



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

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**FINAL DECISION**

**September 24, 2019 Government Records Council Meeting**

Milton P. Durham  
Complainant

Complaint No. 2017-209

v.

NJ Department of Corrections  
Custodian of Record

At the September 24, 2019 public meeting, the Government Records Council (“Council”) considered the September 17, 2019 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 Complainant’s request No. 1 seeking access to his “Education Record[s] from 1990 to 2000” as well as the several clarified versions of such are invalid because they represented a blanket request that failed to identify the specific records sought. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Assoc. v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008); Bragg v. N.J. Dept of Corr. GRC Complaint No. 2010-145 (March 2011). Thus, the Custodian lawfully denied access to this request item. N.J.S.A. 47:1A-6.
2. The Custodian has borne her burden of proof that he lawfully denied access to the portion of the Complainant’s OPRA request item No. 2 seeking “TABE” test records. Specifically, the Custodian certified in the SOI, and the record reflects, that no responsive records exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
3. The Custodian did not unlawfully deny access to the Complainant’s OPRA request item No. 3 on the basis that he provided the responsive special reports both for inspection and as hard copies. N.J.S.A. 47:1A-6. More specifically, the Custodian certified, and the record reflects, that he disclosed all records responsive to the Complainant. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint Nos. 2009-156, 2009-157, 2009-158 (Interim Order dated April 28, 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 24<sup>th</sup> Day of September 2019

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: September 27, 2019**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
September 24, 2019 Council Meeting**

**Milton P. Durham<sup>1</sup>  
Complainant**

**GRC Complaint No. 2017-209**

v.

**N.J. Department of Corrections<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** On-site inspection of:

1. All New Jersey State Prison (“NJSP”) “Education Record from 1990 to 2000.”
2. All test and answer sheets taken by the Complainant at NJSP and South Woods State Prison (“SWSP”).
3. “Adjudication and Special Reports” regarding .701, .702, and .002 charges from February 3, 2017.

**Custodian of Record:** John Falvey  
**Request Received by Custodian:** April 12, 2017  
**Response Made by Custodian:** April 12, 2017  
**GRC Complaint Received:** October 27, 2017

**Background<sup>3</sup>**

**Request and Response:**

On April 12, 2017, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On April 19, 2017, the Custodian responded in writing denying access to OPRA request item No. 1 as invalid. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005). The Custodian sought clarification regarding OPRA request item No. 2 to include more identifiers about the tests, such as dates and subjects. The Custodian also granted access to records responsive to OPRA request item No. 3 and that the NJSP OPRA Liaison sought until May 12, 2017 to schedule an inspection.

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

<sup>2</sup> Represented by Deputy Attorney General Tasha Bradt.

<sup>3</sup> 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 Executive Director the submissions necessary and relevant for the adjudication of this complaint.

On April 23, 2017, the Complainant sent a letter to the Custodian clarifying his OPRA request. The Complainant stated that regarding OPRA request item No. 1, the “Education Dep’t Records” he sought were either separate from or part of his classification file. The Complainant noted that he previously saw them when inspecting his classification file, noting that the records sought should contain “any interaction [he] had with the NJSP Education Dep’t: testing, job request, Law Library Access, Education Dep’t Job[s].” The Complainant further stated that regarding OPRA request item No. 2, he sought the “TABE” test he took at SWSP between 1986 and 1990, answer sheets, and “scores records” from the Education Department.

On April 26, 2017, the Custodian responded in writing advising the Complainant that his clarified OPRA request item No. 1 remained invalid. The Custodian further sought an extension until May 12, 2017 to attempt to locate responsive “TABE” test answer sheets from NJSP within 1986 through 1990, as well as from SWSP in 2005. On April 28, 2017, the Custodian responded in writing stating that seven (7) of the sixteen (16) pages responsive to OPRA request item No. 3 required redaction. N.J.S.A. 47:1A-1.1; N.J.A.C. 10A:22-2.3(a). The Custodian thus stated that the Complainant was required to remit \$0.35 representing the actual cost for inspection of those records.

On May 3, 2017, the Complainant wrote to the Custodian requesting inspection of his classification file from 1990 through 2000. On May 4, 2017, the Complainant completed on-site inspection of records responsive to OPRA request item No. 3 and signed a “Receipt For Record” form. On May 9, 2017, the Custodian again denied access to the Complainant’s May 3, 2017 clarification as invalid. MAG, 375 N.J. Super. 534; Bragg v. N.J. Dept of Corr., GRC Complaint No. 2010-145 (March 2011).

On May 13, 2017, the Complainant wrote to the Custodian renewing his request to inspect his classification file. The Complainant asserted he was not provided any test records responsive to OPRA request item No. 2 or special reports responsive to OPRA request item No. 3 at his inspection. On July 17, 2017, the Complainant again wrote the Custodian advising of an address change. The Complainant also renewed his request to inspect his classification file containing all “job, Educational, Housing Assignments and Requests, Housing Reports, Disciplinary and any other institutional Record from any other Facility” where the Complainant was housed. The Complainant also questioned the \$0.35 charge for inspection of records responsive to OPRA request item No. 3.

On July 27, 2017, the Custodian responded to the Complainant again denying the Complainant’s clarification to request item No. 1 as invalid. The Custodian also stated that the \$0.35 charge represented the cost for redacting the special reports prior to inspection. The Custodian noted that once he received payment, he would send said records to the Complainant. On August 1, 2017, the Custodian responded to the Complainant in writing confirming receipt of \$0.35 and stating that attached were records responsive to the subject OPRA request.

On August 21, 2017, the Complainant wrote the Custodian advising that he was previously provided access to his classification file in response to prior requests filed with the New Jersey Department of Corrections (“DOC”) since 2012. The Complainant also noted that his July 17, 2017 letter included a clarification of OPRA request item No. 3. The Complainant again clarified

his request to seek “all records concerning classification: Educational Dep’t (anything to or from . . . Ron Price, [TABE records] from 1990 to 2005); Housing Reports; Grievance, Disciplinary, Financial/Business, Family/Social Services, Religion/Chaplaincy (sic), transfers/moves, jobs between 1990 and 2000 except for SWSP [TABE] Testing 2005.” On September 6, 2017, the Custodian responded to the Complainant’s clarified request again denying access under MAG, 375 N.J. Super. 534.

#### Denial of Access Complaint:

On October 27, 2017, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the Custodian unlawfully denied him access to inspect his own classification file sought in OPRA request item No. 1. The Complainant contended that MAG, 375 N.J. Super. 534 and Bragg, GRC 2010-145 did not apply here because he identified the record sought, which was his own classification file. Further, the Complainant contended that unlike in Bragg, who sought copies of his “institutional file,” he sought inspection of his own file. The Complainant also contended that he attempted to narrow the request by time frame and “types of records” to no avail. The Complainant also noted that other inmates recently submitted OPRA requests for their files and were granted access.

The Complainant further argued that he should have received records responsive to OPRA request item No. 2. The Complainant noted that he took the test four times over 33 years; thus, it should not have been hard to locate responsive records.

The Complainant also contended that the Custodian failed to allow him to inspect “special reports” responsive to OPRA request item No. 3. The Complainant contended that there was nothing confidential in those reports, and the Custodian should have granted access to them.

#### Statement of Information:

On December 15, 2017, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on April 12, 2017. The Custodian certified that his search included attempting to locate responsive records, including the Complainant’s classification file, TABE tests and answers, and special reports responsive to the subject OPRA request. The Custodian certified that he initially responded in writing on April 19, 2017, denying access in part, seeking clarification in part, and granting access to records. The Custodian affirmed that he and the Complainant engaged in several communications thereafter, which resulted in multiple denials of various clarified requests for a classification file in OPRA request item No. 1, a determination that no TABE test records responsive to OPRA request item No. 2 existed, and disclosure of all records responsive to OPRA request item No. 3.

Initially, the Custodian contended that he lawfully denied access to the Complainant’s OPRA request item No. 1 because it was invalid. MAG, 375 N.J. Super. 534. The Custodian argued that the Complainant’s request item No. 1 sought inspection of a file that contained numerous categories of records. The Custodian argued that the file is a “comprehensive dossier that could contain numerous categories of records” exempt from disclosure under OPRA and DOC’s regulations. N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3, *et seq.* The Custodian further affirmed that

those categories could include multiple confidential records such as Special Investigation Division reports, medical and mental health records, comprehensive criminal histories, security threat group records, and communication and visitor information. The Custodian certified that the Complainant could submit an “Inmate Remedy System Form” through any JPAY kiosk located within his facility to request certain records from his file. The Custodian noted that the Complainant could “articulat[e]” the records he would like to view and reasons why through the kiosk.

The Custodian further contended that, like the request in Bragg, GRC 2010-145, the Complainant’s OPRA request item No. 1 failed to identify a specific record. The Custodian also argued that the Complainant failed to identify any specific records sought from his classification file, which was comprised of dozens of records. Additionally, the Custodian argued that the classification file is not subject to disclosure, regardless of whether the Complainant was seeking his own file. Spillane v. N.J. State Parole Bd., 2017 N.J. Super. Unpub. LEXIS 2392 (App. Div. 2017).

The Custodian next averred that he lawfully denied access to the Complainant’s OPRA request item No. 2 because no records existed. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005). The Custodian certified that DOC did not maintain or keep on file educational placement tests and answer sheets. The Custodian also averred that the Complainant failed to provide any evidence to the contrary.

The Custodian finally contended that he did not unlawfully deny access to special reports responsive to the Complainant’s OPRA request item No. 3. The Custodian asserted that, contrary to the Complainant’s Denial of Access Complaint arguments, he inspected responsive records, with redactions, on May 4, 2017 and subsequently received copies of those records in via U.S. mail. The Custodian also refuted the Complainant’s argument that the reports did not require redaction. The Custodian contended that the Complainant failed to recognize valid exemptions under OPRA and DOC’s regulations that allowed for said redactions of security and medical/mental health information. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a).

The Custodian argued that the Courts have long deferred to the DOC when making safety and security decisions. The Custodian states that DOC has “broad discretionary power” to promulgate regulations aimed at maintaining security and order inside correctional facilities. Jenkins v. Fauver, 108 N.J. 239, 252 (1987). The Custodian stated that the Courts have noted that “[p]risons are dangerous places, and the courts must afford appropriate deference and flexibility to administrators trying to manage this volatile environment.” Russo v. NJ Dep’t of Corr., 324 N.J. Super. 576, 584 (App. Div. 1999). See also Florence v. Bd. of Chosen Freeholders, Burlington Cnty., 132 S.Ct. 1510, 1515 (2012) (“[m]aintaining safety and order at these institutions requires the expertise of correctional officials, who must have substantial discretion to devise reasonable solutions to the problems they face[.]”)

#### Additional Submissions:

On January 10, 2018, the Complainant submitted a legal certification refuting the Custodian’s SOI. The Complainant contended that he was not provided a chance to review his

classification file, TABE test records, or special reports on May 4, 2017. The Complainant further refuted the Custodian's argument that his classification file contained any exempt records. The Complainant noted that the Custodian's assertion was either not true or DOC removed them when he previously inspected his file in 2012, 2013, and 2014.

The Complainant further certified that he sought "Educations Dep't Records" that were part of his inmate progress notes submitted to the Appellate Division during his disciplinary charge litigation. The Complainant asserted that DOC could reclassify those records as exempt, but he should have been allowed to reinspect them until they were formally exempt.

## Analysis

### Validity of Request

The New Jersey Appellate Division has held that:

While 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.

[MAG, 375 N.J. Super. at 546 (emphasis added).]

The court reasoned that:

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 evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

[Id. at 549 (emphasis added).]

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." Id. (emphasis added). Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005);<sup>4</sup> N.J. Builders Assoc. v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

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<sup>4</sup> Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

The validity of an OPRA request typically falls into three (3) categories. The first is a request that is overly broad (“any and all” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second is those requests seeking information or asking questions. See *e.g.* Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. See *e.g.* Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

Regarding generic requests for “records,” the request at issue in MAG sought “all documents or records evidencing that the ABC sought, obtained or ordered revocation of a liquor license for the charge of selling alcoholic beverages to an intoxicated person in which such person, after leaving the licensed premises, was involved in a fatal auto accident” and “all documents or records evidencing that the ABC sought, obtained or ordered suspension of a liquor license exceeding 45 days for charges of lewd or immoral activity.” Id. at 539-540. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. See also Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that the complainant’s request item No. 2 seeking “[p]roof of submission” was invalid); Edwards v. Hous. Auth. of Plainfield (Union), GRC Complaint No. 2008-183 *et seq.* (Final Decision dated April 25, 2012) (accepting the Administrative Law Judge’s finding that a newspaper article attached to a subject OPRA request that was related to the records sought did not cure the deficiencies present in the request) Id. at 12-13.

Moreover, in Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008), the Council similarly held that a request seeking “[a]ny and all documents and evidence” relating to an investigation being conducted by the Somerset County Prosecutor’s Office was invalid, reasoning that:

[B]ecause the records requested comprise an entire SCPO file, the request is overbroad and of the nature of a blanket request for a class of various documents rather than a request for specific government records. Because OPRA does not require custodians to research files to discern which records may be responsive to a request, the Custodian had no legal duty to research the SCPO files to locate records potentially responsive to the Complainant’s request pursuant to the Superior Court’s decisions in [MAG], [Bent] and the Council’s decisions in Asarnow v. Dep’t of Labor and Workforce Dev. GRC Complaint No. 2006-24 (May 2006) and Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (February 2008).

[Id.]

The GRC has typically held that a request seeking access to a “file” is invalid because it represents a blanket request for a class of various, unidentifiable records. See Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (February 2008); Nunley v. N.J. State Parole Bd., GRC Complaint No. 2013-335 (July 2014). In Bragg, GRC 2010-145, the complainant disputed the custodian’s denial of his request seeking his “[c]omplete institutional” and “Special



Investigation Division” files. In the SOI, the custodian argued that a portion of the request was invalid because it failed to identify specific records. The Council agreed, finding that both request items were invalid because the complainant’s “request seeks entire files rather than specific identifiable government records.” (Citations Omitted). See also Bradley-Williams v. Atlantic Cnty. Jail, GRC Complaint No. 2011-232 (December 2012); Torian v. N.J. State Parole Bd., GRC Complaint No. 2013-245 (June 2014).

In the instant complaint, the Complainant’s request item No. 1 sought access to his “Education Record[s] from 1990 to 2000.” The Custodian denied the request as invalid, citing MAG, 375 N.J. Super. at 549. Thereafter, the Complainant submitted several clarifications amounting to a continuous request to inspect his classification file. In some of the clarifications, the Complainant identified a vague class of documents associated with classification file. In each instance, the Custodian denied access on the basis that each clarification was equally invalid. In the Denial of Access Complaint, the Complainant argued that he had a right to inspect his own classification file under OPRA. The Complainant also argued that his request was different from the one in Bragg, GRC 2010-145 because he sought inspection. In the SOI, the Custodian reiterated DOC’s position that the request was invalid.

In reviewing all available case law above, the GRC is satisfied that the Complainant’s request item No. 1 was invalid, and that the Custodian lawfully denied access to it. The Complainant’s initial version of request item No. 1 seeking “records” has routinely been identified as invalid. Feiler-Jampel, GRC 2007-190. Additionally, the Complainant’s clarified versions of request item No. 1 was very similar to the request at issue in Bragg, GRC 2010-145. This is contrary to the Complainant’s Denial of Access Complaint attempts to distinguish his request from the one at issue there. Also compelling is the Complainant’s continued references to his attempts to review his entire classification file throughout the pendency of the request and complaint process. All relevant case law continuously reaffirms the Council’s view on requests seeking a “file” as a blanket request. Finally, and contrary to the Complainant’s Denial of Access suggestion, whether a requestor seeks inspection over copies does not impact whether a request is overly broad on its face.

Accordingly, the Complainant’s request No. 1 seeking access to his “Education Record[s] from 1990 to 2000” as well as the several clarified versions of such are invalid because they represented a blanket request that failed to identify the specific records sought. MAG, 375 N.J. Super. at 549; Bent, 381 N.J. Super. at 37; N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler, GRC 2007-151; Feiler-Jampel, GRC 2007-190; Bragg, GRC 2010-145. Thus, the Custodian lawfully denied access to this request item. N.J.S.A. 47:1A-6.

### **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.

### Tests and Answer Sheets

The Council has previously found that, where a custodian certified that no responsive records exist, no unlawful denial of access occurred. See Pusterhofer, GRC 2005-49. Here, the Complainant's request item No. 2 sought his test and answer sheets taken while at NJSP and SWSP. Several clarifications followed wherein the Complainant sought "TABE" tests, answer sheets, and score records for tests taken at SWSP from 1986 through 1990. The Complainant subsequently noted that he was not shown any test records at his May 4, 2017 inspection. In the SOI, the Custodian certified that he attempted to locate the responsive "TABE" test records but determined that DOC did not maintain or keep on file said records. In response to the SOI, the Complainant averred that he was seeking records that were referred to in progress notes submitted to the Appellate Division; however, he provided no evidence that same were the records sought.

Accordingly, the Custodian has borne her burden of proof that he lawfully denied access to the portion of the Complainant's OPRA request item No. 2 seeking "TABE" test records. Specifically, the Custodian certified in the SOI, and the record reflects, that no responsive records exist. N.J.S.A. 47:1A-6; see Pusterhofer, GRC 2005-49.

### Special Reports

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint Nos. 2009-156, 2009-157, 2009-158 (Interim Order dated April 28, 2010), the Council found that the custodian did not unlawfully deny access to the requested records based on the custodian's certification that all such records were provided to the complainant. The Council held that the custodian's certification, in addition to the lack of refuting evidence from the complainant, was sufficient to meet the custodian's burden of proof. See also Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005); Holland v. Rowan Univ., GRC Complaint No. 2014-63, *et seq.* (March 2015).

In the instant matter, the Complainant argued in the Denial of Access Complaint that the Custodian failed to provide special reports responsive to his OPRA request item No. 3 for inspection. In the SOI, the Custodian certified that sixteen (16) pages of special reports, with some redactions, were presented to the Complainant for inspection on May 4, 2017. The Custodian further certified that he provided copies of said records to the Complainant on August 1, 2017 after receiving applicable copy costs. Thereafter, the Complainant maintained that he was not provided inspection of any special reports.

Upon review of the evidence of record and arguments submitted by both parties, the GRC is satisfied that the Custodian provided all responsive special reports to the Complainant both for inspection and as hard copies. While the Complainant argued that he did not receive said records, he did not provide any evidence to refute the Custodian's detailed certification. Further, there is no other evidence in the record that refutes the Custodian's certification. Thus, no unlawful denial of access occurred here because the Custodian disclosed all records responsive to the Complainant's OPRA request.

Therefore, the Custodian did not unlawfully deny access to the Complainant's OPRA request item No. 3 on the basis that he provided the responsive special reports both for inspection and as hard copies. N.J.S.A. 47:1A-6. More specifically, the Custodian certified, and the record reflects, that he disclosed all records responsive to the Complainant. Danis, GRC 2009-156, *et seq.*

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Complainant's request No. 1 seeking access to his "Education Record[s] from 1990 to 2000" as well as the several clarified versions of such are invalid because they represented a blanket request that failed to identify the specific records sought. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Assoc. v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008); Bragg v. N.J. Dept of Corr. GRC Complaint No. 2010-145 (March 2011). Thus, the Custodian lawfully denied access to this request item. N.J.S.A. 47:1A-6.
2. The Custodian has borne her burden of proof that he lawfully denied access to the portion of the Complainant's OPRA request item No. 2 seeking "TABE" test records. Specifically, the Custodian certified in the SOI, and the record reflects, that no responsive records exist. N.J.S.A. 47:1A-6; see Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
3. The Custodian did not unlawfully deny access to the Complainant's OPRA request item No. 3 on the basis that he provided the responsive special reports both for inspection and as hard copies. N.J.S.A. 47:1A-6. More specifically, the Custodian certified, and the record reflects, that he disclosed all records responsive to the Complainant. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint Nos. 2009-156, 2009-157, 2009-158 (Interim Order dated April 28, 2010).

Prepared By: Frank F. Caruso  
Executive Director

September 17, 2019