



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Administrative Complaint Disposition – Unripe Cause of Action

GRC Complaint No.: 2013-106

Complainant: Kevin Joseph Franchetta

Public Agency: Vineland Board of Education (Cumberland)

Custodian of Record: Cherie Ludy

Date of Request: April 10, 2013

Date of Complaint: April 11, 2013¹

Complaint Disposition: On April 10, 2013, the Complainant submitted his OPRA request to the Custodian. On April 10, 2013, the day the Custodian received the request, the Complainant verified his complaint. OPRA provides that the Custodian "...shall grant access to a government record or deny access to a government record as soon as possible, but not later than seven business days after receiving the request...." N.J.S.A. 47:1A-5(i). Here, although the requested record, the "New Jersey Department of Education FY 2013-2014 State Charter School Aid Projected Enrollment Count District Summary" is used in preparation of the budget,² this record is not an immediate access record pursuant to N.J.S.A. 47:1A-5(e) because it is not specifically a "budget" so much as a preliminary component used to develop the budget. Thus, the complaint is materially defective and must be dismissed since the Complainant verified his complaint before the statutory time period provided for the Custodian to respond had expired.

Applicable OPRA Provision: "... a custodian of a government record shall grant access to a government record or deny access to a government record as soon as possible, but not later than seven business days after receiving the request...." N.J.S.A. 47:1A-5(i).

"A person who is denied access to a government record by the custodian of the record...may institute a proceeding to challenge the custodian's decision by filing...a complaint with the Government Records Council..." N.J.S.A. 47:1A-6.

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.

Effective Date of Disposition: April 30, 2013

¹ The GRC received the Denial of Access Complaint on said date.

² The Custodian noted this fact in her April 10, 2013 e-mail to the Custodian's Counsel attached to the Statement of Information



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Executive Director

Date: April 25, 2013

Distribution Date: April 30, 2013