

This attestation is simple, reflects the records sought, the fact that you have searched in good faith to find them and that they do not exist. You can modify this form for use when you make other kinds of factual assertions, as well, including, for example, that your agency cannot redact a requested record electronically and must provide a paper copy instead.

The reason this attestation is deemed to be "competent evidence" in an administrative proceeding is that it is made subject to the penalty of perjury. This means that if the requester can PROVE that the person making the attestation knowingly lied, he or she could bring a proceeding in court for perjury. This form references the Pennsylvania criminal statute that provides penalties for committing perjury in an unsworn statement. The statute reads as follows:

18 Pa. C.S. § 4904 Unsworn falsification to authorities

(a) IN GENERAL. --A person commits a misdemeanor of the second degree if, with intent to mislead a public servant in performing his official function, he:

(1) makes any written false statement which he does not believe to be true;

(2) submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity; or

(3) submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he knows to be false.

(b) STATEMENTS "UNDER PENALTY." --A person commits a misdemeanor of the third degree if he makes a written false statement which he does not believe to be true, on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

(c) PERJURY PROVISIONS APPLICABLE. --Section 4902(c) through (f) of this title (relating to perjury) applies to this section.

(d) PENALTY.-- In addition to any other penalty that may be imposed, a person convicted under this section shall be sentenced to pay a fine of at least \$ 1,000.

[INSERT AGENCY LETTERHEAD]

ATTESTATION OF NONEXISTENCE OF RECORDS

Name of Requester: [INSERT NAME OF REQUESTER]

Records Requested: [INSERT DESCRIPTION OF REQUEST]

Appeal Caption: [INSERT OOR CAPTION AND DOCKET NUMBER]

I, [INSERT NAME OF OPEN RECORDS OFFICER], hereby declare under the penalty of perjury, pursuant to 18 Pa.C.S. § 4904, that the following statements are true and correct based upon my personal knowledge information and belief:

1. I serve as the Open Records Officer for the [INSERT NAME OF AGENCY] (“Agency”).
2. I am responsible for responding to Right-to-Know requests filed with the Agency.
3. In my capacity as the Open Records Officer, I am familiar with the records of the Agency and have knowledge as to the possible locations of all Agency records.
4. Upon receipt of the request, I conducted a thorough examination of files in the possession, custody and control of the Agency for records responsive to the request underlying this appeal.
5. Additionally, I have inquired with relevant Agency personnel and, if applicable, relevant third party contractors as to whether the requested records exist in their possession.
6. After conducting a good faith search of the Agency’s files and inquiring with relevant Agency personnel, I have made the determination that the records requested do not exist within the Agency’s possession, custody or control.
7. It is understood that this does not mean that the requested records do not exist within another agency’s possession custody or control.

Date: [Click here to enter a date.](#)

Signature: _____

[INSERT NAME OF OPEN RECORDS OFFICER]
Open Records Officer
[INSERT NAME OF AGENCY]