



FINAL DETERMINATION

IN THE MATTER OF

**VICTOR PEREZ,
Requester**

v.

**READING PARKING AUTHORITY,
Respondent**

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Docket No: AP 2026-3475

On July 17, 2026, Victor Perez (“Requester”) submitted a request (“Request”) to the Reading Parking Authority (“Authority”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records relating to the individual serving as the Authority’s hearing officer. On or about August 12, 2026, after extending its time to respond by thirty days, *see* 65 P.S. § 67.902(b), the Authority granted the Request and provided records to the Requester.

On August 21, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the sufficiency of the Authority’s search for records and the completeness of the documents provided. The OOR invited both parties to supplement the record and directed the Authority to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

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 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).

On September 3, 2026, the Authority submitted an attestation, made subject to the penalties set forth in 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), from Deliaris Troche (“Troche Attestation”), “an employee of the ... Authority,” who attests, in relevant part, as follows:

The [Request] ... was sent to me by Mahlon J. Boyer, Esq., the ... Authority’s Open Records Officer. In response, I conducted a search of available records.

I was able to locate an Independent Contractor Agreement and a resume in regard to the request. I sent these responsive documents to Mr. Boyer.

My search for records included all available records in the possession of the ... Authority in regard to its hearing officers.

Troche Attestation, ¶¶ 2-4. Conversely, the Requester argues that the records provided failed to respond to portions of the Request, including, among other things, when the former hearing officer’s (Luis A. Suero) service ended, records reflecting his replacement and the transition to the

current hearing officer (Miguel Vargas), records reflecting Authority's formal appointment of the hearing officer, and records demonstrating the qualifications and eligibility of these individuals to serve as a hearing officer for the Authority.

Although the Authority provided some records responsive to the Request, as noted by the Requester in the statement submitted with his appeal, and more generally in his subsequent submissions into the evidentiary record, the records provided, as well as the Authority's evidence, fail to explain why the Authority did not respond to portions of the Request. Additionally, the Troche Attestation is not authored by the Authority's Open Records Officer and does not affirm that Deliaris Troche is the custodian of the Authority's records or confirm that they have personal knowledge of the records sought in the Request. Furthermore, the Troche Attestation does not describe the areas or files searched but, instead, generally states that the search for records "included all available records in the possession of" the Authority. *See Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) ("a generic determination or conclusory statements are not sufficient to" meet the agency's burden of proof). Finally, while the Troche Attestation explains that Open Records Officer Boyer sent the Request to Deliaris Troche to search for records, no evidence has been presented to show that Open Records Officer Boyer participated in the search or that any other representatives of the Authority were contacted about the Request. Accordingly, based upon the evidence presented, the Authority has failed to meet its burden of proving that it searched for and provided the Requester with all records responsive within the Authority's possession, custody or control. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011); *Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency must prove the nonexistence of records by a

preponderance of the evidence, the lowest evidentiary standard, which is tantamount to a “more likely than not” inquiry).

For the foregoing reasons, the appeal is **granted**, and the Authority is required to conduct a good faith search and provide any responsive records located during the search to the Requester within thirty days. In the alternative, the Authority may provide the Requester with a more detailed sworn affidavit or statement made under the penalty of perjury describing its search for records and demonstrating that no additional responsive records exist.. 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 Berks 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.¹ 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 website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: 14 September 2026

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Victor Perez; Mahlon J. Boyer, Esq., AORO

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).