



State of New Jersey  
GOVERNMENT RECORDS COUNCIL

101 SOUTH BROAD STREET  
PO BOX 819  
TRENTON, NJ 08625-0819

CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

RICHARD E. CONSTABLE, III  
Commissioner

**FINAL DECISION**

**July 31, 2012 Government Records Council Meeting**

Sabino Valdes  
Complainant  
v.

Complaint No. 2011-147, 2011-157,  
2011-172 & 2011-181

Union City Board of Education (Hudson)  
Custodian of Record

At the July 31, 2012 public meeting, the Government Records Council (“Council”) considered the July 24, 2012 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that because the Complainant’s four (4) requests for minutes “that include a motion made by the Union City Board of Education to approve the minutes ...” from other meetings fail to identify the specific dates of the minutes sought and would require the Custodian to conduct research in order to locate the responsive records, the Complainant’s requests are invalid under OPRA. MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007), Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009), and Donato v. Township of Union, GRC Complaint No. 2005-182 (February 2007). See also Taylor v. Cherry Hill Board of Education (Camden), GRC Complaint No. 2008-258 (August 2009), and Ray v. Freedom Academy Charter School (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the  
Government Records Council  
On The 31<sup>st</sup> Day of July, 2012

Robin Berg Tabakin, Chair  
Government Records Council



I attest the foregoing is a true and accurate record of the Government Records Council.

Denise Parkinson Vetti, Secretary  
Government Records Council

**Decision Distribution Date: August 6, 2012**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
July 31, 2012 Council Meeting**

**Sabino Valdes<sup>1</sup>  
Complainant**

**GRC Complaint No. 2011-147, 2011-157,  
2011-172 & 2011-181<sup>2</sup>**

v.

**Union City Board of Education (Hudson)<sup>3</sup>  
Custodian of Records**

**Records Relevant to Complaint:**

1. Copy of the minutes that include the motion made by the Union City Board of Education (“UCBOE”) to approve the minutes from its special meeting held on June 13, 2000.<sup>4</sup>
2. Copy of the minutes that include the motion made by the UCBOE to approve the minutes from its special meeting held on July 1, 2003.<sup>5</sup>
3. Copy of the minutes that include the motion made by the UCBOE to approve the minutes from its regular meeting held on October 30, 2003.<sup>6</sup>
4. Copy of the minutes that include the motion made by the UCBOE to approve the minutes from its regular meeting held on December 18, 2003.<sup>7</sup>

**Request Made:** April 15, 2011

**Response Made:** April 29, 2011

**Custodian:** Anthony Dragona

**GRC Complaint Filed:** May 2, 2011, May 10, 2011, May 13, 2011 and May 25, 2011<sup>8</sup>

**Background**

**April 15, 2011**

Complainant’s four (4) Open Public Records Act (“OPRA”) requests. The Complainant requests the records relevant to this complaint listed above on four (4) official OPRA request forms.

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Due to the commonality of the parties and the issues herein, the GRC has consolidated these complaints for adjudication.

<sup>3</sup> Represented by Susan Lavelle, Esq. (Union City, NJ).

<sup>4</sup> This request is the subject of GRC Complaint No. 2011-157.

<sup>5</sup> This request is the subject of GRC Complaint No. 2011-181.

<sup>6</sup> This request is the subject of GRC Complaint No. 2011-147.

<sup>7</sup> This request is the subject of GRC Complaint No. 2011-172.

<sup>8</sup> The GRC received these Denial of Access Complaints on said date respectively.

### **April 15, 2011**

Letter from the Custodian's Counsel to the Complainant. Counsel states that because the UCBOE is closed on April 21, 2011, April 22, 2011 and April 25, 2011, the seven (7) business day time frame to respond to the Complainant's OPRA request expires on April 29, 2011.

### **April 29, 2011**

Custodian's response to the four (4) OPRA requests. The Custodian responds in writing via letter to the Complainant's OPRA request on the seventh (7<sup>th</sup>) business day following receipt of such request. The Custodian states that the Complainant's requests are invalid because they do not identify a specific government record sought. The Custodian states that a valid OPRA request must identify with reasonable clarity the records sought. Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005). The Custodian states that custodians are not required to conduct research in order to respond to an OPRA request.

### **May 2, 2011**

Denial of Access Complaint for GRC Complaint No. 2011-147 filed with the Government Records Council ("GRC") with the following attachments:<sup>9</sup>

- Regular meeting minutes dated October 30, 2003.
- Executive meeting minutes dated October 30, 2003.
- Complainant's OPRA request dated April 15, 2011.
- Letter from the Custodian to the Complainant dated April 29, 2011.

The Complainant states that on April 15, 2011 he submitted an OPRA request seeking "the minutes that include the motion made by the [UCBOE] to approve the minutes from its regular meeting held on October 30, 2003." The Complainant states that the Custodian responded in writing on April 29, 2011 stating that the Complainant's OPRA request was invalid because it failed to identify the specific government record sought. *See Bent*.

The Complainant states that OPRA provides that "...government records shall be readily accessible for inspection, copying, or examination by the citizens of this State ..." N.J.S.A. 47:1A-1. The Complainant states that OPRA further defines government records as any record "...made, maintained or kept on file in the course of ... official business by any officer, commission, agency or authority of the State or of any political subdivision thereof ... or that has been received in the course of ... official business ..." N.J.S.A. 47:1A-1.1. The Complainant states that a custodian must respond to an OPRA request in writing within seven (7) business days granting access or denying access and stating the specific basis for said denial. N.J.S.A. 47:1A-5.g. and N.J.S.A. 47:1A-5.i. The Complainant further states that a public agency "... shall have the burden of proving that the denial of access is authorized by law." N.J.S.A. 47:1A-6.

The Complainant states that the requestor in Bent sought documents comprising of an "entire file" of his criminal investigation jointly conducted by several agencies. The

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<sup>9</sup> The Complainant attached additional records that are not relevant to the instant complaint. Sabino Valdes v. Union City Board of Education (Hudson), 2011-147, 2011-157, 2011-172 & 2011-181 – Findings and Recommendations of the Executive Director 2

Complainant states that plaintiff also sought “the factual basis ...” for the actions and advice given to third parties as part of the investigation. The Complainant states that in this regard, OPRA “... *is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records ‘readily accessible for inspection, copying, or examination.’ N.J.S.A. 47:1A-1.*” (Emphasis added.) MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). The Complainant further states that a custodian is not required “... to conduct research among its records ... and correlate data from various government records ...” *Id.* at 546-547. The Complainant states that in order for an OPRA request to be valid, the requestor must identify with reasonable clarity the record sought and not generally data, information or statistics.

The Complainant states that the Bent Court held that plaintiff’s request for information was invalid and that his request was an open-ended demand requiring analysis and evaluation. The Complainant contends that the request at issue here is not a request for information, data or statistics. The Complainant asserts that his request sought a specific government record: the minutes that included a motion to approve the UCBOE’s regular meeting minutes from October 30, 2003. The Complainant notes that public bodies routinely approve minutes at subsequent regular meetings; however, there is no law enforcing the approval of minutes. The Complainant asserts that the Custodian is required to record minutes in the minutes book pursuant to N.J.S.A. 18A:17-7; thus, he has the ability to locate the responsive record. The Complainant contends that his OPRA request does not require analysis or evaluation.

The Complainant states that in Parave-Fogg v. Lower Alloways Creek Township, GRC Complaint No. 2006-51 (August 2006), the Council held that the custodian did not unlawfully deny access to the requested minutes because same were not approved at the time of the OPRA request and thus constituted “inter-agency or intra-agency advisory, consultative, or deliberative material” pursuant to N.J.S.A. 47:1A-1.1. The Complainant contends that the Custodian should be able to certify if the UCBOE approved the October 30, 2003 regular meeting minutes and disclose the relevant minutes indicating such.

The Complainant contends that upholding the Custodian’s denial of access will allow him to further conceal records from the public. The Complainant asserts that the Custodian must (1) deny the Complainant’s OPRA request on the basis that the UCBOE never approved the October 30, 2003 minutes, or (2) disclose the minutes that contain the motion to include same.

The Complainant does not agree to mediate this complaint.

### **May 10, 2011**

Denial of Access Complaint for GRC Complaint No. 2011-157 filed with the GRC with the following attachments:<sup>10</sup>

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<sup>10</sup> The Complainant attached additional records that are not relevant to the instant complaint. Sabino Valdes v. Union City Board of Education (Hudson), 2011-147, 2011-157, 2011-172 & 2011-181 – Findings and Recommendations of the Executive Director 3

- Special meeting minutes dated June 13, 2000.
- Regular meeting minutes dated July 27, 2000.
- Complainant's OPRA request dated April 15, 2011.
- Letter from the Custodian to the Complainant dated April 29, 2011.

The Complainant states that on April 15, 2011 he submitted an OPRA request seeking "the minutes that include the motion made by the [UCBOE] to approve the minutes from its special meeting held on June 13, 2000." The Complainant states that the Custodian responded in writing on April 29, 2011 stating that the Complainant's OPRA request was invalid because it failed to identify the specific government record sought. *See Bent*.

The Complainant states that on March 3, 2011, the Custodian granted access to minutes from the UCBOE's July 27, 2000 meeting. The Complainant states that the minutes included motions to approve minutes from June 27, 2000, but there was no motion for the June 13, 2000 special meeting minutes. The Complainant asserts that because it appeared that the UCBOE never approved the June 13, 2000 minutes, he submitted an OPRA request for a copy of the approved minutes. The Complainant states that the Custodian denied the Complainant's OPRA request on April 29, 2011. The Complainant further states that the Custodian denied the OPRA request at issue herein pursuant to *Bent* on the same date.

The Complainant reiterates his arguments previously made pursuant to GRC Complaint No. 2011-147.

The Complainant notes that this complaint does not require the GRC to adjudicate the issue of whether the Custodian complied with the Open Public Meetings Act ("OPMA"). The Complainant states that this complaint is about the Custodian's failure to provide a lawful basis for denying access to the requested record. The Complainant contends that upholding the Custodian's denial of access will allow him to further conceal records from the public.

### **May 13, 2011**

Denial of Access Complaint for GRC Complaint No. 2011-172 filed with the GRC with the following attachments:<sup>11</sup>

- Regular meeting minutes dated December 18, 2003.
- Complainant's OPRA request dated April 15, 2011.
- Letter from the Custodian to the Complainant dated April 29, 2011.

The Complainant states that on April 15, 2011 he submitted an OPRA request seeking "the minutes that include the motion made by the [UCBOE] to approve the minutes from its regular meeting held on December 18, 2003." The Complainant states that the Custodian responded in writing on April 29, 2011 stating that the Complainant's

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<sup>11</sup> The Complainant attached additional records that are not relevant to the instant complaint.  
 Sabino Valdes v. Union City Board of Education (Hudson), 2011-147, 2011-157, 2011-172 & 2011-181 – Findings and Recommendations of the Executive Director 4

OPRA request was invalid because it failed to identify the specific government record sought. *See Bent.*

The Complainant reiterates his arguments previously made pursuant to GRC Complaints No. 2011-147 and 2011-157.

**May 25, 2011**

Denial of Access Complaint for GRC Complaint No. 2011-181 filed with the GRC with the following attachments:<sup>12</sup>

- Special meeting minutes dated July 1, 2003.
- Complainant's OPRA request dated April 15, 2011.
- Letter from the Custodian to the Complainant dated April 29, 2011.

The Complainant states that on April 15, 2011 he submitted an OPRA request seeking "the minutes that include the motion made by the [UCBOE] to approve the minutes from its special meeting held on July 1, 2003." The Complainant states that the Custodian responded in writing on April 29, 2011 stating that the Complainant's OPRA request was invalid because it failed to identify the specific government record sought. *See Bent.*

The Complainant reiterates his arguments previously made pursuant to GRC Complaints No. 2011-147 and 2011-157.<sup>13</sup>

**May 26, 2011**

Request for the Statement of Information ("SOI") sent to the Custodian for GRC Complaints No. 2011-147 and 2011-157.

**June 29, 2011**

Request for the SOI sent to the Custodian for GRC Complaints No. 2011-172 and 2011-181.

**May 31, 2011**

Custodian's SOI for GRC Complaints No. 2011-147 and 2011-157 with the following attachments:

- Complainant's OPRA request dated April 15, 2011 (relevant to GRC Complaint No. 2011-147).
- Complainant's OPRA request dated April 15, 2011 relevant to GRC Complaint No. 2011-157).
- Letter from the Custodian's Counsel to the Complainant dated April 15, 2011.
- Letter from the Custodian to the Complainant dated April 29, 2011.

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<sup>12</sup> The Complainant attached additional records that are not relevant to the instant complaint.

<sup>13</sup> The Complainant includes discussion of another complaint in which the July 1, 2003 minutes were at issue; however, the facts of that complaint are not relevant to the facts of the instant complaint.  
Sabino Valdes v. Union City Board of Education (Hudson), 2011-147, 2011-157, 2011-172 & 2011-181 – Findings and Recommendations of the Executive Director

The Custodian certifies that his search for the requested records included the Custodian's Counsel reviewing the OPRA requests and determining that said requests were invalid as they did not identify specific government records.

The Custodian also certifies that the last date upon which records that may have been responsive to the request were destroyed in accordance with the Records Destruction Schedule established and approved by Records Management Services is not applicable.

The Custodian certifies that he received the Complainant's two (2) OPRA requests on April 15, 2011. The Custodian certifies that he sent a letter to the Complainant on the same date advising that because the UCBOE offices were closed on April 21, 2011, April 22, 2011 and April 25, 2011, the seven (7) business day time frame to respond to such requests expires on April 29, 2011. The Custodian certifies that he responded in writing on April 29, 2011 denying access to both OPRA requests because these requests failed to identify a specific government record. *See Bent*.

The Custodian contends that the Complainant's OPRA requests failed to identify the specific minutes sought by date or, at the very least, month and year. The Custodian asserts that because the Complainant failed to identify the date of the minutes sought, the Custodian would have to review every set of minutes after the dates of each meeting to determine which minutes might be responsive. The Custodian contends that custodians are not required to review each set of minutes in order to locate the record that is responsive to a request.

### **July 8, 2011**

Custodian's SOI for GRC Complaints No. 2011-172 and 2011-181 with the following attachments:

- Complainant's OPRA request dated April 15, 2011 (relevant to GRC Complaint No. 2011-172).
- Complainant's OPRA request dated April 15, 2011 relevant to GRC Complaint No. 2011-181).
- Letter from the Custodian's Counsel to the Complainant dated April 15, 2011.
- Letter from the Custodian to the Complainant dated April 29, 2011.

The Custodian certifies that his search for the requested records included the Custodian's Counsel reviewing the OPRA requests and determining that said requests were invalid as they did not identify specific government records.

The Custodian also certifies that the last date upon which records that may have been responsive to the request were destroyed in accordance with the Records Destruction Schedule established and approved by Records Management Services is not applicable.

The Custodian certifies that he received the Complainant's two (2) OPRA requests on April 15, 2011. The Custodian certifies that he sent a letter to the



Complainant on the same date advising that because the UCBOE offices were closed on April 21, 2011, April 22, 2011 and April 25, 2011, the seven (7) business day time frame to respond to such requests expires on April 29, 2011. The Custodian certifies that he responded in writing on April 29, 2011 denying access to both OPRA requests because same failed to identify a specific government record. *See Bent.*

The Custodian contends that the Complainant's OPRA requests failed to identify the specific minutes sought by date or, at the very least, month and year. The Custodian asserts that because the Complainant failed to identify the date of the minutes sought, the Custodian would have to review every set of minutes after the dates of each meeting to determine which minutes might be responsive. The Custodian contends that custodians are not required to review each set of minutes in order to locate the record that is responsive to a request.<sup>14</sup>

### Analysis

#### **Whether the Complainant's four (4) OPRA requests are invalid under OPRA?**

The Complainant's four (4) OPRA requests sought "the minutes that include the motion made by the UCBOE to approve the minutes ..." for two (2) special meetings held on June 13, 2000 and July 1, 2003 and two (2) regular meetings held on October 30, 2003 and December 18, 2003. The Custodian responded in writing in a timely manner stating that the Complainant's four (4) OPRA requests were invalid pursuant to Bent. Thus, the GRC must determine whether the Complainant's four (4) OPRA requests are invalid.

The New Jersey Superior Court has held that "[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records 'readily accessible for inspection, copying, or examination.'* N.J.S.A. 47:1A-1." (Emphasis added.) MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). As the Court noted in invalidating MAG's request under OPRA:

"Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past. Such an open-ended demand required the Division's records custodian to manually search through all of the agency's files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be required to

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<sup>14</sup> The Custodian also includes an argument rebutting the Complainant's discussion of another complaint in his Denial of Access Complaint for GRC Complaint No. 2011-181. The GRC notes that such complaint is not relevant to the instant matter.

evaluate, sort out, and determine the documents to be produced and those otherwise exempted.” *Id.* at 549.

The Court further held that “[u]nder OPRA, agencies are required to disclose only ‘identifiable’ government records not otherwise exempt ... In short, OPRA does not countenance open-ended searches of an agency’s files.” (Emphasis added.) *Id.*

In addition, in Bent,<sup>15</sup> the Superior Court references MAG in that the Court held that a requestor must specifically describe the document sought because OPRA operates to make identifiable government records “accessible.” “As such, a proper request under OPRA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency’s documents.”<sup>16</sup>

Moreover, in New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007), the Court enumerated the responsibilities of a custodian and a requestor as follows:

“OPRA identifies the responsibilities of the requestor and the agency relevant to the prompt access the law is designed to provide. The custodian, who is the person designated by the director of the agency, N.J.S.A. 47:1A-1.1, must adopt forms for requests, locate and redact documents, isolate exempt documents, assess fees and means of production, identify requests that require “extraordinary expenditure of time and effort” and warrant assessment of a “service charge,” and, when unable to comply with a request, “indicate the specific basis.” N.J.S.A. 47:1A-5(a)-(j). The requestor must pay the costs of reproduction and submit the request with information that is essential to permit the custodian to comply with its obligations. N.J.S.A. 47:1A-5(f), (g), (i). *Research is not among the custodian’s responsibilities.*” (Emphasis added), NJ Builders, 390 N.J. Super. at 177.

Moreover, the Court cited MAG by stating that “...when a request is ‘complex’ because it fails to specifically identify the documents sought, then that request is not ‘encompassed’ by OPRA...” The Court also quoted N.J.S.A. 47:1A-5.g in that “[i]f a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency.” The Court further stated that “...the Legislature would not expect or want courts to require more persuasive proof of the substantiality of a disruption to agency operations than the agency’s need to...generate new records...” Accordingly, the test under MAG then, is whether a requested record is a *specifically identifiable* government record.

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<sup>15</sup> Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

<sup>16</sup> As stated in Bent, *supra*.

Under such rationale, the GRC has repeatedly found that blanket requests are not valid OPRA requests. In the matter of Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009), the relevant part of the Complainant's request sought:

- Item No. 2: "From the Borough Engineer's files: all engineering documents for all developments or modifications to Block 25, Lot 28; Block 25, Lot 18; Block 23, Lot 1; Block 23, Lot 1.02.
- Item No. 3: From the Borough Engineer's files: all engineering documents for all developments or modifications to North St., to the south and east of Wilson St.
- Item No. 4: From the Borough Attorney's files: all documents related to the development or modification to Block 25, Lot 28; Block 25, Lot 18; Block 23, Lot 1; Block 23, Lot 1.02.
- Item No. 5: From the Borough Attorney's files: all documents related to the development or modification to North Street, to the south and east of Wilson St."

In reviewing the complainant's request, the Council found that "[b]ecause the Complainant's OPRA requests [Items No.] 2-5 are not requests for identifiable government records, the requests are invalid and the Custodian has not unlawfully denied access to the requested records pursuant to [MAG] and [Bent]."

In Donato v. Township of Union, GRC Complaint No. 2005-182 (February 2007), the Council held that pursuant to MAG, a custodian is obligated to search his or her files to find identifiable government records listed in a requestor's OPRA request. The complainant in Donato requested all motor vehicle accident reports from September 5, 2005 to September 15, 2005. The custodian sought clarification of said request on the basis that it was not specific enough. The Council stated that:

"[p]ursuant to [MAG], the Custodian is obligated to search her files to find the identifiable government records listed in the Complainant's OPRA request (all motor vehicle accident reports for the period of September 5, 2005 through September 15, 2005). However, the Custodian is not required to research her files to figure out which records, if any, might be responsive to a broad or unclear OPRA request. The word search is defined as 'to go or look through carefully in order to find something missing or lost.' The word research, on the other hand, means 'a close and careful study to find new facts or information.'" (Footnotes omitted.)

Moreover, in Taylor v. Cherry Hill Board of Education (Camden), GRC Complaint No. 2008-258 (August 2009), the complainant sought, among other records, "[a]ll ... minutes regarding any purchase of 'Organic Law' books ... from 1925 to January 10, 1968" and "from January 11, 1968 to the present." The GRC determined that the Complainant's two (2) request items were invalid because they failed to specify the particular dates of the minutes sought and would thus "... require the Custodian to

research which minutes contain references to the purchase of ‘Organic Law’ books ...” *Id.* at pg. 8.

The Council made a similar determination in Ray v. Freedom Academy Charter School (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010). In Ray, the complainant sought “... approved meeting minutes regarding the Complainant’s placement on Administrative Leave effective December 17, 2008.” The Council determined that the Complainant’s request for “... ‘personnel meeting minutes’ and ‘executive meeting minutes’ would require the Custodian to search all ... minutes in order to identify those records which related to ‘the Complainant’s employment ... during the 2008-2009 school year which led to the nonrenewal of the Complainant’s contract ...’ The Complainant’s request for such records is therefore invalid under OPRA”. *Id.* at pg. 8. The Council reasoned that:

“the Complainant’s request for ‘personnel meeting minutes [and] executive meeting minutes regarding the following topics: ... during the 2008-2009 school year which led to the non-renewal of the Complainant’s contract ... placement on Administrative Leave effective December 17, 2008 ... [t]he Complainant’s re-instatement letter ... [t]he Rice notice served to the Complainant on January 27, 2009 [and] [t]he Rice notice served to the Complainant on April 6, 2009,’ would require the Custodian to manually search through all of the agency’s files, analyze such files for records containing the information sought by the Complainant, identify the particular records, determine whether the records contained information that led to the non-renewal of the Complainant’s contract and redact any contents of such records that may be exempt from disclosure before providing such record to the Complainant. As the Appellate Division held in MAG, *supra*, custodians are not required to conduct research in order to respond to a valid OPRA request.” *Id.* at pg. 9.

In the matter before the Council, the Complainant’s requests seek a specific type of government record (meeting minutes); however, said requests do not specify the date or time frame of the minutes sought. Rather, the requests seek those minutes at which the UCBOE motioned to approve meeting minutes for four (4) other meetings. Similar to the facts of both Taylor and Ray, the requests herein seek minutes that refer to a topic and would require the Custodian to research the UCBOE’s meeting minutes in order to locate the particular sets of minutes that are responsive to the Complainant’s requests. Thus, the Complainant’s four (4) requests are invalid under OPRA.

Therefore, because the Complainant’s four (4) requests for minutes “that include a motion made by the UCBOE to approve the minutes ...” from other meetings fail to identify the specific dates of the minutes sought and would require the Custodian to conduct research in order to locate the responsive records, the Complainant’s requests are invalid under OPRA. MAG, Bent, NJ Builders, Schuler, and Donato. See also Taylor, and Ray.

## **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that because the Complainant's four (4) requests for minutes "that include a motion made by the Union City Board of Education to approve the minutes ..." from other meetings fail to identify the specific dates of the minutes sought and would require the Custodian to conduct research in order to locate the responsive records, the Complainant's requests are invalid under OPRA. MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005), Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005), New Jersey Builders Association v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 180 (App. Div. 2007), Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009), and Donato v. Township of Union, GRC Complaint No. 2005-182 (February 2007). *See also* Taylor v. Cherry Hill Board of Education (Camden), GRC Complaint No. 2008-258 (August 2009), and Ray v. Freedom Academy Charter School (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).

Prepared By: Frank F. Caruso  
Senior Case Manager

Approved By: Karyn Gordon, Esq.  
Acting Executive Director

July 24, 2012