:** Christa Fazio; James Whitesel; Joseph Deady; Justin Webb; Leah Reider; Michael Audevard; Patrick Crater; Timothy Hoffman  
**Subject:** Fwd: IMPORTANT Notice Regarding Masking in Schools and Child Abuse Reporting  
**Attachments:** 092821 DHS PDE Masking Letter FINAL.pdf

FYI

----- Forwarded message -----

From: **RA-EDContinuityofED** <[RA-EDCONTINUITYOFED@pa.gov](mailto:RA-EDCONTINUITYOFED@pa.gov)>  
Date: Fri, Oct 1, 2021 at 1:35 PM  
Subject: IMPORTANT Notice Regarding Masking in Schools and Child Abuse Reporting  
To:

Good afternoon,

The PA Department of Education and the PA Department of Human Services have become aware of a small but concerning push to report masking requirements for children in schools to ChildLine, the state's child abuse reporting system. The attached letter clarifies what is occurring and our departments' position on this matter.

Please utilize this information accordingly and contact your local Office of Children, Youth and Families with any concerns.

It is our shared responsibility to keep all children safe and prevent abuse. If child abuse or neglect is suspected, please contact [ChildLine](https://www.childlinepa.org/) at 1-800-932-0313. Additional resources are available online at [Keep Kids Safe](https://www.childlinepa.org/keep-kids-safe/).

Thank you

To our partners in education,

We have become aware of a small but concerning push to report masking requirements for children in schools to the child abuse reporting system. Since Sept. 1, the Department of Human Services' (DHS) ChildLine has received approximately 50 reports mentioning masking. Comparatively, there are approximately 1.7 million public school students in Pennsylvania. While reports that would incorrectly equate wearing a mask to child abuse currently represent a small portion of overall reports received by ChildLine, this is nevertheless an inappropriate and unnecessary distraction for both educators and child welfare professionals.

DHS' Office of Children, Youth, and Families has received requests for confirmation that masking, in line with guidelines from health officials, is not a form of child abuse. While Pennsylvania's Child Protective Services Law describes obstructing a child's breathing as child abuse, **mask wearing for children 2 and older does not obstruct breathing and is not child abuse**. Research overwhelmingly shows that mask-wearing doesn't limit breathing or oxygen levels.<sup>1</sup> Additionally, the American Academy of Pediatrics has reinforced the safety of masks for children<sup>2</sup>, especially those who cannot yet get vaccinated, and the organization has also recommended that all school staff and children over 2 wear masks to allow for safer in-person learning.<sup>3</sup>

Reports that falsely conflate an evidence-based public health measure designed to protect children, school personnel, and our entire communities against a deadly and highly contagious virus to child abuse is insulting and disrespectful to survivors of child abuse. Too many children and families are affected by child abuse every day, and school staff, as mandated reporters, work diligently every day to be aware of signs of potential abuse and neglect. School staff are important partners of the broad child protective services system, and child welfare agencies rely on your expertise and your observations of children to understand when a family may need assistance or intervention.

Likening this life-saving measure to child abuse is a disrespectful misrepresentation that can tie up already limited resources. While we encourage all Pennsylvanians to report concerns about a child's well-being to ChildLine, bad-faith reports of neglect or abuse expend the time and resources of child welfare workers at the state and county level, further endangering both children and adults in the midst of a public-health crisis. We at the state level appreciate your support and partnership in this work always, and we stand with you through this time of heightened tension.

Masks can keep both children and those around them safe. Since the start of the school year, reports of quarantined classrooms and closed schools due to outbreaks of COVID-19 have been heard around the country, particularly in states that have attempted to block local mask requirements. Schools in these states are continuing to lose time and, in some cases, lives. School staff and educators deserve to work in an environment and free from avoidable disruption. Our children have endured significant change and disruption since the start of the pandemic. They deserve a school year with in-person education, sports,

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<sup>1</sup> David G. Hill, M.D., American Lung Association <https://www.lung.org/blog/covid-masks>

<sup>2</sup> Kimberly M. Dickinson, MD, MPH & Theresa W. Guilbert, MD, MS, FAAP, American Academy of Pediatrics <https://www.healthychildren.org/English/health-issues/conditions/COVID-19/Pages/Mask-Mythbusters.aspx>

<sup>3</sup> American Academy of Pediatrics <https://www.aap.org/en/news-room/news-releases/aap/2021/american-academy-of-pediatrics-updates-recommendations-for-opening-schools-in-fall-2021/>



and activities, and as much normalcy as we can create through a changing environment. Masking will help make that possible, so thank you for what you are doing to promote safety in your schools.

On behalf of Governor Wolf and the Wolf Administration, we want to thank each of you for your leadership and steadfast commitment to protecting your students and staff. Please know we stand with you in our shared effort to keep our communities safe through the 2020-2021 school year.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Sweet".

Acting Secretary  
Department of Human Services

A handwritten signature in black ink, appearing to read "L. Cherry".

Secretary  
Department of Education