

## **FINAL DETERMINATION**

DATE ISSUED AND MAILED: October 7, 2026

IN RE: *Matthew Posey v. Lower Merion School District*, OOR Dkt. AP 2026-4035

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the parties’ submissions, the appeal is **DENIED** because:

**The records do not exist.** On October 1, 2026, the Lower Merion School District (“District”) submitted a statement made under the penalty of perjury from Dr. Kerry Sautner, the President of the School Board of Directors for the District, who attests that she never received any further contact from “LMSD Parent” in response to her May 10, 2026, email, and she neither sent nor received any further calls, texts, emails or messages of any kind referencing or regarding the email thread. *See* Sautner Attestation, ¶ 9(a)-(h). Based upon this evidence, the District has demonstrated responsive records do not exist, and it is not required to create a record. 65 P.S. § 67.705; *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For this reason, the District is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Montgomery 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.<sup>1</sup> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

*/s/ Meryl M. Peterman*

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MERYL M. PETERMAN, ESQ.  
APPEALS OFFICER

Sent via portal to: Matthew Posey  
Bethany O’Neill, Esq.  
Ruth Novak, AORO

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