



**Written Testimony of the  
Pennsylvania State Education Association (PSEA)**

**Public Hearing Regarding  
Pennsylvania's Right-To-Know Law**

On behalf of PSEA’s 180,000 members, thank you for gathering input from stakeholders regarding Senate Bill 411 and proposed revisions to Pennsylvania’s Right-to-Know law.

PSEA supports the goal of the Right-to-Know law. Ensuring the public has access to the records necessary for holding its government accountable is a foundational component of our democracy. We do, however, firmly believe that there must be a balance provided between information the public may need to hold government accountable, and ensuring that individuals’ maintain their constitutional right to privacy and are protected from harm.

This balancing test and the question of what takes priority – an individual’s right to privacy or the disclosure of records to the public – has been the source of much review and debate since the Right-to-Know law was enacted in 2008. In fact, the issue alone of whether or not home addresses of public school employees are subject to “disclosure on demand” has been the source of six Commonwealth Court orders and four Pennsylvania Supreme Court orders since 2009.

For years, PSEA has argued that within the context of the Right-to-Know law the public interest in *disclosure on demand* of a public school employee’s home address by his or her employer is all but non-existent. It is important to note, however, that PSEA is *not* arguing that the constitutional right to privacy *always* prohibits the release of, or provides for a blanket exception for, public school employee home addresses under all circumstances. Home addresses can be released despite constitutional protection where the Legislature determines that, in certain limited circumstances and after balancing the public good versus the potential threats to privacy and security, the need for disclosure is paramount.

For example, the Legislature has enacted laws permitting access to home addresses such as those provided in voter records, court records, marriage licenses, and property records. These laws *would not be affected* by protecting public school employee home addresses from *disclosure on demand by the employer* based upon a request within the context of the Right-to-Know law. Disclosure of a home address as part of a government public record to get married, obtain a license, go to court, or buy property, is a justifiable requirement and the document containing the address is legitimately part of the public domain. There are no similar policy reasons, or in fact

any valid reasons, for the wholesale release of school employee home addresses as broadly provided for in the Right-to-Know law; moreover, the dangers associated with such release are substantial.

PSEA recognizes that public school employee home addresses may be available from other interfaces and based upon other laws. What is NOT available from any other source, however, is an exclusive listing that contains all public school employee names and home addresses from an employment universe selected by the person making the request. For that reason, PSEA urges this Committee to support the intent of the language contained within Senate Bill 411 which clarifies that a home address of a public employee is not considered a public record under the Right-to-Know law.

Public school employees should not have to forfeit their right to privacy simply to secure or maintain employment. In this day and age when concerns about safety and security for our students and educators are higher than ever, it is a time to increase – not decrease - protections for the more than 300,000 public school employees who could be affected by forcing the release of their home addresses. Unlike information such as public employee salary and service information that could be seen as within the scope of the public interest for keeping government accountable, the public's Right-to-Know *does not extend to information pertinent to an individual's personal security which includes an individual's home address.*

The General Assembly has expressly made home addresses of public school employees confidential in other laws such as the Public School Employees Retirement Code and the Administrative Code. In addition, the General Assembly has recognized home addresses as protected “personal identification” information – in the same category as social security numbers and driver’s license information – when pertaining to the redaction of information to be made public by the Finance Review Board pursuant to Act 52 of 2013. The Legislature continued to recognize that certain records contained by government should not be disclosed to the public as evidenced by the extensive list of “exceptions” contained within the Right-to-Know law – including documents that, if released, would create a risk of *physical harm* to an individual. Over the past six years, PSEA has provided the courts with compelling evidence from a

recognized expert, individual testifiers, and documentation from school administrators *that the release of home addresses by employers demonstrates a heightened risk of harm for public school employees.*<sup>1</sup>

While the 2009 preliminary injunction protecting public school employee home addresses from *en masse* release remains in place, the most prudent measure to protect the security and privacy of public school employees moving forward would be for the Legislature to adopt specific language exempting public school employee home addresses within the Right-to-Know law, similar to what is contained in the current version of Senate Bill 411.

PSEA recognizes that there has been ongoing debate about the deficiencies within the Right-to-Know law surrounding notification and due process for individuals whose personal and private information is requested in any Right-to-Know request. If the Legislature amends the Right-to-Know law to protect home addresses from disclosure on demand, notification and due process concerns will certainly be ameliorated. Nevertheless, we are constrained to point out that the law as currently written provides insufficient protection to employees regarding the release of any private and confidential information. Employees do not know if their personal information is requested, do not have an opportunity to ensure the employer complies with the Right-to-Know law in denying requests, and do not know if there are appeals of denials. In fact, employers can decide that it is in the public interest to release information protected by an exemption in the Right-to-Know law, and the employee will not be informed of that prior to release. In sum, the Right-to-Know law purports to protect private and confidential information – which should include home addresses – but provides no mechanism for doing so.

Thank you again for inviting us to provide input on this important matter.

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<sup>1</sup> A Dec. 5, 2013 evidentiary hearing before the Commonwealth Court is referenced in the indicated paragraph and a transcript of the hearing is a matter of public record. PSEA also has a copy of the transcript, which we would be happy to provide at the request of any House member for their individual review.



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## COALITION FOR SENSIBLE PUBLIC RECORDS ACCESS

### The Benefits of Commercial and Personal Access to Public Records

The Coalition for Sensible Public Records Access (CSPRA) is a non-profit organization dedicated to promoting the principle of open public record access to ensure individuals, the press, advocates, and businesses receive the continued freedom to collect and use the information made available in the public record for personal, commercial, and societal benefit. This paper addresses legislation and rules that discriminates against commercial and personal use of public records by restricting use, raising the cost, or making access more difficult.

It is often said that we live in an information economy. The natural resource on which that economy depends is information and public records and commercial users of those records are a critical source. Public and private data is used in combination to equalize access to business opportunities, provide convenient and personalized customer service, increase markets and market efficiency, and manage and reduce risk. These uses contribute substantially to economic growth. Such use is so ubiquitous, it is easy to forget that good information leads to the decisions, marketing, and communications that help businesses get started or grow. Through equal and reasonable access and pricing for all users of public information, we achieve a greater democratization of opportunity that strengthens the vitality of our entrepreneurial and small business sectors.

Americans for centuries have depended on the commercial and trade use and resale of public records in nearly every important function and aspect of our lives. Whole industries and systems depend on public information to function or function properly. When bills limit access to public records, unintended consequences are likely because public records are a critical source of the truth in our society and the many uses of public records are not well understood or appreciated. Like any good system, these uses are mostly invisible and unnoticed by those whom they serve. Unfortunately, this means these uses of the truth can be taken for granted or stepped on without knowing the harm being done. Consider the following top activities that nourish our lives and our prosperity and that depend on accessible, complete, accurate, and truthful public records:

#### **1. Life Events**

Many critical and routinely valuable events in our lives depend on the accessibility and truth of public records. A reliable system of recording property owners and for assessing the credit worthiness of buyers and sellers means we can securely and economically buy and own a home, a vehicle, investments, and consumer goods of all kinds. The truth about those places and people who care

for our youngest, oldest, infirm, and most needy helps us make the right choices and better protect those we love. When our good behavior is reflected in an accessible and true public record, we are rewarded with work and life opportunities fitting our skills and character. Even the everyday life events depend on the truth—for instance, when we check a web site to see how well a restaurant complies with the health code or a contractor complies with safety regulations.

## **2. Person and business locator services**

Whether we are seeking to recover a debt, to fairly administer justice and law enforcement, enforce a law, collect child support, find witnesses and bail jumpers, or just find an old friend, a long lost ancestor, or a new business, we often use public records to find who and what we need.

## **3. Background screening for personal and workplace safety, security, and to protect vulnerable populations**

William Shakespeare said, “Love all, trust a few.” In a world of over seven billion souls and millions of businesses, how can we know whom to trust? Who has been convicted of serious crimes? Who is a sex offender? Who is a good credit risk or a safe driver or successfully employed? Given even the most obsessively long-lived extroverted individual could only briefly meet a few hundred thousand people in a lifetime, what happens when we need to trust a person we do not know? This is the essence of why background screening has been a growing, well-used, and well-liked process and business. We live in a global village without any of the communal and shorthand knowledge of the traditional village that helped us make rational risk-benefit decisions. The public, “unspinnable” record of a person’s and a company’s history is a rare and precious commodity that stands in for the knowledge of the village. The background check, substituting in the Internet era for what talking to one’s neighbors used to accomplish, allows citizens of our connected world to make these risk-benefit decisions.

## **4. Public safety-- detection, response, mitigation, and intervention**

Public records and the value-added services on which they are based are key investigative tools for government agencies, law enforcements, and security firms. The intelligent use of such records can prevent and detect fraud related to credit cards, health benefits, insurance, and mortgages. Public records are often used to do identity verification of both individuals and businesses to detect, mitigate, and prevent ID theft and fraud and help a victim recover their reputation after the crime. In addition to crime fighting, public records are key in product and vehicle notifications and recalls. They are also used to provide car history keeping sellers honest and letting buyers know of potential safety hazards from damaged cars.

## **5. Helping residents exercise their right to know by indexing and adding value and services to public records**

Many public records systems are by themselves sufficient to meet a particular need. Yet, these systems were never intended to meet all needs. Government sometimes struggles to keep up with new technology or new uses for public records. Non-profit groups, residents, commercial enterprises, academic

institutions, press entities and others fill in the gaps and expand the utility and accessibility of public records. Aside from being a valuable activity in its own right, these creative value added public records systems are great enablers of many other productive and useful endeavors. For example, public mapping and satellite systems contributed to what is now a well-known and appreciated success story known as GPS and personal navigation systems. There are countless others that enrich our lives and improve our productivity that would be harmed by limits on commercial uses of public records.

Please consider how our public records system at all levels of government is a part of the nation's critical information infrastructure. This infrastructure is a key competitive advantage for American businesses, entrepreneurs, and consumers and supports our democracy. Please do not destroy one of the precious advantages our capitalist democracy enjoys: a truthful, open, accessible set of public records for commercial and personal benefit.