



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

:

**STACEY ADAMS,
Requester**

:

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:

:

v.

: Docket No: AP 2026-1348

:

**ELIZABETH FORWARD SCHOOL
DISTRICT,
Respondent**

:

:

:

FACTUAL BACKGROUND

On February 24, 2026, Stacey Adams (“Requester”) submitted a request (“Request”) to the Elizabeth Forward School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating:

Pursuant to the [RTKL], I respectfully request copies of:

All emails, text messages (including SMS, iMessage, or other messaging platforms used for [D]istrict business), and attachments sent or received between February 1, 2023 and April 30, 2023 by:

- Dr. Trisha Martell
- Dr. Mary Carole Perry
- Ms. Crista Scalfari

[T]hat reference or relate to attendance at the World of Work Conference in San Diego, California in March 2023.

This [R]equest includes, but is not limited to, communications regarding:

- Travel arrangements
- Conference attendance
- Hotel accommodations

- Airfare
- Registration
- Meetings scheduled during the trip
- District approval or funding

This [R]equest includes communications maintained on [D]istrict-issued devices, [D]istrict email accounts, and any personal devices or accounts used to conduct [D]istrict business, to the extent such records are within the possession, custody, or control of the [D]istrict.

On April 1, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the District granted the Request in part, providing responsive records,¹ and denied the Request in part, asserting that there are no additional records responsive to the portion of the Request seeking text messages and that the portion of the Request that “relate[s] to attendance at the World of Work Conference” is insufficiently specific. 65 P.S. § 67.703.

On April 6, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.² The Requester argues, in summation, that “the District’s response [is] incomplete, non-responsive, and the result of a search not reasonably calculated to locate all responsive records” and that “assertion of insufficient specificity is therefore not supported.” 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 April 16, 2026, the District submitted a position statement, asserting that it has met its burden of proof that its search was sufficient with respect to potentially responsive records possessed by third parties and with respect to District records. The District further argues that the portion of the Request using the terms “relates” is non-specific, and the phrase “includes, but is

¹ The records provided by the District were included with the appeal.

² The Requester granted the OOR a 30-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

not limited to” is overly broad. In support of its position, the District submitted the attestation, made subject to the penalties of 18 Pa.C.S. § 4904, of Joshua Kutscher (“Kutscher Attestation”), Assistant to the Director of Finance & Operations and Open Records Officer (“AORO”) for the District.

On April 16, 2026, the Requester submitted a rebuttal to the District’s submission, arguing, in essence, that the District did not conduct a good faith search and failed to provide all records responsive to the Request.³

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)).

The District asserts that it conducted a good faith search and that no additional records responsive to the Request exist in the District’s possession, custody or control. 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 identified record[.]” 65 P.S. § 67.901. While the RTKL does

³ Notably, the Requester does not address the District’s specificity argument. *See Pa. Dep’t of Corr. v. Office of Open Records*, 18 A.3d 429 (Pa. Commw. Ct. 2011) (issues not raised on appeal are waived).

not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pennsylvania Department of Corrections*, 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 all potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

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 argument that there are no additional records responsive to the Request, the Kutscher Attestation provides:

1. I am competent to make this statement and am personally acquainted with the above request for records.
2. I am the [AORO] for the [District] and am responsible for responding to [RTK] requests filed with the [] District.

[...]

5. Upon receipt of the Request, I began to conduct a search for responsive records. I conducted a search of records in the possession, custody and control of the [District] and inquired with relevant third-parties, including Dr. Trisha Martell, Dr. Mary Carole Perry and Ms. Crista Scalfari.
6. Specifically, I provided the identified individuals with a copy of the Request and directed them to provide to me any responsive records. I did not receive any additional records from them.

[...]

8. My search was thorough and involved the following:

- a. Email searches sent and received by the three (3) identified individuals between February 1, 2023 and April 30, 2023 using the following terms: “World of Work[” and] “WoW”[.]
 - b. Attachment searches utilizing the same terms for the person and time period identified in the Request[.]
 - c. Internal messaging sources available on District-produced computers using the same terms.
 - d. Sharing the Request with Dr. Trisha Martell, Dr. Mary Carole Perry and Ms. Crista Scalfari as persons who may possess responsive records, especially text messages, direct messages, and other personal forms of communication not in the possession of the [] District.
 - e. I specifically asked the individuals identified above to review the Request and to provide me with any potentially responsive records.
 - f. No additional records were produced.
9. As a matter of good faith, the search terms that I utilized were reasonable and tailored to the Request.
 10. All known District sources for responsive records were searched in connection with this Request.
 11. Responsive and complete records for each individual were produced, inclusive of attachments.
 12. I am unaware of any additional District data source or resource that may house any additional responsive or potentially responsive records.
 13. To the extent that the named individuals could possibly possess additional records, I shared the [R]equest with each of them and no additional records were produced.
 14. No other records responsive to this [R]equest were located during the good faith search I conducted as part of my duties.

Under the RTKL, a sworn 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 has acted in bad faith or that additional records exist, “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. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

In this matter, the District has provided the Kutscher Attestation, authored by its Assistant to the Director of Finance & Operations and AORO, who is responsible for responding to RTKL requests filed with the District and is personally acquainted with the Request. Kutscher Attestation, ¶¶ 1-3. Mr. Kutscher describes his search for responsive records, including inquiring with the individuals named in the Request. *Id.* at ¶¶ 5, 8(a-f). Finally, Mr. Kutscher searched all known District sources for responsive records and is “unaware of any additional District data source or resource that may house any additional responsive or potentially responsive records.” *Id.* at ¶ 12.

In *Pa. Dep’t of Health v. Mahon*, the Commonwealth Court opined that an agency “may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record.” *Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011)). We note that the preponderance of the evidence is the lowest evidentiary standard. *See 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). The Requester argues that additional records should exist, but she does not present any evidence that additional records responsive to this specific Request do, in fact, exist.⁴ Based on the Kutscher Attestation, the District has met its burden of proof, by a preponderance of the evidence, that no additional records exist that are responsive to the Request.⁵ *Hodges*, 29 A.3d at 1192.

⁴ Despite the Requester’s arguments that additional records must exist, the OOR makes no determinations as to whether additional records should exist, as our inquiry is limited to only whether or not 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.

⁵ Because the District demonstrated that it conducted a good faith search and that there are no additional records responsive to the Request, the OOR need not reach the District’s alternative grounds for denying access. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

CONCLUSION

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 to the Allegheny 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.⁶ 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: June 3, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via OOR e-file portal to: Stacey Adams; Joshua Kutscher, AORO; Megan Turnbull, Es.

⁶ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).