



May 2, 2022

Via email only

Haley M. Beardsley  
The Bucknellian  
[bucknellian@bucknell.edu](mailto:bucknellian@bucknell.edu)

RE: Request for Advisory Opinion

Dear Ms. Beardsley:

Thank you for your interest in the Right to Know Law and for reaching out to the Office of Open Records (“OOR”) concerning whether Bucknell University’s Department of Public Safety (“Public Safety”) constitutes a “local agency” for purposes of the Right-to-Know Law.

The OOR respectfully declines to issue an Advisory Opinion at this time. The determination of whether an entity is a “local agency” is fact-intensive and requires the OOR to develop an adequate factual record before rendering an opinion. *See Pyshey v. Clinton Twp. Volunteer Fire Co.*, 209 A.3d 1116, 1125 (Pa. Commw. Ct 2019) (explaining that an adequate factual record is necessary in order to determine the degree of governmental control and the nature of the entity’s functions). Without this factual record, it would be premature for the OOR to opine on whether Public Safety is a “local agency” subject to the Right-to-Know Law.

Your request for an advisory opinion explains that a Right-to-Know Law request was submitted to Public Safety. This issue is best decided through the appeal of a denied or deemed denied request under the RTKL. The denial of your request for an advisory opinion does not prohibit you from filing an appeal to the OOR pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

Sincerely,

/s/ Kyle Applegate  
Kyle Applegate  
Chief Counsel

Cc: Elizabeth Wagenseller, Executive Director  
Nathanael Byerly, Deputy Director



# THE BUCKNELLIAN

*The weekly student newspaper of Bucknell University, since 1896*

Bucknell University, Box C3952  
701 Moore Avenue  
Lewisburg, PA 17837

(570) 577-1156

bucknellian.net / bucknellian@bucknell.edu

## **Executive Director**

Office of Open Records  
333 Market Street, 16th Floor  
Harrisburg, PA 17101-2234

**Regarding:** Bucknell University Public Safety / Open Records Act  
Via email and postal mail  
April 18, 2022

To the Executive Director of the Office of Open Records:

This letter is a request by the students of The *Bucknellian* independent student newspaper of Bucknell University (the “Bucknellian”) for an advisory opinion pursuant to [Section 1310\(a\)\(2\)](#) of the Right-To-Know Law, 65 Pa. Stat. § 67.101, *et seq.*, (the “Law”).

Bucknell University (“Bucknell”), a non-profit corporation under [15 Pa. C.S. Pt. II Subpt. C](#), appoints police officers for the corporation pursuant to [22 Pa. C.S. § 501](#) into its Department of Public Safety (“Public Safety”). Officers employed by Bucknell’s Public Safety, under [22 Pa. C.S. § 501\(b\) and \(c\)](#), “take and subscribe the oath required by the sixth article of the Constitution of Pennsylvania” and “severally possess and exercise all the powers of a police officer in this Commonwealth.”

The Bucknellian is seeking an advisory opinion that Public Safety qualifies as a “local agency” pursuant to [Section 102](#) of the Law that is subject to provide public records in accordance with [Section 302\(a\)](#) of the Law.

At present, there is no ongoing litigation of which the Bucknellian is aware involving the subject matter of this Advisory Opinion. Relevant precedent does, however, include:

- [Henderson v. Fisher, 631 F.2d 1115, 1118 \(3d Cir. Pa., 1980\)](#); as “the delegation of police powers, a government function, to the campus police buttresses the conclusion that the campus police act under color of state authority,” this indicates to the Bucknellian that Public Safety qualifies as a local agency under the Law.

- [Dempsey v. Bucknell Univ.](#), 834 F.3d 457, 462 n.1 (3d Cir. 2016), in which Public Safety officers’ “official actions are taken under color of state authority,” (internal quotations removed). The Bucknellian understands that *Dempsey* affirms the conclusion in *Henderson* while specifically applying it to Public Safety officers at Bucknell.
- Bucknell itself has argued that Public safety officers are, “in fact, the police” under [37 Pa. Code § 203.1](#), *et seq.*, [Doc. 1:20-CV-01722-CCC 25 p. 11 n.4](#). Evidently, Bucknell understands Public Safety officers to be functionally indistinguishable from “the police.”

This Advisory Opinion is sought, in part, regarding an actual Right-To-Know request submitted to Public Safety concurrently with this letter.

Please direct all correspondence regarding this matter to the below information. Email is strongly preferred.

**The Bucknellian**

Bucknell University, Box C3952  
701 Moore Avenue  
Lewisburg, PA 17837  
(570) 577-1156  
bucknellian@bucknell.edu

All the best,  
Haley M. Beardsley  
The *Bucknellian*

**From:** [The Bucknellian](#)  
**To:** [DC, OpenRecords](#)  
**Subject:** [External] Advisory Opinion / Bucknell University Public Safety  
**Date:** Monday, April 18, 2022 12:03:07 PM  
**Attachments:** [RTKL ADVISORY OPINION.docx.pdf](#)

---

***ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to [CWOPA\\_SPAM@pa.gov](mailto:CWOPA_SPAM@pa.gov).*

To whom it may concern:

In accordance with 65 Pa. Stat. § 67.1310(a)(2), attached to this email is a request for an Advisory Opinion under the Right-to-Know Law. This request form has also been sent by postal mail.

Please confirm receipt of this email. Best,

***The Bucknellian***  
*The weekly student newspaper of Bucknell University*

Stuck House

**e** [bucknlln@bucknell.edu](mailto:bucknlln@bucknell.edu)

**p** [\(570\) 577-1156](tel:(570)577-1156)

# THE BUCKNELLIAN

The weekly student newspaper of Bucknell University, since 1896

Bucknell University, Box C3952  
701 Moore Avenue  
Lewisburg, PA 17837

(570) 577-1156

bucknellian.net / bucknellian@bucknell.edu

RECEIVED

APR 21 2022

OFFICE OF OPEN RECORDS

## Executive Director

Office of Open Records  
333 Market Street, 16th Floor  
Harrisburg, PA 17101-2234

**Regarding:** Bucknell University Public Safety / Open Records Act  
Via email and postal mail  
April 18, 2022

To the Executive Director of the Office of Open Records:

This letter is a request by the students of The *Bucknellian* independent student newspaper of Bucknell University (the “Bucknellian”) for an advisory opinion pursuant to Section 1310(a)(2) of the Right-To-Know Law, 65 Pa. Stat. § 67.101, *et seq.*, (the “Law”).

Bucknell University (“Bucknell”), a non-profit corporation under 15 Pa. C.S. Pt. II Subpt. C, appoints police officers for the corporation pursuant to 22 Pa. C.S. § 501 into its Department of Public Safety (“Public Safety”). Officers employed by Bucknell’s Public Safety, under 22 Pa. C.S. § 501(b) and (c), “take and subscribe the oath required by the sixth article of the Constitution of Pennsylvania” and “severally possess and exercise all the powers of a police officer in this Commonwealth.”

The Bucknellian is seeking an advisory opinion that Public Safety qualifies as a “local agency” pursuant to Section 102 of the Law that is subject to provide public records in accordance with Section 302(a) of the Law.

At present, there is no ongoing litigation of which the Bucknellian is aware involving the subject matter of this Advisory Opinion. Relevant precedent does, however, include:

- *Henderson v. Fisher*, 631 F.2d 1115, 1118 (3d Cir. Pa., 1980); as “the delegation of police powers, a government function, to the campus police buttresses the conclusion that the campus police act under color of state authority,” this indicates to the Bucknellian that Public Safety qualifies as a local agency under the Law.

- *Dempsey v. Bucknell Univ.*, 834 F.3d 457, 462 n.1 (3d Cir. 2016), in which Public Safety officers’ “official actions are taken under color of state authority,” (internal quotations removed). The Bucknellian understands that *Dempsey* affirms the conclusion in *Henderson* while specifically applying it to Public Safety officers at Bucknell.
- Bucknell itself has argued that Public safety officers are, “in fact, the police” under 37 Pa. Code § 203.1, *et seq.*, Doc. 1:20-CV-01722-CCC 25 p. 11 n.4. Evidently, Bucknell understands Public Safety officers to be functionally indistinguishable from “the police.”

This Advisory Opinion is sought, in part, regarding an actual Right-To-Know request submitted to Public Safety concurrently with this letter.

Please direct all correspondence regarding this matter to the below information. Email is strongly preferred.

**The Bucknellian**

Bucknell University, Box C3952  
701 Moore Avenue  
Lewisburg, PA 17837  
(570) 577-1156  
bucknellian@bucknell.edu

All the best,  
Haley M. Beardsley  
The *Bucknellian*

# THE BUCKNELLIAN

The weekly student newspaper of Bucknell University

Bucknell University Box C3952  
701 Moore Avenue  
Lewisburg, PA 17837

Executive Director  
**Office of Open Records**  
333 Market Street, 16th Floor  
Harrisburg, PA 17101-2234

HARRISBURG PA 171

18 APR 2022 PM 4 8



17101-223416

