



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

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

FINAL DECISION

December 18, 2018 Government Records Council Meeting

Louis Hall
Complainant

Complaint No. 2016-259

v.

Rowan University
Custodian of Record

At the December 18, 2018 public meeting, the Government Records Council (“Council”) considered the December 11, 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 the Custodian bore her burden of proving that she did not unlawfully deny access to responsive records because she certified in the SOI, and the record reflects, that she provided all responsive records to the Complainant. N.J.S.A. 47:1A-6; Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005); Kohn v. Twp. of Livingston, GRC Complaint No. 2009-203 & 2009-211 (January 2011). See also Demitroff v. Buena Vista Twp. (Atlantic), GRC Complaint No. 2014-184 (January 2015).

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 18th Day of December, 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: December 20, 2018



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Council Staff
December 18, 2018 Council Meeting**

**Louis Hall¹
Complainant**

GRC Complaint No. 2016-259

v.

**Rowan University²
Custodial Agency**

Records Relevant to Complaint: “Any and all documents, studies, reports, memoranda, RFPs, RFQs, letters, emails, etc. from January 1, 2015 through and including April 1, 2016 regarding or related to a proposal or intent to reduce, replace, transfer and/or eliminate the services currently being provided by the Rowan University Police Department.”

Custodian of Record: Gina Floyd

Request Received by Custodian: August 23, 2016

Response Made by Custodian: August 29, 2016

GRC Complaint Received: September 19, 2016

Background³

Request and Response:

On August 12, 2016, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On August 23, 2016, the Complainant submitted the OPRA request a second time. On August 29, 2016, the Custodian responded in writing, providing four (4) records entitled, “BlueShield Consulting”, “Matrix Consulting”, “Glassboro Proposal”, and “Request for Qualifications for Consulting Services.”

On August 31, 2016, the Complainant responded to the Custodian. The Complainant asserted that the records provided revolve around shared services between the Glassboro Police Department and the Rowan University Police Department (“RUPD”). The Complainant asked the Custodian whether Rowan University (“Rowan”) was thinking about or planning to eliminate the RUPD altogether. The Complainant contended that the provided records did not address the question.

¹ No legal representation listed on record.

² Represented by Monica Sabnis, Esq., Assistant General Counsel.

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.

Denial of Access Complaint:

On September 19, 2016, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that he first submitted his OPRA request on August 12, 2016, but did not receive a response. The Complainant asserted that he submitted his OPRA request a second time on August 23, 2016, and received a response on August 29, 2016.

The Complainant contended that the four (4) records received reference or pertain to a study on shared services. The Complainant asserted that none of the records addressed what he sought.

Additional Correspondence

On September 21, 2016, Christine Brasteter, on behalf of the Custodian, responded to the Complainant’s August 21, 2016 e-mail, stating that the Complainant’s question was not an OPRA request, and therefore could not provide additional information.

Statement of Information:

On September 29, 2016, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on August 23, 2016. The Custodian certified that Rowan General Council and Public Safety Departments were contacted for records. The Custodian certified that she responded in writing on August 29, 2016, providing four (4) records in response to the Complainant’s request.

The Custodian asserted that she adequately responded to the Complainant’s request. Additionally, the Custodian asserted that this is the second time someone at Rowan has addressed the Complainant’s questions regarding the subject of the his request.

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.

In Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005), the custodian certified that the record provided to the complainant was the only record responsive to the request. Id. The Council found that there had thus been no unlawful denial of access. Id. See also Kohn v. Twp. of Livingston, GRC Complaint No. 2009-203 & 2009-211 (January 2011) (holding custodian did not unlawfully deny access when he certified that he provided all responsive

records to complainant, and there existed no credible evidence in record to refute such certification).

Here, the Complainant filed his complaint contending that the records provided were not responsive to his request, or did not provide him with the information sought. The Custodian certified that she supplied the Complainant with all available records. The Complainant contended that the records he received did not provide him the information sought that prompted the OPRA request.

After reviewing the evidence of record, the GRC finds that the Custodian provided all records that existed and that no additional records exist. The Complainant's dissatisfaction that the provided records did not provide him with information he sought does not rise to the level of competent credible evidence that refutes the Custodian's SOI certification. Furthermore, the Complainant's follow up to the request suggested that he was interested more in information and answers to questions rather than the requested records.

Accordingly, the Custodian bore her burden of proving that she did not unlawfully deny access to responsive records because she certified in the SOI, and the record reflects, that she provided all responsive records to the Complainant. N.J.S.A. 47:1A-6; Burns, GRC 2005-68; Kohn, GRC 2009-203 *et seq.* See also Demitroff v. Buena Vista Twp. (Atlantic), GRC Complaint No. 2014-184 (January 2015).

Conclusions and Recommendations

The Council Staff respectfully recommends the Council find that the Custodian bore her burden of proving that she did not unlawfully deny access to responsive records because she certified in the SOI, and the record reflects, that she provided all responsive records to the Complainant. N.J.S.A. 47:1A-6; Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005); Kohn v. Twp. of Livingston, GRC Complaint No. 2009-203 & 2009-211 (January 2011). See also Demitroff v. Buena Vista Twp. (Atlantic), GRC Complaint No. 2014-184 (January 2015).

Prepared By: Samuel A. Rosado
Staff Attorney

December 11, 2018