



FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
LYNANN ELLER,	:	
Requester	:	
	:	
v.	:	Docket No: AP 2026-4118
	:	(Consolidated with OOR Dkts.
NORTH STAR SCHOOL DISTRICT,	:	AP 2026-4119 and AP 2026-4120)
Respondent	:	

On August 31, 2026, Lynann Eller (“Requester”) submitted three separate requests (collectively, the “Requests”) to the North Star School District (“School District”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking, among other items, records regarding the School District’s special education plans and its associating steering committee, records concerning the Somerset County Children and Youth Services and its representatives, and their relationship with the School District. On September 24, 2026, after extending its time to respond by thirty days, *see* 65 P.S. § 67.902(b), the School District partially denied the Requests, providing the Requester with various responsive records and stating that records responsive to the remainder of the Requests do not exist within the School District’s possession, custody or control.

Also on September 24, 2026, the Requester filed three appeals with the Office of Open Records (“OOR”), challenging the sufficiency of the School District’s search for records and the

completeness of its production.¹ The OOR invited both parties to supplement the record and directed the School District to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On October 2, 2026, the School District submitted position statements and three separate attestations, made subject to the penalties set forth in 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), from Nina Miller (“Miller Attestations”), the School District’s Open Records Officer. The School District also provided the Requester with additional responsive records during the appeal.²

On the same day, the Requester made various unsworn submissions, essentially reiterating that the School District has failed to prove that it conducted a good faith search for records because (1) the School District does not identify the physical and electronic files searched, (2) does not identify the records custodians and relevant staff who were contacted about the Requests and assisted with the search for records, and (3) the fact that additional responsive records were located during the appeal suggests that the search was not reasonably calculated to locate all responsive records.

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

¹ The appeals were docketed as OOR Dkts. AP 2026-4118 through AP 2026-4120. Because they involve the same parties and similar issues, the appeals are hereby consolidated into the appeal docketed as OOR Dkt. AP 2026-4118.

² Insofar as the appeal pertains to the records provided with the School District’s submissions, the appeal is dismissed as moot. *See*

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).

Here, the Miller Attestations affirm that Open Records Officer Miller, who has personal knowledge of the Requests and the records of the School District, conducted a search of physical and electronic records of the School District, along with the assistance of School District staff, and determined that, other than the records provided to the Requester in response to the Requests and during the appeal, no additional records responsive to the Requests exist within the School District's possession, custody or control. Miller Attestations, ¶¶ 1-3.³ The Miller Attestations further affirm and explain how and why additional records were secured during the course of the appeal and provided to the Requester. Miller Attestations, ¶ 3.

The Requester argues that the Miller Attestations are too general and, thus, preclude us from finding that the School District conducted a good faith search for records. However, the Requester's submissions are unsworn and cannot be considered competent evidence and, conversely, the Miller Attestations were prepared and executed by Ms. Miller, who as Open

³ Under the RTKL, a 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 School District has acted in bad faith or that additional responsive records exist, "the averments in [the Miller Attestations] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. 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)).

Records Officer, is an authorized custodian of the School District's records. Furthermore, the evidentiary record of the consolidated appeal, as well as the Miller Attestations, demonstrate that Open Records Officer Miller, with the assistance of other School District staff, conducted multiple searches with respect to the Requests and provided any responsive records located during the searches to the Requester. While the School District's evidence lacked some detail, without competent evidence to undermine the veracity of the Miller Attestations, the OOR finds them to be credible. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that, in the absence of countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true). Therefore, based on the evidence provided, the School District has met its burden of proving that no additional records responsive to the Requests exist within the School District's possession, custody or control. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011); *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, which is tantamount to a "more likely than not" inquiry).

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the School 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 Somerset 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.⁴ 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: 5 October 2026

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Lynann Eller;
 Ronald Repak, Esq. and Nina Miller, AORO

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).