



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

FINAL DECISION

May 22, 2018 Government Records Council Meeting

Michael Flom
Complainant

Complaint No. 2016-25

v.

Allendale Board of Education (Bergen)
Custodian of Record

At the May 22, 2018 public meeting, the Government Records Council (“Council”) considered the May 15, 2018 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. The Custodian has borne her burden of proof that she timely responded to the Complainant’s January 4, 2016 OPRA request. N.J.S.A. 47:1A-6. The Custodian’s extensions of time to respond to the Complainant’s request were reasonable and not unduly excessive based upon the totality of the circumstances. See Ciccarone v. NJ Dep’t of Treas., GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014); and Rodriguez v. Kean Univ., 2015-77 (September 2017).
2. The Custodian has borne her burden of proof that she lawfully denied access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. The certifications from the Custodian and Ms. Karamus, and accompanying evidence in the record reflects that no responsive records exist as to the Complainant’s request for a database under Item No. 1. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).

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 22nd Day of May, 2018

Robin Berg Tabakin, Esq., Chair
Government Records Council

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

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: May 25, 2018

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Council Staff
May 22, 2018 Council Meeting**

**Michael Flom¹
Complainant**

GRC Complaint No. 2016-25

v.

**Allendale Board of Education (Bergen)²
Custodial Agency**

Records Relevant to Complaint:

1. All original electronic versions of the Powerpoint (both the actual .ppt file and the .pdf files) and the database (e.g. Excel file) used to generate the Powerpoint for the presentation to the [Allendale Board of Education (“BOE”)] of the [Allendale Public School District (“District”)]’s 2015 Special Ed Parent Survey, plus any communications to or from Mrs. Karamus and/or Dr. Barcadepone about this survey from April 1, 2015.
2. All invoices from the Board’s attorney (Forgarty & Hara) from 8/8/15 to present.
3. All Executive Committee minutes from 8/25/15 to present.
4. All Education Committee minutes from 7/14/15 to present.
5. Any correspondence (letters, memos, faxes, e-mails, SMS/text messages and computer application messages) to or from Dr. Barcadepone or Mrs. Karamus, regarding the subject matter Parent Advisory Committee, Parent Advisory Group, SEPAC, SEPAG, and/or EPAC from 8/2/2015 to present.
6. All correspondence (as defined in (5) above) to or from the following individuals: Crystal Johnson; Eric Buiede; Dr. Barcadepone; or Mrs. Karamus, regarding the subject matter OCR Complaint #02-16-1024 or Michael Flom’s OCR complaint.
7. Board final self-evaluations produced in the school year 2015-16, per police 0134.
8. All versions of the BSI Individual Student Improvement Plans (BSIPs) for [J.A.F.] and [M.A.F.] for the 2015-16 school year.
9. Any procedures, manuals, training materials and/or correspondence (as defined in (5) above) with the subject matter Dyslexia and or Policy 5339 from March 2, 2015 to present, from or to Dr. Barcadepone and/or Mrs. Karamus.
10. List of all standard custom reports available from TIENET (e.g., Access Reports-Standard Reports and print the screen).
11. TIENET Reporting Guide (from TIENET System).

Custodian of Record: Maria Engeleit

¹ No legal representation listed on record.

² Represented by Stacey Therese Cherry, Esq., of Fogarty & Hara (Fair Lawn, NJ).

Request Received by Custodian: January 4, 2016

Response Made by Custodian: January 8, 2016; January 22, 2016; January 26, 2016; January 27, 2016; January 29, 2016; February 22, 2016; March 4, 2016

GRC Complaint Received: January 25, 2016

Background³

Request and Response:

On December 28, 2015,⁴ the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On January 8, 2016, the Custodian provided a partial response in writing, denying in part, granting in part, and seeking additional time to fully respond. The Custodian provided individual responses to each item numbered above:

1. Request is granted with regard to the PowerPoint .ppt file and .pdf file. Please see attached. Please be advised that there is no Excel database/file; however, attached is the equivalent of the database with the information requested which is the only document responsive to your request for a “database.” The District requires additional time to determine if any communication responsive to your request exists. A response will be provided by January 29, 2016.
2. Request is granted with clarification. The District supplied copies of attorney invoices dated August 5, 2015 and September 4, 2015 in response to your request of September 24, 2015. In addition, the District is in the process of providing said documents with a Vaughn index pursuant to the Order of Bonnie J. Mizdol, P.J.S.C. dated January 7, 2016. If you require a copy of the invoices without a Vaughn index prior to the January 21, 2016 please advise and we will supply a copy. A copy of the October 3, 2015, November 6, 2015, December 4, 2015 and January 8, 2016 invoices are all attached. All redactions are of student initials (other than your own children) under the privacy interest exemption. N.J.S.A. 47:1A-1. See e.g. Wolosky v. Sparta Twp. Bd. of Educ., L-756-14 (Law Div. Feb 20, 2015) (student initials properly redacted from attorney invoices).
3. Your request is granted. Attached hereto are copies of the Executive Committee minutes dated September 21, 2015, October 5, 2015, October 26, 2015, November 16, 2015, December 7, 2015, and December 14, 2015. Redaction on December 14, 2015 is with regard to negotiations. N.J.S.A. 47:1A-1.1.
4. Your request is granted with clarification. The District supplied a copy of the August 11, 2015 Education Committee minutes in response to your August 24, 2015 request. If you require an additional copy, please advise and one will be provided. Copies of the Education Committee minutes from September 25, 2015, November 23, 2015, and

³ The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Council Staff the submissions necessary and relevant for the adjudication of this complaint.

⁴ The Complainant submitted the OPRA request via e-mail on December 28, 2015. The parties agreed that the Custodian did not receive the OPRA request until January 4, 2016 due to the agency’s offices being closed from December 24, 2015 through January 3, 2016.

- December 23, 2015 are attached hereto. Redactions are of information that advisory, consultative, or deliberative. N.J.S.A.47:1A-1.1. This provision exempts from disclosure all documents that reflect pre-decisional and advisory opinions, recommendations and deliberations submitted and/or relied upon by a public agency when formulating decisions and/or policies. See e.g. In re Liquidation of Integrity Insurance Co., 165 N.J. 75 (2000). The provision also exempts from disclosure any record that contains or involves factual components used in a decision-making process when disclosure of the factual components would reveal deliberations that occurred during the process. See e.g. Educ. Law Center v. N.J. Dep't of Educ., 198 N.J. 274 (2009).
5. The District requires additional time to respond to this request. A response will be provided by January 29, 2016.
 6. The District requires additional time to respond to this request. A response will be provided by January 29, 2016.
 7. Your request is granted. See attached Board Self-Evaluation 2015. In reviewing this request, we have also determined to release unredacted the Board's Self-Evaluation of 2014, which is also attached hereto.
 8. Your request is granted, in part, and denied, in part. Your request with regard to J.A.F. is denied as there are no documents responsive to your request. With regard to M.A.F., attached please find responsive documents.
 9. The District requires additional time to respond to this request. A response will be provided by January 29, 2016.
 10. The District requires additional time to respond to this request. A response will be provided by January 29, 2016.
 11. The District requires additional time to respond to this request. A response will be provided by January 29, 2016.

The Complainant e-mailed the Custodian on January 18, 2016, expressing concerns with the Custodian's January 8, 2016 response. First, the Complainant stated that he sought the original PowerPoint file, asserting that while the first slide of the presentation is dated October 26, 2015, the file itself is dated January 8, 2016, the date of the response. The Complainant also requested the database used to create the charts contained within the presentation as requested under Item No. 1. Additionally, the Complainant sought the record, database, or spreadsheet that created the file the Custodian provided for Item No. 1 as an alternative to the Excel database requested.

Lastly, the Complainant contended that it should not take twenty-five (25) days to fully respond to the outstanding items. The Complainant stated that the Custodian had until January 20, 2016 to produce the outstanding items, as well as the records identified above to avoid further action.

On January 19, 2016, the Custodian responded to the Complainant's e-mail. Regarding the PowerPoint file, the Custodian asserted that the file was opened and re-saved in the process of providing the record to the Complainant, which in turn dated the file as January 8, 2016. The Custodian stated that the file provided is the original file presented. Regarding the Complainant's database request, the Custodian asserted that no underlying database that was used to create the charts within the PowerPoint presentation. The Custodian claimed that the data was manually

calculated, and the document detailing the such data was provided in the January 8, 2016 response. Additionally, the Custodian stated that there was no underlying database or spreadsheet from which the provided document was created.

Lastly, the Custodian asserted that she responded to the Complainants' request within the prescribed timeframe, and because of the size and scope of the request, stated that additional time was required to fulfill Item Nos. 1, 5, 6, 9, 10, and 11.

Denial of Access Complaint:

On January 25, 2016, the Complainant filed a Denial of Access Complaint with the Government Records Council ("GRC"). The Complainant asserted that the Custodian failed to provide all of the requested records.

Regarding the PowerPoint presentation, the Complainant restated his objections that the file provided was the original, due to the file itself being dated January 8, 2016, and the presentation referring to October 26, 2015. Additionally, the Complainant argued that the charts contained within the presentation are pasted as .tiff format, and thus originated from another PowerPoint presentation, spreadsheet, or similar software. As to the document provided as an alternative to the requested database, the Complainant argued that it was in PDF format, but consisted of a table that had to be originally generated in Word or Excel format.

As to the extension, the Complainant took exception to Custodian's need for twenty-one (21) calendar days to locate and produce responsive e-mails, reports, and the remaining items. The Complainant asserted that the TIENET (Item No. 10) and Reporting Guide (Item No. 11) are found online and could be generated in minutes. Furthermore, the Complainant stated that the Custodian's extension to locate e-mails from two (2) parties was excessive, and that e-mail should be available online and located in minutes.

Statement of Information:⁵

On June 9, 2016, the Custodian filed a Statement of Information ("SOI"). The Custodian certified that she received the Complainant's OPRA request on January 4, 2016. The Custodian certified that responsive records were provided to the Complainant on January 8, 2016, January 22, 2016, January 26, 2016, January 27, 2016, January 29, 2016, February 22, 2016, and March 4, 2016.

The Custodian certified that regarding correspondence (Item Nos. 1, 5, 6, and 9), the individuals identified were each contacted to determine whether they had responsive records. The Custodian also certified that the District's technology consultant conducted a search of the District's e-mail server to locate any responsive records. The District's Supervisor of Curriculum and Instruction, Jo Ann Karamus ("Ms. Karamus") located the Board's 2015 Special Education Parent Survey (Item No. 1) in PowerPoint and PDF format. In response to Item Nos. 2, 3, and 4,

⁵The complaint was referred to mediation on February 16, 2016. The complaint was then referred back from mediation on May 18, 2016.

the Custodian certified that such records were maintained routinely and thus provided to the Complainant on January 8, 2016, as was the record responsive to Item No. 7.

Regarding Item No. 8, the Custodian certified that the search for responsive records was conducted by Principle of Brookside School, Bruce Winkelstein (“Mr. Winkelstein”). Mr. Winkelstein told the Custodian that responsive records were located for M.A.F., but none for J.A.F., and informed the Complainant of this in her January 8, 2016 response.

Regarding Item Nos. 10 and 11, the Custodian certified that Ms. Karamus was required to review the TIENET program and Reporting Guide prior to production. Additionally, the Custodian certified that Counsel reached out to the developer of the TIENET program pertaining to copyright and proprietary information contained therein.

Regarding the “communications” portion of Item No. 1, the Custodian stated that a search located responsive e-mails, and were reviewed and redacted prior to being provided to the Complainant on January 27, 2016. The Complainant was also informed that day that no other communications were located.

Regarding Item No. 5, the Custodian certified that a search was conducted for any responsive communications outside of e-mails, and that none were located. However, over 700 pages of responsive e-mails were located by the technology consultant. The Custodian certified that on January 29, 2016, she informed the Complainant that no responsive non-e-mail communications exist regarding Item No. 5, however additional time was needed to respond to his request for e-mail records, to until February 22, 2016. The Custodian then certified that on February 22, 2016, she provided the Complainant with 213 pages of responsive records to Item No. 5, but that additional time was required for a full production, to until March 4, 2016. The Custodian asserted that additional review was required because some of the records contained attorney-client privileged communications as well as advisory, consultative, or deliberative material. The Custodian certified that on March 4, 2016, 511 pages of responsive records were provided to the Complainant along with an itemized list of redactions.

For Item No. 6, the request did not contain a date range, so the Custodian sought clarification from the Complainant. Upon receiving clarification from the Complainant on January 13, 2016, the Custodian conducted a search for responsive records, but none were located. Therefore, the Custodian informed the Complainant that no responsive records existed on January 26, 2016.

Regarding Item No. 9, the Custodian certified that over 2,000 pages of responsive records were located, but required review for possible redactions. The Custodian certified that on January 29, 2016, 823 pages of records were provided to the Complainant, along with stating that additional time was needed to complete the request. On February 22, 2016, the deadline of the second extension, the Custodian provided 1,231 additional pages to the Complainant, along with the list of redactions.

The Custodian asserted that the GRC has consistently held that when a custodian responds in writing within the initial seven (7) business days and provides a date certain, an extension notice

if proper. See Rivera v. City of Plainfield Police Dep't (Union), GRC Complaint No. 2009-317; Criscione v. Town of Guttenberg (Hudson), GRC Complaint No. 2010-68 (November 2010); and Starkey v. N.J. Dep't of Trans., GRC Complaint Nos. 2007-315, 2007-316, 2007-317 (February 2009). The Custodian argued that she properly sought an extension of time to respond to the Complainant's request to until January 29, 2016. Additionally, the Custodian stated that during the extended period, she provided responses to several of the requested Items. Furthermore, the Custodian contended that she properly sought additional extensions for Item Nos. 5 and 9 due to volume of responsive documents that needed to be reviewed, and ultimately provided responses to them within the identified deadline.

For Item Nos. 10 and 11, the Custodian asserted that while responsive records were readily available, the nature of the documents necessitated additional time prior to production. The Custodian claimed that Paff v. Franklin Fire District No. 1 (Somerset), GRC Complaint No. 2011-77 (June 2012) justified the Custodian's ability to seek an extension of time to records notwithstanding that they were readily available at the time of the request. The Custodian asserted that the requested report and guide likely contained copyrighted and proprietary information, and therefore sought an extension of time to respond on January 8, 2016. Thereafter, the Custodian, via Counsel, reached out to the company providing TIENET to the District regarding the records. The Custodian certified that upon receiving the company's input, she responded to the Complainant on January 22, 2016, providing responsive records to Item No. 10, and denying access to Item No. 11 on the grounds that the Reporting Guide is under copyright protection.

As to the Complainant's arguments on Item No. 1, the Custodian's SOI including a certification from Ms. Karamus. In addition to certifying to the searches conducted for responsive records, Ms. Karamus certified to her knowledge regarding the PowerPoint presentations and the survey referenced in the OPRA request. Ms. Karamus certified that upon receiving the responses to the survey, she manually entered the results into the charts contained in the presentation. Ms. Karamus certified that she did not use Excel or any other program to enter the results, and were then imported into the PowerPoint presentation. Ms. Karamus further certified that each graph in the presentation was saved as an image, with no other underlying program remaining therein. Thus, Ms. Karamus certified that no database was created to serve as the source of the data displayed in the PowerPoint presentation, nor was any Excel information contained within the presentation itself. As to the date of the PowerPoint file, Ms. Karamus certified that when she located the file, she resaved the file on January 8, 2016, to be sent to the Custodian, who in turn provided to the Complainant.

Analysis

Unlawful Denial of Access

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.

Length of Extension(s)

OPRA provides that a custodian may request an extension of time to respond to the complainant's OPRA request, but the custodian must provide a specific date by which he/she will respond. Should the custodian fail to provide respond by that specific date, "access shall be deemed denied." N.J.S.A. 47:1A-5(i).

In Rivera, GRC 2009-317, the custodian responded in writing to the complainant's request on the fourth (4th) business day by seeking an extension of time to respond and providing an anticipated date by which the requested records would be made available. The complainant did not consent to the custodian's request for an extension of time. The Council stated that:

The Council has further described the requirements for a proper request for an extension of time. Specifically, in Starkey v. NJ Dep't of Transportation, GRC Complaint Nos. 2007-315, 2007-316 and 2007-317 (February 2009), the Custodian provided the Complainant with a written response to his OPRA request on the second (2nd) business day following receipt of said request in which the Custodian requested an extension of time to respond to said request and provided the Complainant with an anticipated deadline date upon which the Custodian would respond to the request. The Council held that "because the Custodian requested an extension of time in writing within the statutorily mandated seven (7) business days and provided an anticipated deadline date of when the requested records would be made available, the Custodian properly requested said extension pursuant to N.J.S.A. 47:1A-5(g) [and] N.J.S.A. 47:1A-5(i).

Further, in Criscione, GRC 2010-68, the Council held that the custodian did not unlawfully deny access to the requested records, stating in pertinent part that:

[B]ecause the Custodian provided a written response requesting an extension on the sixth (6th) business day following receipt of the Complainant's OPRA request and providing a date certain on which to expect production of the records requested, and, notwithstanding the fact that the Complainant did not agree to the extension of time requested by the Custodian, the Custodian's request for an extension of time [to a specific date] to respond to the Complainant's OPRA request was made in writing within the statutorily mandated seven (7) business day response time.

Moreover, in Werner v. N.J. Civil Serv. Comm'n, GRC Complaint No. 2011-151 (December 2012), the Council again addressed whether the custodian lawfully sought an extension of time to respond to the complainant's OPRA request. The Council concluded that because the custodian requested an extension of time in writing within the statutorily mandated seven (7) business days and provided an anticipated date by which the requested records would be made available, the custodian properly requested the extension pursuant to OPRA. See also Rivera, GRC 2009-317; Criscione, GRC 2010-68; and Starkey, GRC 2007-315, *et seq.*

Although extensions are rooted in well-settled case law, the Council need not find valid every request for an extension containing a clear deadline. In Ciccarone v. NJ Dep't of Treas.,

GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014), the Council found that the custodian could not lawfully exploit the process by repeatedly rolling over an extension once obtained. In reaching the conclusion that the continuous extensions resulted in a “deemed” denial of access, the Council looked to what is “reasonably necessary.” See also Rodriguez v. Kean Univ., 2015-77 (September 2017).

To determine if the extended time for a response is reasonable, the GRC must first consider the complexity of the request as measured by the number of items requested, the ease in identifying and retrieving requested records, and the nature and extent of any necessary redactions. Ciccarone, GRC 2013-280. The GRC must next consider the amount of time the custodian already had to respond to the request. Id. Finally, the GRC must consider any extenuating circumstances that could hinder the custodian’s ability to respond effectively to the request.⁶ Id.

The subject OPRA request sought, e-mails and/or other forms of communication amongst multiple parties, manuals, training materials, reports, and accompanying guides, comprising of Item Nos. 1 (in part), 5, 6, 9, 10, and 11. The Custodian extended the response time once prior to the filing of this complaint, for approximately fourteen (14) business days, accounting for public holidays. For Item No. 9, the Custodian extended the response an additional time for a total of twenty-nine (29) business days. For Item No. 5, the Custodian extended the response to until March 4, 2016, for a total extension of thirty-eight (38) business days.

Although the Custodian does not require permission to extend the time to respond to an OPRA request, the burden remains with the Custodian to justify the need for such extension(s). That burden increases when the extension of time is measured in months rather than days. However, the Custodian has met her burden in this case.

With regard to Item Nos. 10 and 11, the GRC is satisfied from the Custodian’s SOI and accompanying certifications that the responsive records were of the nature that required review for potential exemptions, notwithstanding their availability. It is not unreasonable to reach out to vendors to ensure that copyrighted and/or proprietary material is not disclosed in breach of licensing agreements. Moreover, responses to these items were provided on January 22, 2016, five (5) business days prior to the extended deadline.

For Item No. 6, the Custodian sought clarification from the Complainant, as the request failed to mention a date or range of dates for the correspondence sought. Once received, the Custodian provided a response to the Complainant on January 26, 2016, three (3) business days prior to the extended deadline. Regarding Item No. 1’s request for communications, the Custodian located, reviewed, and redacted as necessary 123 pages of records, and provided them to the Complainant on January 27, 2016, two (2) days prior to the extended deadline.

With regard to Item No. 9, the request was for communications spanning a ten (10) month period. The Custodian certified that over 2,000 pages of responsive records were located, and

⁶ “Extenuating circumstances” could include, but not necessarily be limited to, retrieval of records that are in storage or archived (especially if located at a remote storage facility), conversion of records to another medium to accommodate the requestor, emergency closure of the custodial agency, or the custodial agency’s need to reallocate resources to a higher priority due to *force majeure*.

provided 823 pages on January 29, 2016, and an additional 1,231 pages on February 22, 2016. For Item No. 5, the Custodian located over 700 pages of records, and provided 213 pages on February 22, 2016 and 511 pages on March 4, 2016.

In total, the Custodian located, reviewed, and redacted nearly 3,000 pages of records in forty-five (45) business days. Throughout the extended time period, the Custodian provided the Complainant with full and partial responses to the various items, keeping the Complainant updated on the status of fulfilling his OPRA request. Compared with Rodriguez, GRC 2015-77, which involved an extension of 100 business days to review 500 pages of records, the Custodian's extensions are more than justified given the complexity of the request and the volume of responsive records.

Therefore, the Custodian has borne her burden of proof that she timely responded to the Complainant's January 4, 2016 OPRA request. N.J.S.A. 47:1A-6. The Custodian's extensions of time to respond to the Complainant's request were reasonable and not unduly excessive based upon the totality of the circumstances. See Ciccarone, GRC 2013-280; and Rodriguez, GRC 2015-77.

Database for Item No. 1

In Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005), the custodian certified that no records responsive to the complainant's request for billing records existed and the complainant submitted no evidence to refute the custodian's certification regarding said records. The GRC determined that, because the custodian certified that no records responsive to the request existed and no evidence existed in the record to refute the custodian's certification, there was no unlawful denial of access to the requested records.

In the instant matter, the Custodian certified that no responsive records existed regarding a database that served as the basis for the charts contained in the PowerPoint presentation, and asserted as much in her January 8, 2016 response. The Complainant contended that charts within the presentation had to be created via a database or Excel spreadsheet. Ms. Karamus, the author of the presentation, certified that the data used to create the charts were manually inputted into chart templates within PowerPoint, and that neither Excel nor any other database program were used in the process. She also certified that while a hidden Excel file is created when entering data into those templates, she saved the finished charts as image files, which eliminated the underlying Excel file. Thus, Ms. Karamus certified that no responsive records exists as it pertained to the Complainant's request for a database.

Accordingly, the Custodian has borne her burden of proof that she lawfully denied access to the Complainant's OPRA request. N.J.S.A. 47:1A-6. The certifications from the Custodian and Ms. Karamus, and accompanying evidence in the record reflects that no responsive records exist as to the Complainant's request for a database under Item No. 1. Pusterhofer, GRC 2005-49.

Conclusions and Recommendations

The Council Staff respectfully recommends the Council find that:

1. The Custodian has borne her burden of proof that she timely responded to the Complainant's January 4, 2016 OPRA request. N.J.S.A. 47:1A-6. The Custodian's extensions of time to respond to the Complainant's request were reasonable and not unduly excessive based upon the totality of the circumstances. See Ciccarone v. NJ Dep't of Treas., GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014); and Rodriguez v. Kean Univ., 2015-77 (September 2017).
2. The Custodian has borne her burden of proof that she lawfully denied access to the Complainant's OPRA request. N.J.S.A. 47:1A-6. The certifications from the Custodian and Ms. Karamus, and accompanying evidence in the record reflects that no responsive records exist as to the Complainant's request for a database under Item No. 1. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

Prepared By: Samuel A. Rosado
Staff Attorney

May 15, 2018