

December 16, 2016



PNA LEGAL UPDATE

LEGAL AND LEGISLATIVE ISSUES AFFECTING THE NEWS INDUSTRY

A supplement to Headlines & Deadlines

Editorial Round Up

LNP (Lancaster)

Right to Know Law ought to fully cover state-related institutions, including Penn State and Temple

Express-Times (Bethlehem)

Pa. open records law needs public-minded boost

Williamsport Sun-Gazette

Sentinels guard against tyranny

Legislative Update

The House and Senate remain in recess until Jan. 3, 2017, the ceremonial swearing-in date for new legislators.

Legal Issues from Around the Commonwealth

Court denies access to deer hunt information

The Commonwealth Court ruled Friday that the names of individuals who allowed their land to be used as part of a government deer cull in Mt. Lebanon can be denied under the Right to Know Law. The court relied on the donor exemption in the RTKL, arguing that allowing government use of land triggers the donor exemption and allows donors to remain anonymous. Read more from the [Pittsburgh Post-Gazette](#) and read the [court's opinion here](#)

Borough named in First Amendment lawsuit after police cite critic

A South Connellsville borough resident has filed a federal complaint in the U.S. District Court, claiming the police chief, a department officer, the council president and the borough have violated her constitutional right to free speech. The suit is based on allegations that the resident was criminally charged after criticizing the police chief during a borough council meeting. Charges against the resident were dropped, and the police chief has been charged with official oppression. Read more [here](#) and [here](#)

School refuses to provide salary information

Pleasant Valley School District mistakenly gave an employee a 70% raise earlier this year. The district has refused to disclose any information regarding the contractually designated raise, citing the advice of their lawyers. Read more from the [Pocono Record \(Stroudsburg\)](#)

PNA note: Section 708(b)(6) of the RTKL makes name, job title, salary, other compensation and employment contracts public records.

Journalists report on their continuing struggle to access parking records

Reporters with PennLive/The Patriot-News (Harrisburg) invite readers along on the next step in their saga to obtain public records about parking violations in Harrisburg. Read more [here](#)

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Legal Hotline

Do you have a question for the Legal Hotline?

Contact 717-703-3080

Legal Update PDF

Visit the PNA website for a [printable PDF](#) of this week's Legal Update.

Philadelphia to ban employers from asking salary history

In an effort to combat pay inequality for women and minorities, lawmakers in Philadelphia will prohibit employers from asking about salary history. Supporters argue that job duties and qualifications should govern salary. Mayor Kenney is expected to sign the proposal. Read more [here](#)

RTKL suit over county contractor records

A resident of Cambria County has filed a lawsuit in county court alleging the county has not complied with an order from the Office of Open Records. The OOR ordered the county to provide access to records related to a non-profit tasked with administering funds for subsidized daycare in the county. Read more from [The Tribune-Democrat \(Johnstown\)](#)

Beyond PA

Judge orders newspaper to stop publishing story

A judge in NJ has ordered the Trentonian newspaper to stop publishing articles about a child abuse case - a ruling that First Amendment experts said could violate the U.S. Supreme Court's most important decisions prohibiting prior restraints and guaranteeing the freedom of the press. Read more [here](#)

NJ considers bill to remove public notices from newspapers

Lawmakers in NJ, spurred by Governor Chris Christie, have fast tracked a proposed bill that would allow government agencies to place legal notices on their own websites in lieu of newspaper advertising. Critics of the bill highlight issues including the lack of an independent watchdog over legal publication, costs of implementing and maintaining secure public notice systems, and the impact it could have on the press' ability to report on government. Read more [here](#)

From the Hotline

Q: A local business wants to advertise a holiday promotion. They want the ad to say "Buy \$25 worth of merchandise and get a chance to win a giant inflatable Santa and \$500 gift card!" Does this raise any legal issues?

A: Yes. It raises an illegal lottery issue and could impact the newspaper's periodicals mailing privileges.

Pennsylvania and federal law prohibit private lotteries. The traditional elements of a lottery are: prize, chance and consideration (pay to play). Clearly, the suggested promotion awards prizes and the winner is chosen by chance. The requirement to buy \$25 worth of merchandise for a chance to win is consideration because individuals must buy merchandise for a chance to win. Because all three elements of a lottery are present, this ad creates risk related to an illegal lottery.

In addition to state and federal laws that make private lotteries illegal, federal postal regulations prohibit advertising illegal lotteries in any mailed matter, including newspapers sent through the mail. Newspapers risk losing the periodicals mailing classification if they advertise an illegal lottery, and this classification is important for placement of legal advertising.

Nonprofit organizations, and some bars and restaurants, may hold and advertise small games of chance in Pennsylvania. However, even if a nonprofit organization or business is licensed to conduct small games of chance, it is unlawful to advertise the prizes or the dollar value of such prizes in newspaper ads.

As always, this is not intended to be, nor should it be construed as, legal advice. Please contact your newspaper's attorney or the Legal Hotline at (717) 703-3080 with questions.

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