

RIGHT-TO-KNOW UPDATE

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The Commonwealth Court has ruled that the address and date of birth information of retirees receiving pensions from the Public School Employees' Retirement System (PSERS) is data that does not fall within the definition of "public record" under the Right-to-Know Law. Rowland v. Pennsylvania State Employees' Retirement System, 885 A.2d 621 (Pa. Commw. 2005).

PSERS received a request for the addresses, dates of birth and last employer of each PSERS annuitant. PSERS is an agency of the Commonwealth of Pennsylvania charged with administering the pension fund for the Commonwealth's public school employees and retirees. In response to the information request, PSERS provided the names of the retirees, their dates of retirement, years of credited service and monthly annuity. PSERS denied the request for addresses and date of birth information stating that such data does not fall within the definition of "public record" under the Right-to-Know Law. The Commonwealth Court agreed citing exceptions under the Right-to-Know Law. The Right-to-Know Law specifically exempts certain types of records, documents and materials from the definition of "public records." The Court cited the exception that prohibits disclosures of any record, document or material where disclosure would operate to the prejudice or impairment of a person's reputation or personal security. Section 1 of the Right-to-Know Law, 65 P.S. § 66.1. In the Rowland opinion, the Court wrote that it is generally accepted that a person has a privacy interest in his or her home address. The Court cited a previous case, Cypress Media, Inc. v. Hazelton Area School District, 708 A.2d 866, 870 (Pa. Commw. 1998), which had noted that a person's home address, home telephone number and social security number are not subject to disclosure under the Right-to-Know Law because the benefits of disclosing such information are outweighed by a person's privacy interests in that information.

The privacy exception is not absolute. When analyzing this exception, courts apply a balancing test, weighing the privacy interests and the extent to which they may be invaded against the public benefits that would result from disclosure. In Rowland, the Court found that the requester failed to assert a public benefit against which to balance the privacy interest of PSER's members. The Court did not address whether PSERS would have to provide redacted versions of requested documents because the requesting party did not ask for this alternative form of relief.