

OOB Defines “Employment Applications”

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In *O'Brien v. City of Pittsburgh*, AP 2019-1694, the Requester sought records regarding the employment application, including a psychological assessment conducted by the City, of an individual who was not as a City police officer. The City denied the request and, on appeal, argued that records were exempt under Section 708(b)(7)(iv) of the RTKL

Section 708(b)(7) of the RTKL, exempts from disclosure certain “records relating to an agency employee,” including “[t]he employment application of an individual who is not hired by the agency.” 65 P.S. § 67.708(b)(7)(iv).

Although the RTKL does not define “employment application,” the OOR noted that it had previously found that material submitted by the applicant for consideration by the hiring agency falls under Section 708(b)(7)(iv), while extraneous material either not provided by the applicant or not intended to be used in the hiring decision, does not. Accordingly, the OOR denied the request.

Based on the foregoing, resumes, letters and other documents accompanying an applications may be exempt from disclosure. See *Wuerterberg v. Franklin Cnty.*, AP 2013-2162 (resumes submitted by applicants qualify for exemption); *Frale v. Pleasant Valley Sch. Dist.*, OOR Dkt. AP 2016-0683, 2016 PA O.O.R.D. LEXIS 876 (clearances and letters expressing interest qualify under exemption).

Open Records Officers frequently receive requests for information about unsuccessful job applicants and it is critical they understand what can and cannot be released. This recent determination by the OOR provides helpful guidance.

If you have any questions or comments, please do not hesitate to contact Chris Voltz or any of the other Municipal and School Attorneys at Tucker Arensberg, P.C.