



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  
Acting Commissioner

**FINAL DECISION**

**April 25, 2012 Government Records Council Meeting**

Vincenza Leonelli-Spina  
Complainant

Complaint No. 2011-45

v.

Passaic County Prosecutor's Office  
Custodian of Record

At the April 25, 2012 public meeting, the Government Records Council ("Council") considered the April 18, 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:

1. Because the Custodian certified that there were no records responsive to the Complainant's request and because the Complainant submitted no evidence to refute the Custodian's certification, the weight of the competent, credible evidence of record indicates that the requested record does not exist within the Passaic County Prosecutor's Office. Accordingly, the Custodian has not unlawfully denied the Complainant access to the requested records. N.J.S.A. 47:1A-6; Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005). *See also* Kaithern v. West Cape May Borough (Cape May), GRC Complaint No. 2003-135 (April 2004), Rivera v. Union Board of Education (Hudson), GRC Complaint No. 2008-112 (August 2009) and Paff v. Township of Blairstown (Warren), GRC Complaint No. 2009-53 (February 2010).
2. Pursuant to Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian's conduct. Additionally, pursuant to Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 73-76 (2008), no factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney's fee pursuant to N.J.S.A. 47:1A-6, Teeters, and Mason.

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 25<sup>th</sup> Day of April, 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: April 30, 2012**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
April 25, 2012 Council Meeting**

**Vincenza Leonelli-Spina<sup>1</sup>  
Complainant**

**GRC Complaint No. 2011-45**

v.

**Passaic County Prosecutor's Office<sup>2</sup>  
Custodian of Records**

**Records Relevant to Complaint:** Copies of:

1. Any statements, affidavits, recordings, or documents given by Michael Amendola of Hasbrouck Heights, New Jersey against Vincenza Leonelli-Spina between September 2008 and September 2009.
2. Log entries evidencing when Michael Amendola contacted the Passaic County Prosecutor's Office regarding Vincenza Leonelli-Spina, together with the names of any and all investigators or personnel to whom Michael Amendola supplied such information between September 2008 and September 2009.<sup>3</sup>

**Request Made:** February 2, 2011<sup>4</sup>

**Response Made:** February 9, 2011

**Custodian:** Steven E. Braun

**GRC Complaint Filed:** February 17, 2011<sup>5</sup>

**Background**

**February 2, 2011**

Complainant's Open Public Records Act ("OPRA") request. The Complainant requests the records relevant to this Complaint listed above on an official OPRA request form via e-mail.

**February 9, 2011**

Custodian's response to the OPRA request. The Custodian responds in writing via letter to the Complainant's OPRA request on the fifth (5<sup>th</sup>) business day following receipt of such request.<sup>6</sup> The Custodian states that the Prosecutor's Office searched

---

<sup>1</sup> Represented by Patrick J. Spina, Esq., of Patrick J. Spina Law Office (Totowa, NJ).

<sup>2</sup> The Custodian, Steven E. Braun, Esq., is Chief Assistant Prosecutor of the Passaic County Prosecutor's Office and is representing the agency in this matter.

<sup>3</sup> The Complainant also requested additional records that are not at issue in the instant complaint.

<sup>4</sup> The Complainant alleges he first sent the request on January 21, 2011 but fails to provide competent evidence of such a request being made.

<sup>5</sup> The GRC received the Denial of Access Complaint on said date.

<sup>6</sup> The Custodian certifies in the SOI that he received the Complainant's OPRA request on February 2, 2011. Vincenza Leonelli-Spina v. Passaic County Prosecutor's Office, 2011-45 – Findings and Recommendations of the Executive Director 1

through their files and found no records responsive to the Complainant's request. The Custodian further asserts that even if responsive records were found, they would likely be exempt from disclosure under OPRA as criminal investigatory records. In addition, the Custodian maintains that a portion of the request may also be considered a broad and unclear request requiring research pursuant to MAG Entertainment, LLC v. Division of Alcohol Beverage Control, 375 N.J. Super. 534 (App. Div. 2005).

### **February 12, 2011**

Letter from the Complainant to the Custodian. The Complainant states that he has received the Custodian's response to his OPRA request. The Complainant asserts that the response does not state whether or not the search for responsive records will continue. The Complainant states that the Prosecutor's Office provided him with similar records on behalf of a previous client. The Complainant states that he does not understand why there would be a problem with disclosure now.

### **February 17, 2011**

Denial of Access Complaint filed with the Government Records Council ("GRC") with the following attachments:

- Complainant's OPRA request dated February 2, 2011
- Custodian's response to the OPRA request dated February 9, 2011
- Letter from the Complainant to the Custodian dated February 12, 2011<sup>7</sup>

Counsel states that the Complainant first placed the instant OPRA request on the desk of the secretary of the Prosecutor's Office on January 21, 2011.<sup>8</sup> Counsel argues that the Custodian's response that there are no records responsive is vague and defective because pursuant to Paff v. New Jersey Dept. of Labor, 392 N.J. Super. 334 (App. Div. 2007), the Custodian should have provided a sworn statement informing the Complainant of the search undertaken, the documents found, a determination if whether any of the documents are confidential, and the agency's record retention policy.

Counsel asserts that the Custodian unofficially informed him that the search for responsive records would continue. Counsel argues that the requested log entries and requested names of Prosecutor's Office personnel are permitted to be released under Executive Order No. 69 (Gov. Whitman, 1997) as it seeks only the "information as to the type of crime, time, [and] location" and "information as to the identity of the investigating personnel... and agency and the length of the investigation." *Id.* Counsel further contends that E.O. 69 requires that such information be accessible within 24 hours of a request.

Furthermore, Counsel maintains that he should be awarded a reasonable attorney's fee. Counsel does not agree to mediate this Complaint.

---

<sup>7</sup> The Complainant submitted additional documentation that is not relevant to the adjudication of this matter as it predates the OPRA request and relevant responses herein.

<sup>8</sup> The Complainant makes additional arguments regarding a previous attempt to submit an identical OPRA request but fails to provide the GRC with competent evidence that such a request was submitted and received.

**March 17, 2011**

Request for the Statement of Information (“SOI”) sent to the Custodian.

**March 22, 2011**

Custodian’s SOI with the following attachments:

- Complainant’s OPRA request dated February 2, 2011
- Custodian’s response to the OPRA request dated February 9, 2011

The Custodian certifies that a three (3) hour search through archives revealed no records responsive to the Complainant’s request exist. The Custodian further certifies that no records that may have been responsive to the request were destroyed. The Custodian certifies that the head of the White Collar Crime Unit, Chief Assistant Prosecutor Jay McCann assisted with the search by reviewing all of the materials submitted to him and found no records responsive to the Complainant’s request. The Custodian also certifies that he interviewed various officers in the Passaic County Prosecutor’s Office to ascertain whether there were any responsive records.

**Analysis**

**Whether the Custodian unlawfully denied the Complainant access to the requested records?**

OPRA provides that:

“...government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, *with certain exceptions...*” (Emphasis added.) N.J.S.A. 47:1A-1.

Additionally, OPRA defines a government record as:

“... any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been *made, maintained or kept on file ... or that has been received* in the course of his or its official business ...” (Emphasis added.) N.J.S.A. 47:1A-1.1.

OPRA places the onus on the Custodian to prove that a denial of access is lawful. Specifically, OPRA states:

“... [t]he public agency shall have the burden of proving that the denial of access is authorized by law...” N.J.S.A. 47:1A-6.

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all

records responsive to an OPRA request “with certain exceptions.” N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

In the instant complaint, the Complainant contends that the Custodian’s response stating that there are no records responsive to the Complainant’s request is vague and defective because pursuant to Paff v. New Jersey Dept. of Labor, 392 N.J. Super. 334 (App. Div. 2007), the Custodian should have provided a sworn statement informing the Complainant of the search undertaken, the documents found, a determination if whether any of the documents are confidential and the agency’s record retention policy.

However, the Custodian certified in the Statement of Information that there are no records responsive to the Complainant’s request and further certified that he undertook a three (3) hour search for the requested records and involved additional personnel in said search. The Complainant has failed to submit competent, credible evidence to refute the Custodian’s certification in this regard. The Council notes that the Complainant’s assertion in his February 12, 2011 letter to the Custodian that the Custodian previously provided records to the Complainant which are similar to those requested herein does not rise to the level of competent, credible evidence sufficient to refute the Custodian’s certification that no records responsive to this request exist.

It is well settled that in the absence of any credible evidence to the contrary, a custodian’s certification that a reasonable search failed to produce requested records prevails. Accordingly, in Paff v. Township of Blairstown (Warren), GRC Complaint No. 2009-53 (February 2010), the GRC held that the Custodian’s certification that a fruitless search involving the assistance of police officials, a risk management consultant, and the township attorney qualified as sufficient evidence to prove that the requested records were not in the township’s possession at the time of the complainant’s request.

In addition, the Council has consistently held that no denial of access occurs when a custodian has demonstrated that no records responsive to a complainant’s request exist. In Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005), the complainant sought telephone billing records showing a call made to him from the New Jersey Department of Education. The custodian responded stating that there was no record of any telephone calls made to the complainant. The custodian subsequently certified that no records responsive to the complainant’s request existed and the complainant submitted no evidence to refute said certification. The GRC held the custodian did not unlawfully deny access to the requested records because the custodian certified that no records responsive to the request existed.

Therefore, because the Custodian in the complaint now before the Council certified that there were no records responsive to the Complainant’s request and because the Complainant submitted no evidence to refute the Custodian’s certification, the weight of the competent, credible evidence of record indicates that the requested record does not exist within the Passaic County Prosecutor’s Office. Accordingly, the Custodian has not unlawfully denied the Complainant access to the requested records. N.J.S.A. 47:1A-6; Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005). *See also* Kaithern v. West Cape May Borough (Cape May), GRC Complaint No.

2003-135 (April 2004), Rivera v. Union Board of Education (Hudson), GRC Complaint No. 2008-112 (August 2009) and Paff v. Township of Blairstown (Warren), GRC Complaint No. 2009-53 (February 2010).

**Whether the Complainant is a “prevailing party” pursuant to N.J.S.A. 47:1A-6 and entitled to reasonable attorney’s fees?**

OPRA provides that:

“[a] person who is denied access to a government record by the custodian of the record, at the option of the requestor, may:  
institute a proceeding to challenge the custodian's decision by filing an action in Superior Court...; or  
in lieu of filing an action in Superior Court, file a complaint with the Government Records Council...

A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.” N.J.S.A. 47:1A-6.

In Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the court held that a complainant is a “prevailing party” if he/she achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Additionally, the court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. *Id.*

In Teeters, the complainant appealed from a final decision of the Government Records Council which denied an award for attorney's fees incurred in seeking access to certain public records via two complaints she filed under the Open Public Records Act (OPRA), N.J.S.A. 47:1A-6 and N.J.S.A. 47:1A-7.f., against the Division of Youth and Family Services (“DYFS”). The records sought involved an adoption agency having falsely advertised that it was licensed in New Jersey. DYFS eventually determined that the adoption agency violated the licensing rules and reported the results of its investigation to the complainant. The complainant received the records she requested upon entering into a settlement with DYFS. The court found that the complainant engaged in reasonable efforts to pursue her access rights to the records in question and sought attorney assistance only after her self-filed complaints and personal efforts were unavailing. *Id.* at 432. With that assistance, she achieved a favorable result that reflected an alteration of position and behavior on DYFS’s part. *Id.* As a result, the complainant was a prevailing party entitled to an award of a reasonable attorney's fee. Accordingly, the Court remanded the determination of reasonable attorney’s fees to the GRC for adjudication.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008), the court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought

about a voluntary change in the defendant's conduct." Mason, *supra*, at 71, (quoting Buckhannon Board & Care Home v. West Virginia Department of Health & Human Resources, 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court stated that the phrase "prevailing party" is a legal term of art that refers to a "party in whose favor a judgment is rendered." (quoting Black's Law Dictionary 1145 (7<sup>th</sup> ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because "[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties." *Id.* at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863, but also over concern that the catalyst theory would spawn extra litigation over attorney's fees. *Id.* at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

As the New Jersey Supreme Court noted in Mason, Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, *supra*, 387 N.J. Super. at 429; *see, e.g.*, Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), *certif. denied*, 174 N.J. 193 (2002). "But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes." 196 N.J. at 73 (citations omitted).

The Mason Court then examined the catalyst theory within the context of New Jersey law, stating that:

"New Jersey law has long recognized the catalyst theory. In 1984, this Court considered the term "prevailing party" within the meaning of the federal Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C.A. § 1988. Singer v. State, 95 N.J. 487, 495, *cert. denied*, New Jersey v. Singer, 469 U.S. 832, 105 S. Ct. 121, 83 L. Ed. 2d 64 (1984). The Court adopted a two-part test espousing the catalyst theory, consistent with federal law at the time: (1) there must be "a factual causal nexus between plaintiff's litigation and the relief ultimately achieved;" in other words, plaintiff's efforts must be a "necessary and important factor in obtaining the relief," *Id.* at 494-95, 472 A.2d 138 (internal quotations and citations omitted); and (2) "it must be shown that the relief ultimately secured by plaintiffs had a basis in law," *Id.* at 495. *See also* North Bergen Rex Transport v. TLC, 158 N.J. 561, 570-71 (1999) (applying Singer fee-shifting test to commercial contract).

Also prior to Buckhannon, the Appellate Division applied the catalyst doctrine in the context of the Law Against Discrimination, N.J.S.A. 10:5-1 to -49, and the Americans with Disabilities Act, 42 U.S.C.A. §§ 12101-12213. Warrington v. Vill. Supermarket, Inc., 328 N.J. Super. 410 (App. Div. 2000). The Appellate Division explained that "[a] plaintiff is considered a prevailing party 'when actual relief on the merits of [the] claim materially alters the relationship between the parties by modifying the defendant's behavior in a way that directly benefits the plaintiff.'" *Id.* at 420 (quoting Farrar v. Hobby, 506 U.S. 103, 111-12, 113 S. Ct. 566, 573, 121 L. Ed. 2d 494, 503 (1992)); *see also* Szczepanski v. Newcomb Med.



Ctr., 141 N.J. 346, 355 (1995) (noting that Hensley v. Eckerhart "generously" defines "a prevailing party [a]s one who succeeds 'on any significant issue in litigation [that] achieves some of the benefit the parties sought in bringing suit'" (quoting Hensley v. Eckerhart, 461 U.S. 424, 433, 103 S. Ct. 1933, 1938, 76 L. Ed. 2d 40, 50 (1983))). The panel noted that the "form of the judgment is not entitled to conclusive weight"; rather, courts must look to whether a plaintiff's lawsuit acted as a catalyst that prompted defendant to take action and correct an unlawful practice. Warrington, *supra*, 328 N.J. Super. at 421. A settlement that confers the relief sought may still entitle plaintiff to attorney's fees in fee-shifting matters. *Id.* at 422.

This Court affirmed the catalyst theory again in 2001 when it applied the test to an attorney misconduct matter. Packard-Bamberger, *supra*, 167 N.J. at 444. In an OPRA matter several years later, New Jerseyans for a Death Penalty Moratorium v. New Jersey Department of Corrections, 185 N.J. 137, 143-44 (2005)(NJDPM), this Court directed the Department of Corrections to disclose records beyond those it had produced voluntarily. In ordering attorney's fees, the Court acknowledged the rationale underlying various fee-shifting statutes: to insure that plaintiffs are able to find lawyers to represent them; to attract competent counsel to seek redress of statutory rights; and to "even the fight" when citizens challenge a public entity. *Id.* at 153.

After Buckhannon, and after the trial court's decision in this case, the Appellate Division decided Teeters. The plaintiff in Teeters requested records from the Division of Youth and Family Services (DYFS), which DYFS declined to release. 387 N.J. Super. at 424. After the GRC preliminarily found in plaintiff's favor, the parties reached a settlement agreement leaving open whether plaintiff was a "prevailing party" under OPRA. *Id.* at 426-27.

The Appellate Division declined to follow Buckhannon and held that plaintiff was a "prevailing party" entitled to reasonable attorney's fees; in line with the catalyst theory, plaintiff's complaint brought about an alteration in DYFS's position, and she received a favorable result through the settlement reached. *Id.* at 431-34. In rejecting Buckhannon, the panel noted that "New Jersey statutes have a different tone and flavor" than federal fee-shifting laws. *Id.* at 430. "Both the language of our statutes and the terms of court decisions in this State dealing with the issue of counsel fee entitlements support a more indulgent view of petitioner's claim for an attorney's fee award than was allowed by the majority in Buckhannon . . . ." *Id.* at 431, 904 A.2d 747. As support for this proposition, the panel surveyed OPRA, Packard-Bamberger, Warrington, and other cases.

OPRA itself contains broader language on attorney's fees than the former RTKL did. OPRA provides that "[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee." N.J.S.A. 47:1A-6. Under the prior RTKL, "[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney's fee not to exceed \$ 500.00." N.J.S.A. 47:1A-4 (repealed 2002). The Legislature's revisions therefore: (1) mandate, rather than permit, an award of attorney's fees to a prevailing party; and (2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award.<sup>9</sup> Those changes expand counsel fee awards under OPRA." Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 73-76 (2008).

The court in Mason, *supra*, at 76, held that "requestors are entitled to attorney's fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) 'a factual causal nexus between plaintiff's litigation and the relief ultimately achieved'; and (2) 'that the relief ultimately secured by plaintiffs had a basis in law.'" Singer v. State, 95 N.J. 487, 495, *cert. denied* (1984)."

In Mason, the plaintiff submitted an OPRA request on February 9, 2004. Hoboken responded on February 20, eight business days later, or one day beyond the statutory limit. *Id.* at 79. As a result, the Court shifted the burden to Hoboken to prove that the plaintiff's lawsuit, filed on March 4, was not the catalyst behind the City's voluntary disclosure. *Id.* Because Hoboken's February 20 response included a copy of a memo dated February 19 -- the seventh business day -- which advised that one of the requested records should be available on February 27 and the other one week later, the Court determined that the plaintiff's lawsuit was not the catalyst for the release of the records and found that she was not entitled to an award of prevailing party attorney fees. *Id.* at 80.

In the instant matter, as in Mason, the Complainant's Denial of Access Complaint was not the catalyst for the release of the requested records, because the Custodian lawfully responded to the Complainant by informing him that no records responsive to the request exist at the Passaic County Prosecutor's Office, consistent with Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005). *See also* Kaithern v. West Cape May Borough (Cape May), GRC Complaint No. 2003-135 (April 2004), Rivera v. Union Board of Education (Hudson), GRC Complaint No. 2008-112 (August 2009) and Paff v. Township of Blirstown (Warren), GRC Complaint No. 2009-53 (February 2010).

Thus, pursuant to Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian's conduct. Additionally,

---

<sup>9</sup> The significance of awarding fees to "requestors" and not "plaintiffs" is less clear because OPRA's fee-shifting provision refers both to individuals filing suit in Superior Court and those choosing the GRC's more information mediation route; the phrase "requestors" may simply have been used to encompass both groups. Likewise, one cannot obtain an "order" from the GRC, so the absence of that language in OPRA is not necessarily revealing.

pursuant to Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 73-76 (2008), no factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney's fee pursuant to N.J.S.A. 47:1A-6, Teeters, and Mason.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. Because the Custodian certified that there were no records responsive to the Complainant's request and because the Complainant submitted no evidence to refute the Custodian's certification, the weight of the competent, credible evidence of record indicates that the requested record does not exist within the Passaic County Prosecutor's Office. Accordingly, the Custodian has not unlawfully denied the Complainant access to the requested records. N.J.S.A. 47:1A-6; Pusterhofer v. New Jersey Department of Education, GRC Complaint No. 2005-49 (July 2005). *See also* Kaithern v. West Cape May Borough (Cape May), GRC Complaint No. 2003-135 (April 2004), Rivera v. Union Board of Education (Hudson), GRC Complaint No. 2008-112 (August 2009) and Paff v. Township of Blirstown (Warren), GRC Complaint No. 2009-53 (February 2010).
2. Pursuant to Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Complainant has not achieved the desired result because the complaint did not bring about a change (voluntary or otherwise) in the custodian's conduct. Additionally, pursuant to Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51, 73-76 (2008), no factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Therefore, the Complainant is not a prevailing party entitled to an award of a reasonable attorney's fee pursuant to N.J.S.A. 47:1A-6, Teeters, and Mason.

Prepared By: Darryl C. Rhone  
Case Manager

Approved By: Catherine Starghill, Esq.  
Executive Director

April 18, 2012