



FINAL DETERMINATION

DATE ISSUED AND MAILED: October 29, 2026

IN RE: *Allison Rapoport v. Pa. Dep't of Revenue*, OOR Dkt. AP 2026-4597

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 28, 2026, the Pennsylvania Department of Revenue (“Department”) submitted an attestation, made under the penalty of perjury, from Eric Veronikis (“Veronikis Attestation”), the Department’s Deputy Open Records Officer, who attests that a search was conducted and that no responsive records exist in the Department’s possession, custody and control. Veronikis Attestation, ¶¶ 11-12. More specifically, the Veronikis Attestation explains that Deputy Open Records Officer Veronikis contacted relevant Department staff for responsive records, who searched for and provided any potentially responsive records to Department Counsel, who determined that they were not, in fact, responsive to the Request.¹ *Id.* at ¶¶ 6-9, 11. Based upon this evidence, the Department has demonstrated that it conducted a good faith search for the requested records as required by 65 P.S. § 67.901 and did not locate any records responsive to the Request; therefore, the Department has met its burden of proving that it does not possess responsive records. *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 this reason, the Department 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 Commonwealth Court. 65 P.S. § 67.1301(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. 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>.

Issued by:

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Allison Rapoport;
Aaron D. Rosengarten, Esq.; Eric Veronikis, Deputy AORO

¹ Although the Requester generally argues that the Department has not submitted sufficient evidence to confirm whether the records excluded from production fall outside the scope of the Request, the Requester’s unsworn submission does not present sufficient competent evidence to undermine the Veronikis Attestation. *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).