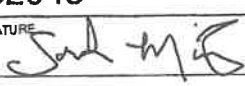


Court of Common Pleas of Philadelphia
County Trial Division
Civil Cover Sheet

PLAINTIFF'S NAME		DEFENDANT'S NAME	
The School District of Philadelphia		Andrei Khalil Anderson	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
440 N. Broad Street, Philadelphia, PA 19130		1054 Misty Lynn Cir., Apt. D, Cockeysville, MD 21030	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
TOTAL NUMBER OF PLAINTIFFS		TOTAL NO. OF DEFENDANTS	
1		1	
AMOUNT IN CONTROVERSY		COMMENCEMENT OF ACTION	
☒ \$50,000.00 or less		☐ Complaint	
☐ More than \$50,000.00		☐ Writ of Summons	
COURT PROGRAMS		☐ Petition Action	
☐ Arbitration		☐ Transfer From Other Jurisdictions	
☐ Jury		☒ Notice of Appeal	
☐ Non-Jury			
☒ Other: Administrative - OOR			
CASE TYPE AND CODE (SEE INSTRUCTIONS)			
51: Other AGENCY APPEAL- ADMINISTRATIVE AGENCY			
STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)			
65 P.S. § 67.1302(a)			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER?	
		Yes ☐ No ☒	
		STAPP-School District Of Phila Vs Anderson [SPG]	
TO THE OFFICE OF JUDICIAL RECORDS:			
Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: Papers may be served at the address set forth below.			
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY		ADDRESS (SEE INSTRUCTIONS)	
Sarah C. Martinez		440 N. Broad St., Philadelphia, PA 19130	
PHONE NUMBER	FAX NUMBER	E-MAIL ADDRESS	
267-997-3294		smartinez@philasd.org	
SUPREME COURT IDENTIFICATION NO.		DATE	
332045		10/31/25	
SIGNATURE			
			

For Office of Judicial Records Use Only (Docket Number)

251101564
Filed and attested by the
Office of Judicial Records

11/22/2025 01:47 pm



25110156400003

SCHOOL DISTRICT OF PHILADELPHIA, :
Appellant, : Nov TERM 2025
 :
v. :
 :
 : No. 1564
 :
 :
ANDREI KHALIL ANDERSON, :
Appellee. :

The School District of Philadelphia hereby appeals from the decision of the Pennsylvania Office of Open Records issued on October 31, 2025, docketed at OOR Dkt. No. AP 2025-2525, a copy of which is attached hereto as Exhibit "A."

By: /s/ Sarah C. Martinez

Case ID: 251101564

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial Systems of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents

/S/Sarah C. Martinez

Sarah C. Martinez, Esq.
PA ID 332045

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY CIVIL
DIVISION - SPECIAL DOCKET PROGRAM**

Appeal of The School District of Philadelphia from a Decision of the Pennsylvania Office of
Open Records

NOTICE OF APPEAL

The School District of Philadelphia hereby appeals from a decision of the Pennsylvania
Office of Open Records, dated October 1, 2025, and indexed as AP 2025-2525, a copy of which
is attached hereto as Exhibit "A." The following person entered an appearance in the proceedings
below:

Dated: October 31, 2025

Andrei Khalil Anderson
1054 Misty Lynn Cir., Apt. D
Cockeysville, MD 21030
(410) 399-8796
anandersonworks@gmail.com

Pennsylvania Office of Open Records
4333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
OOR-PostFD@pa.gov

By: /s/ Sarah C. Martinez

Sarah C. Martinez, Esq.
Open Records Officer
PA ID 332045
School District of
Philadelphia
440 N. Broad St.
Philadelphia, PA 19130
215-400-5231
smartinez@philasd.org

EXHIBIT A



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

ANDREI ANDERSON,
Requester

v.

THE SCHOOL DISTRICT OF
PHILADELPHIA,
Respondent

:
:
:
:
:
:
:
:
:
:

Docket No: AP 2025-2525

FACTUAL BACKGROUND

On August 1, 2025, Andrei Khalil Anderson (“Requester”) submitted a request (“Request”) to the School District of Philadelphia (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

Records created, held, or used by the School District of Philadelphia between 1990 and 1995 relating to:

1. The Stanton Pilot Program or M. Hall Stanton Elementary School behavioral classroom, including:
 - a. Program budgets or funding records
 - b. Student placement records or rosters (redacted as needed)
 - c. Classroom assignments involving Deanna Burney, John Coats, or Frank Caul[.]
2. Any consent forms, film access permissions, or licensing agreements relating to the HBO documentary “I Am A Promise: The Children of Stanton Elementary School” (1991–1994), including:
 - a. Agreements with Video Verité, Alan Raymond, or Home Box Office (HBO)

- b. Records identifying the presence or filming of...[the Requester.]
- 3. Any communications between the School District and the Philadelphia Family Court, CBH, PHMC, or Juvenile Law Center relating to minors filmed, segregated, or confined under the Stanton Pilot Program.

On September 9, 2025, following a thirty-day extension, 65 P.S. § 67.902(b), the District denied the Request, arguing that no records responsive to Item 1 or Item 2 of the Request exist within the District's possession, custody or control and that Item 3 of the Request is insufficiently specific, 65 P.S. § 67.703.

On that same day, the Requester appealed to the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the District to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On September 19, 2025, the District submitted a verified position statement reiterating its grounds for denial. The District further argues that "[t]o the extent that the Requester seeks individual student education records in Items 1(b) and 2(b), [both] items[,] on their face[,] seek records that are exempt pursuant to the Family Educational Rights and Privacy Act ('FERPA')[,]" 20 U.S.C. § 1232g, *et seq.*; 34 C.F.R. 99.3. In support of its position, the District submitted the attestations of Adam Northam, Deputy Chief of Internal Communications for the Office of Communications ("Northam Attestation"), of Rodney Griffin, Director of Budget Operations for the Office of Management and Budget ("Griffin Attestation"), of Dr. Nathalie Neree, Chief of Special Education and Diverse Learners ("Neree Attestation"), of Matthew Rambo, Manager in the Office of Employee Records ("Rambo Attestation"), and of Sarah Martinez, Assistant General Counsel and Agency Open Records Officer ("Martinez Attestation"). The Martinez Attestation verifies the District's position statement and describes the District's search for records responsive

to Items 1 and 2 of the Request. Each of the other four attestations provided by the District describe the individual departments' searches for records responsive to Items 1 and 2 of the Request and each explain the departmental records retention policies or procedures. Additionally, the District provided a copy of its Records Management Policy ("Policy 800"), a copy of its procedures for implementation and application of Policy 800 ("Procedure 800"), a copy of its Records Retention Schedule, and a copy of its procedures concerning District personnel files ("Policy 324"). *See* District Exhibits A-D. Finally, the District submitted a copy of an email dated September 10, 2025 from the Requester to the District.¹ *See* District Exhibit E.

LEGAL ANALYSIS

The District is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the District is required to demonstrate, "by a preponderance of the evidence," that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as "such proof as leads the fact-finder...to find that the existence of a contested fact is more probable than its nonexistence." *Pa. State Troopers Ass'n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep't of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). Likewise, "[t]he burden of proving a record does not exist...is placed on the agency responding to the right-to-know request." *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

1. The appeal fails to challenge the District's denial of Item 3 of the Request

¹ Because the email was sent to the District during the pendency of the appeal, the email will not be considered by the OOR insofar as it expands or explains the Request. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Commw. Ct. 2010); *Michak v. Pa. Dep't of Pub. Welfare*, 56 A.3d 925 (Pa. Commw. Ct. 2012) (holding that "where a request[e]r requests a specific type of record...the request[e]r may not, on appeal argue that an agency must instead disclose a different record in response to the request").

As a threshold matter, the District argues that the appeal of Item 3 of the Request is insufficient under Section 1101(a)(1) of the RTKL, 65 P.S. § 67.1101(a)(1), because the Requester does not provide a proper basis for appeal.

Section 1101(a)(1) of the RTKL requires requesters to “state the grounds upon which the requester asserts that the record is a public record...and...address any grounds stated by the agency for...denying the request.” 65 P.S. § 67.1101(a)(1). A general statement “that the records are public records that ‘do not qualify for any exemptions under [S]ection 708, are not protected by privilege, and are not exempted under any Federal or State law or regulation,’ is sufficient” to satisfy the requirements of Section 1101(a)(1). *Barnett v. Pa. Dep’t of Public Welf.*, 71 A.3d 399, 406 (Pa. Commw. Ct. 2013). However, the OOR and the courts have held that failure to comply with Section 1101(a)(1) renders an appeal deficient. *See Padgett v. Pa. State Police*, 73 A.3d 644, 647 (Pa. Commw. Ct. 2013); *Pa. Dep’t of Corr. v. Office of Open Records*, 18 A.3d 429 (Pa. Commw. Ct. 2011).

Here, the Requester did not use the OOR’s standard appeal form. Rather, the Requester appealed via email sent to the OOR. The Requester’s email, in applicable part, states:

I appeal the...[District’s] final response dated September 8, 2025.... The District denied Items 1 and 2 as “no records” and rejected Item 3 for lack of specificity.

Grounds for appeal:

1. The District has not demonstrated a documented good-faith search (custodians contacted; systems/locations searched incl. email archives, contract repositories, legal/litigation files, school-level and off-site storage; and search terms/timeframes used).
2. Responsive records are reasonably expected in: Office of General Counsel; Procurement/Contracts; Office of Research & Evaluation; School Climate/Special Education; Records Management/Archives; Communications/Media; M. Hall Stanton site files and supervising regional office.

3. If records were destroyed, please require production of applicable retention schedules, destruction logs, and any litigation hold notices referencing Stanton/HBO/Video Verité. For Item 2(b) (records identifying...[the Requester]), please require a name/DOB-based search across student/consent/legal/media repositories.

The plain language of the appeal submission does not challenge the District's grounds for denial of Item 3 of the Request. Because the Requester's submission fails to challenge the District's denial of Item 3 of the Request in accordance with requirements of Section 1101(a), to the extent the Requester sought to appeal all reasons for denial, the appeal as to the District's reason for denying Item 3 is insufficient. *See* 65 P.S. 67.1101(a)(1); see also, e.g., *El-Amin v. Pa. Dep't of Ins.*, OOR Dkt. AP 2023-2274, 2023 PA O.O.R.D. LEXIS 2379.

2. The District demonstrated that it does not possess public records responsive to Item 1(a), Item 1(c) or Item 2 of the Request

The District argues that it does not possess records responsive to 1(a), Item 1(c) or Item 2 of the Request.² The Requester argues that the District "has not demonstrated a documented good-faith search" and that responsive records should exist within various District departments.

In response to a request for records, "an agency shall make a good faith effort to determine if...the agency has possession, custody or control of the record[.]" 65 P.S. § 67.901. While the RTKL does not define the term "good faith effort," in *Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession... When records are not in an agency's physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors... After obtaining potentially responsive records, an agency has the duty to review the records and assess their public nature under...the RTKL.

² Item 1(b) of the Request will be discussed in a separate section below.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff'd*, 243 A.3d 19 (Pa. 2020).

An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency's records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep't of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

In support of the District's position, the Martinez Attestation states:

3. ...I was responsible for completing the search for records responsive to the Request. The search included contacting various District offices that may have had possession, custody or control of records regarding the HBO Documentary [identified in the Request,] as well as documents related to what the Request[] refers to as the "Stanton Pilot Program" and "M. Hall Stanton Elementary School behavioral classroom" at M. Hall Stanton Elementary School.
4. The...District offices that I contacted for potentially responsive records were the Office of General Counsel [{"OGC"}] - Transactional Unit, the Office of Student Enrollment and Placement, the Office of Management and Budget, the Office of Special Education and Diverse Learners, the Office of Records Management, the Office of Employee Records, and the Office of Communications.
5. Based on the conversations I had with representatives of each of the School District Offices listed in paragraph four...regarding the searches they performed for responsive records, I determined that any potentially responsive records that are considered public under the RTKL do not exist....
7. ...Through my consultation with employees in OGC's Transactional Unit, which handles all matters related to drafting and executing contracts and licensing agreements between the...District and third parties, I learned that if any records exist electronically or on-site they would be stored in the following locations:
 - a. Oracle online contract management cloud;
 - b. Filing cabinets in the file room in OGC where physical records are stored by type and alphabetically;
 - c. Google shared drive; and
 - d. "L drive" - a network shared drive used by OGC's individual employees to save their own work and documents.

8. I searched OGC's filing cabinets for contracts and/or licensing agreements between the...District and "HBO", "Video Verite" and "Alan Raymond"...and found that no records existed.
9. Additionally, I performed a search using key phrases "HBO", "Video Verite" and "Alan Raymond" in Oracle, the...District's online contract management system, and found that no responsive contracts or licensing agreements exist.
10. I also requested a paralegal in the Transaction Unit to search the "L" drive and the Google shared drive...using keyword phrases "Video Verite", "Alan Raymond", "Home Box Office" and "HBO." This search did not render any records responsive to Item 2(b).
11. The transactional unit also maintains record retention logs which indicate if a record was stored in offsite storage and/or destroyed pursuant to the retention schedule. I searched the retention logs for the [same] phrases...but did not find any related entries.
12. Lastly, I performed a search of OGC's physical BOE meeting minute books from 1990-1995 for mention of the key phrases "Video Verite", "Alan Raymond", "Home Box Office", "HBO", and "Stanton" and I did not find any entries that were potentially responsive to any Item of the Request.

See Martinez Attestation, ¶¶ 3-5, 7-12. In further support of the District's position the Northam Attestation affirms that the "[t]he Office of Communications has not created any new physical records since at least 2019..." that a search of both electronic and physical documents was conducted, and that no records responsive to the Request were located. *See* Northam Attestation, ¶¶ 6-10. Similarly, the Griffin Attestation describes the search conducted by the District's Office of Management and Budget ("Budget Department") of both its electronic and physical files and affirms that the search did not yield any responsive records. *See* Griffin Attestation, ¶¶ 5-9. The Griffin Attestation also affirms that "Budget Department adheres to...Policy and Procedure 800...regarding record retention and associated retention schedules..., which requires financial records such as budgets to be maintained for the fiscal year plus seven...years[.]" and that "that the date of the requested records was outside of the [applicable] record retention period.... *See* Griffin Attestation, ¶¶ 4-5; District Exhibits A-C. Additionally, the Rambo Attestation affirms

that the “District’s Office of Employee Records adheres to...Policy 324...regarding personnel record retention and associated retention schedules[,]...which requires employee personnel records to be maintained for ninety-nine years[,]” and that the search conducted by the Office of Employee Records did not render any responsive records. *See Rambo Attestation*, ¶¶ 4-8; City Exhibits C-D. Finally, the Neree Attestation states:

5. ...The...District’s Special Education Department adheres to...Policy and Procedure 800...regarding record retention and associated retention schedules..., which designates elementary school student records to be archived after a student reaches twenty-one...years of age.
6. ...I performed a search of the Special Education Department’s records for documents that were potentially responsive to Items 1(b) and 2(b) of the Request despite that the Requester is over twenty-one...years old.
7. I reasonably interpreted the Requester’s reference to “behavioral classrooms” to mean classrooms that were designated for students who required behavioral/ and or emotional support in the classroom as part of their Individual Education Plans (IEP). Otherwise, the School District does not classify any of its classrooms as “behavioral classrooms.”³
8. My search for records responsive to Items 1(b) and 2(b) included a review of the locations where the Special Education Department presently stores individual students’ electronic records as follows:
 - a. Easy IEP - record management software for student IEP with records dating back to the 2006/2007 school year,
 - b. The Student Information System (SIS) which contains student records for all School District students dating back to the 2004/2005 school year, and
 - c. Google share drive.
9. If any responsive records existed within my department they would be in the locations identified...above.
10. My search for student placement records, rosters, and consent forms was limited to the Requester’s name...because no other student names were provided in the Request that would guide a search for other placement records or rosters.

³ Based on a plain reading of the Request, the District’s interpretation is reasonable. *See Mezzacappa v. Northampton Cnty. Dist. Att’y’s Off.*, OOR Dkt. AP 2022-2584, 2023 PA O.O.R.D. LEXIS 80; *see also Dunbar v. Pa. Off. of Att’y Gen.*, No. 670 C.D. 2023, 2024 Pa. Commw. Unpub. LEXIS 494, *8 (Pa. Commw. Ct. 2024) (the OOR determines the reasonableness of the agency’s interpretation from the text and context of the request alone).

11. My search of Easy IEP and the SIS did not render any records that were potentially responsive to Items 1(b) and 2(b) of the Request.
12. Additionally, I searched the keyword phrases “behavioral classrooms”, “M. Stanton Hall Pilot Program” and “Andrei Khalil Anderson” in the Special Education Department’s shared google drive and was unable to locate any responsive records....

See Neree Attestation, ¶¶ 5-12.⁴

Under the RTKL, a sworn affidavit or statement made under the penalty of perjury may serve as sufficient evidentiary support. 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 evidence that the District acted in bad faith or that [the requested] records exist, “the averments in [the statements] 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. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

Here, the attestations provided by the District are authored by District personnel who have knowledge of applicable department files and of the District’s records retention policies and procedures, and who each conducted searches for records responsive to Item 1 or Item 2 of the Request. See Martinez Attestation, ¶¶ 1-3; Northam Attestation, ¶¶ 5, 9-10; Griffin Attestation, ¶¶ 4-5; Rambo Attestation, ¶¶ 4-5; Neree Attestation, ¶¶ 5-6. The District’s attestations each describe in detail the searches conducted of both electronic and physical records currently retained by the District and each attestation affirms that the respective searches did not yield responsive

⁴ The Neree Attestation also affirms that “[a]ny archived student records would be limited to an individual student’s transcripts, IEP, and pupil pocket which are considered private under...[FERPA.]” and that the “District provides alumni/former students with a private right of access to their individual education record if a [r]equest is made directly to the Office of Records Management.” See Neree Attestation, ¶¶ 14-15; 20 U.S.C. § 1232g, *et seq.*; <https://www.philasd.org/studentrecords/#recordrequest> (last accessed September 25, 2025); <https://philasd.scriborder.com/application> (last accessed September 25, 2025). The applicability of FERPA to certain responsive records will be discussed in the following section.

public records. *See* Martinez Attestation, ¶¶ 3-12; Northam Attestation, ¶¶ 6-10; Griffin Attestation, ¶¶ 5-8; Rambo Attestation, ¶¶ 5-8; Neree Attestation, ¶¶ 6-13. Moreover, despite the Requester's challenge to the sufficiency of the District's search no evidence has been presented to contradict the District's evidence or to show that public records responsive to the Request do, in fact, exist. Rather, the Requester argues that responsive documents should exist, and the OOR makes no determinations as to whether records should exist, only whether records are "in existence and in possession of the...agency at the time of the right-to-know request." *Moore*, 992 A.2d at 909; *see also* 65 P.S. § 67.705.

Accordingly, based on the evidence presented, the District has demonstrated that no records responsive to 1(a), Item 1(c) or Item 2 of the Request exist within its possession, custody or control. *See Hodges*, 29 A.3d at 1192; *see also Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a "more likely than not" inquiry).

3. Records responsive to Item 1(b) of the Request are not protected by FERPA

The District argues that the archived transcripts, IEP records, and pupil pockets responsive to Item 1(b) of the Request are exempt from public disclosure pursuant to FERPA, 20 U.S.C. § 1232g, *et seq*, which safeguards "personally identifiable information" contained in "education records" from disclosure, and financially penalizes school districts that have "a policy or practice of permitting the release of education records...of students without the written consent" of either the student if the student is over eighteen or their parents if the student is a minor⁵ *See* 65 P.S. § 67.102 (public records do not include records made confidential under other state or federal law).

⁵ 20 U.S.C. § 1232g(b)(1), (b)(7)(B)(d)

The District also argues that it “cannot provide redacted versions of these records because on the face of the Request, the Requester identifies the student (himself) who is the subject of the records.”

Regulations implementing FERPA define “education records” as those records that are “[d]irectly related to a student” and are “[m]aintained⁶ by an educational agency or institution or by a party acting for the agency or institution.”⁷ 34 C.F.R. § 99.3. While the express language of FERPA’s implementing regulation would appear to encompass all records held by an educational institution pertaining to a student, a review of case law interpreting FERPA reveals that not all of these records constitute “education records” as defined by FERPA. Just because a record involves a student does not automatically implicate the confidentiality provisions of FERPA. *See Bockis v. Agora Cyber Charter Sch.*, OOR Dkt. AP 2016-0845, 2016 PA O.O.R.D. LEXIS 848; *Newhouse v. Manheim Twp. Sch. Dist.*, OOR Dkt. AP 2016-0541, 2016 PA O.O.R.D. LEXIS 759.

Here, the plain language of the Request seeks records of the District, including records pertaining to the Requester who is identified by name and birth date in the Request. Thus, the Request facially seeks records in the School District’s possession, which are related to an identified former student. *See Fennell v. Pa. Game Comm’n*, 149 A.3d 101, 104 (Pa. Commw. Ct. 2016) (“...[W]here the facts are undisputed by the parties...we see no reason why OOR cannot decide the legal issue presented based on those undisputed facts”). Additionally, the Neree Attestation affirms that “[a]ny archived student records [currently in existence] would be limited

⁶ The Pennsylvania Supreme Court has concluded that a record being “generated and possessed” by the educational agency or institution is sufficient to establish that the record was “maintained” by the agency or institution. *See Miller*, 232 A.3d at 730.

⁷ In this instance, it is undisputed that the responsive records are “maintained by an educational agency.” 34 C.F.R. § 99.3.

to an individual student's transcripts, IEP, and pupil pocket[,]” which is the term used by the District for an individual student's file. See Neree Attestation, ¶ 14. In its position statement, the District explains that ““Pupil Pockets of students who have graduated or dropped one year prior to the current date and included: Application to attend school, Medical Records (MEH-3), SEH-6 (or on-line equivalent), Class Records (EH-7), Attendance /Roll Sheet (CEH-14), Grades (including final year, High School Transcript if applicable), Disciplinary Records (EH-31 - Serious Incident Report), Copy of Birth Certificate, Copy of Custodial Delegation Notice, Standardized Test Scores, including SAT if available.”” See District position statement, pp. 8-9; <https://www.philasd.org/studentrecords/wp-content/uploads/sites/28/2021/04/Records-Center-Users-Guide-02.20.2021-PDF.pdf> (last accessed September 25, 2025). Therefore, based on the plain language of the Request and the evidence provided by the District, the records responsive to Item 1(b) of the Request are education records under FERPA.

However, not all education records are automatically exempt from disclosure under FERPA. In *West Chester University of Pennsylvania v. Rodriguez*, the Commonwealth Court held that “[d]isclosure of a student's own education records upon that student's written request (such as in a RTKL request) is not prohibited by FERPA, and such records, are, thus, not exempt from RTKL disclosure.” 216 A.3d 503, 511 n.9 (Pa. Commw. Ct. 2019); see also 65 P.S. § 67.3101.1.⁸ Accordingly because the Requester is seeking their own student records the responsive transcript, IEP, and pupil pocket are not protected by FERPA and, thus, in this case, the District must provide the records to the Requester.

⁸ Section 3101.1 of the RTKL provides “[i]f the provisions of [the RTKL] regarding access to records conflict with any other federal or state law, the provisions of this act shall not apply.” 65 P.S. § 67.3101.1; see also *Pa. Dep't of Labor & Indus. v. Heltzel*, 90 A.3d 823, 832- 33 (analyzing the interrelation between statutes establishing the public nature of records and access to those records and the RTKL regarding records that may be accessed through a federal law).

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and, within thirty days, the District must provide the responsive transcript, IEP, and pupil pocket to the Requester. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Philadelphia 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 65 P.S. § 67.1303, but 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.⁹ All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 1, 2025

/s/ Erika Similo

APPEALS OFFICER
ERIKA SIMILO

Sent via OOR portal to: Andrei Khalil Anderson
 Sarah Martinez, Esq.

⁹ *Padgett*, 73 A.3d at 648 n.5.