

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
KELLY HABBYSHAW,	:	
Requester	:	
	:	
v.	:	Docket No: AP 2026-2986
	:	
REYNOLDS SCHOOL DISTRICT,	:	
Respondent	:	

FACTUAL BACKGROUND

On July 17, 2026, Kelly Habbyshaw (“Requester”) submitted a request (“Request”) to the Reynolds School District (“District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

1. Any and all public records, including but not limited to: email communications, IT Dept service tickets, administrative directives, or webmaster configuration logs, detailing or confirming the implementation, setup, or activation of the user login/authentication screen on the District’s Board docs portal. This request explicitly includes the automated digital systems metadata, server logs, or date/time stamps tracking exactly when this login barrier was applied.¹

On July 20, 2026, the District partially denied the Request, arguing that no records exist that are responsive to Item 1 of the Request.

¹ Based on the appeal statement, the Requester is only challenging the District’s response to Item 1 of the Request. Consequently, the District’s response and provision of records for Items 2 and 3 of the Request will not be addressed in this Final Determination.

On July 22, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the District’s denial of Item 1 of the Request, stating grounds for disclosure.² 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 August 5, 2026,³ the District submitted an unsworn statement authored by Raymond Ormer, the District Superintendent, explaining the steps taken by the District to cancel the July 15, 2026 Board of Directors meeting. The statement included copies of records provided in response to Items 2 and 3 of the Request with the District’s July 20, 2026 final response.

The Requester provided several submissions in support of the claim that the District did not conduct a good faith search in regards to Item 1, and that records should exist.⁴

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. Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). 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).

The District denied Item 1, asserting that no responsive records exist. In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has

² On August 10, 2026, the Requester granted the OOR an extension to issue a final determination until September 2, 2026. *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).”).

³ On August 4, 2026, the OOR extended the evidentiary record closing date for all parties until August 7, 2026. *See* 65 P.S. § 1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute”).

⁴ *See* Habbyslaw Attestation made pursuant to 18 Pa.C.S. § 4904, July 27, 2026; Habbyslaw Attestation, August 4, 2026; Habbyslaw Response, August 5, 2026.

possession, custody or control of the identified 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 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 this matter, the District had not made a submission in response to the appeal, until the OOR sought clarification regarding whether it intended to participate in the proceedings. In response to the OOR’s inquiry, the District submitted an unsworn statement that failed to address whether a search for records responsive to Item 1 occurred and failed to provide evidence to support the claim that no responsive records exist. An “unsworn position statement does not constitute evidence.” *Office of the Governor v. Davis*, 122 A.3d 1185, 1193-94 (Pa. Commw. Ct. 2015) (*en banc*); *Highmark Inc. v. Voltz*, 163 A.3d 485, 491 (Pa. Commw. Ct. 2017) (*en banc*) (establishing that it is a party’s burden to submit sufficient evidence, not the OOR’s to retrieve it). Accordingly, the District did not meet its burden of proof under the RTKL that no records

responsive to Item 1 of the Request exist, and therefore, the appeal is granted. 65 P.S. § 67.305; *Hodges*, 29 A.3d at 1192.

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the District is required to conduct a good faith search for records responsive to Item 1 of the Request and provide all responsive records within thirty days. If no responsive records exist, the District is required to provide the Requester with a detailed affidavit or attestation made under the penalty of perjury describing the search for responsive records and affirming their non-existence. 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 Mercer 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.⁵ 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: August 28, 2026

/s/ Kelly C. Isenberg

KELLY C. ISENBERG, ESQ.
DEPUTY CHIEF COUNSEL

Sent via OOR E-file Portal to: Kelly Habbyshaw; Raymond Omer; Beverly Morrison, AORO;
Rose Lyons, AORO

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