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**SUPPLEMENTAL TESTIMONY BEFORE THE HOUSE STATE GOVERNMENT
COMMITTEE ON SENATE BILL 411
PRESENTED BY TIMOTHY S. WACHTER, ESQUIRE**

MARCH 22, 2016

Good Morning Representative Metcalf, members of the State House Government Committee, and other distinguished guests. My name is Timothy S. Wachter, Esq., and I am a shareholder at the law firm of Knox McLaughlin Gornall & Sennett, P.C., located in Erie, Pennsylvania. We have the largest government services practice in Northwestern Pennsylvania, and I serve as solicitor to many municipalities, authorities, school districts and other government entities. Through our government service practice at the Knox Law Firm, I provide Right-to-Know Law counsel to over sixty government entities, and have done so since the laws inception in 2009.

I have guided local agencies through countless requests, represented them in at least fifty Office of Open Records Appeals, numerous appeals before various county courts, and before the Commonwealth Court. Since the laws adoption I have regularly spoken at seminars and symposiums and have presented on this topic throughout Western Pennsylvania. I hope to use these collective experiences to positively affect the proposed amendments to a law that often times impacts the daily operations of my clients.

I offer this testimony as a supplement to the joint testimony offered this morning by Emily J. Leader, Senior Deputy Counsel to the Pennsylvania School Boards Association (“PSBA”) and I. This supplemental testimony is to address a concern outside of PSBA’s focus area.

Pennsylvania Interscholastic Athletic Association
Section 307

The amendment includes a new section 307, entitled “Pennsylvania Interscholastic Athletic Association,” which is included on lines 27-30 on page 4, and line 1 of page 5. The amendment would designate the PIAA as a local agency for purposes of the Right-to-Know Law. The PIAA is currently designated as a state-affiliated entity. My concern is that such a designation will chill the ability of a requester to appeal Office of Open Records Final Determinations concerning requests of the PIAA.

The Right-to-Know Law requires appeals from the OOR concerning requests of a local agency to be filed in the court of common pleas of that local agency. The PIAA is headquartered in Cumberland County. If the PIAA is determined to be a local agency, then any appeal from an OOR final determination involving the PIAA would be filed in Cumberland County. It is not reasonable to expect a requester from Erie County to have to engage in an appeal in Cumberland County where the records, for example, specifically involve PIAA activities in Erie County.

If the PIAA maintained its designation as a state-affiliated entity, the requester could engage in an appeal before the Commonwealth Court. If an appeal is before the Commonwealth Court, the requester has the opportunity for an appeal to be decided based solely on the filings, which isn’t an option that is available in county court. And, at the most, the requester would only have to travel to Pittsburgh in the event a hearing was necessary.

To avoid the negative consequence of the amendment as offered, I suggest that the PIAA either maintain its designation as a state-affiliated entity, or, if it was to be determined to be a local agency, that any appeal from the OOR involving the PIAA be filed within the County Court of Common Pleas with jurisdiction over the PIAA District in which the requester is located. If such an amendment was to be

adopted, it would, at the least, provide a requester with a reasonable opportunity to file, and participate in, an appeal from the OOR in a matter involving the PIAA.

I do thank you for your attention to the details in offering any amendment to the Right-to-Know Law. I can confidently state that I have never represented a local agency which approached a request with anything other than good intentions regarding the fulfillment of a request as required. The elimination of ambiguity and the avoidance of unnecessarily conflicting or confusing standards through the adoption of a well crafted amendment will only serve to increase government transparency as it will limit the discretion available to those who are tasked with implementing the law. It will also serve to save scarce local resources, as the number of appeals should be limited. I trust that such a maxim has been embraced by the Committee as it considers the amendments.

I thank you for this opportunity, and stand ready to provide any further comment or assistance that you may believe is necessary.