



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
ADAM FARENCE AND THE <i>DAILY LOCAL NEWS</i>,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2016-0915
	:	
TREDYFFRIN/EASTTOWN SCHOOL DISTRICT,	:	
Respondent	:	

On April 5, 2016, Adam Farnce of the *Daily Local News* (“Requester”) filed a request (“Request”) with the Tredyffrin/Easttown School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking notices of bill payments to an identified family and a copy of bills paid to that family. On April 11, 2016, the District invoked a thirty-day extension of time to respond to the Request. *See* 65 P.S. § 67.902. On May 9, 2016, the District denied the Request, citing the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, and exemptions for personal security (65 P.S. § 67.708(b)(1)) and records that would identify minors (65 P.S. § 67.708(b)(30)).

On May 24, 2016, the Requester appealed to the OOR, challenging the denial and stating grounds for disclosure.¹ The OOR invited both parties to supplement the record. On June 3, 2016, the District provided a position statement verified under penalty of perjury by its Open Records Officer. The District’s verified position statement affirms that a search was conducted and that no responsive records were located.

Under the RTKL, an attestation signed under penalty of perjury may serve as sufficient evidentiary support for the nonexistence of records. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any competent evidence that the District acted in bad faith, “the averments in [the attestation] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v.*

¹ The Requester agreed to allow the OOR additional time to issue a Final Determination in this matter. *See* 65 P.S. § 67.1101(b)(1).

Scolforo, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)). Based on the materials provided, the District has established that no responsive records exist.

For the foregoing reasons, the appeal is **denied**, and the District is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to the Chester County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per Section 1303 of the RTKL. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.² This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: July 19, 2016

/s/ J. Chadwick Schnee, Esq.

APPEALS OFFICER / ASSISTANT CHIEF COUNSEL
J. CHADWICK SCHNEE, ESQ.

Sent to: Adam Farence (via e-mail only);
Edward Diasio, Esq. (via e-mail only)

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).