



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
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MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

January 27, 2026 Government Records Council Meeting

Maria Diamonte
Complainant

Complaint No. 2022-398

v.

Rutgers University
Custodian of Record

At the January 27, 2026, public meeting, the Government Records Council (“Council”) considered the January 20, 2026, 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 performed an insufficient search for “colloquium speakers in the DGA for the years 2010-2016.” Specifically, the Custodian’s failure to locate said records until after conducting an additional search prompted by the Complainant resulted in an insufficient search and unlawful denial of access. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep’t of Env’tl. Prot., GRC Complaint No. 2007-220 (April 2008). However, the GRC declines to order disclosure because the Custodian disclosed responsive records to the Complainant on March 13, 2022.
2. The Complainant demanded the GRC impose a civil penalty against the Custodian because she conducted an insufficient search which resulted in an initial denial of access. However, the evidence of record reveals that the Custodian subsequently provided the Complainant with all records responsive to the request. Additionally, the evidence of record does not indicate that the Custodian’s actions had a positive element of conscious wrongdoing or were intentional and deliberate. Therefore, the Custodian’s actions did not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

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 27th Day of January 2026

John A. Alexy, 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: February 2, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
January 27, 2026 Council Meeting**

**Maria Diamonte¹
Complainant**

GRC Complaint No. 2022-398

v.

**Rutgers University²
Custodial Agency**

Records Relevant to Complaint: Copies of “[a] list of speakers with their biographies of colloquium speakers in the Division of Global Affairs ([“]DGA[”])for the years 2010-2016.”

Custodian of Record: Jewell Battle³

Request Received by Custodian: March 2, 2022

Responses Made by Custodian: March 3, 2022, March 4, 2022, and March 13, 2022

GRC Complaint Received: August 9, 2022

Background⁴

Request and Responses:

On March 2, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On March 3, 2022, the Custodian responded in writing informing the Complainant that the request is denied because there are no records responsive to the request. On that same date, the Complainant informed the Custodian that “[t]he department chair in DGA has these records. They may be in electronic form.” On March 4, 2022, the Custodian informed the Complainant that there is no department chair but that she will “conduct an additional search for responsive records.” On March 13, 2022, the Custodian located and disclosed records responsive to the Complainant’s request.

On March 15, 2022, the Complainant informed the Custodian that she had requested records for the years 2010 to 2016, and the years were missing from the response. On that same date, the Custodian replied to the Complainant that there are no other responsive records. The Custodian informed the Complainant that there are only additional responsive records for 2018 and thereafter.

¹ No legal representation listed on record.

² No legal representation listed on record.

³ The current Custodian of Records is Mary Ann Keys.

⁴ 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.

Denial of Access Complaint:

On August 9, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that, on March 3, 2022, she submitted her OPRA request to the Custodian. The Complainant stated that the Custodian responded on March 4, 2022, stating that, “there is no department chair.” The Complainant stated that she attached a DGA web page listing the director as Gary D. Farney. The Complainant requested the GRC impose civil penalties and disciplinary action against the Custodian.

The Complainant directed the GRC to see the complaint attachments. The Complainant attached to the complaint one (1) introductory page from DGA’s web site. The Complainant also attached written communications between her and the Custodian dated March 2, 2022, March 3, 2022, March 4, 2022, March 13, 2022, and March 15, 2022.

Statement of Information:

On August 25, 2022, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that two (2) pages of records are responsive to the request, which are a “Schedule for Fall 2010 Division of Global Affairs Colloquium Series” and the “Fall 2014 Global Affairs Seminar Series.” The Custodian certified that the records were disclosed to the Complainant in unredacted form on March 14, 2022. The Custodian further certified that there are no other records responsive to the request for the time frame specified by the Complainant.

The Custodian also addressed the Complainant’s allegation that she denied there was a department chair in the DGA. The Custodian certified that Gary D. Farney is not a “Department Chair” as alleged by the Complainant; rather, he is the Director of the DGA. The Custodian certified that “Department Chair” and “Director” are different titles.

Analysis

Sufficiency of Search

It is the custodian’s responsibility to perform a complete search for the requested records before responding to an OPRA request, as doing so will help ensure that the custodian’s response is accurate and has an appropriate basis in law. In Schneble v. N.J. Dep’t of Env’tl. Prot., GRC Complaint No. 2007-220 (April 2008), the custodian initially stated that no records responsive to the complainant’s OPRA request existed. The custodian certified that, after receipt of the complainant’s denial of access complaint containing e-mails responsive to the complainant’s request, the custodian conducted a second search and found additional records responsive to the complainant’s request. The GRC held that the custodian had performed an inadequate search and thus unlawfully denied access to the responsive records. See also Lebbing v. Borough of Highland Park (Middlesex), GRC Complaint No. 2009-251 (January 2011).

Here, the Custodian responded to the Complainant’s request on March 3, 2022, denying same by asserting there were no responsive records. However, after the Complainant insisted that DGA has responsive records, the Custodian was prompted to conduct an additional search.

Thereafter, on March 13, 2022, the Custodian located and disclosed records responsive to the request. As in Schneble, GRC 2007-220, the Custodian failed to conduct an adequate search and thereby unlawfully denied access to the responsive records.

Therefore, the Custodian performed an insufficient search for “colloquium speakers in the DGA for the years 2010-2016.” Specifically, the Custodian’s failure to locate said records until after conducting an additional search prompted by the Complainant resulted in an insufficient search and unlawful denial of access. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the GRC declines to order disclosure because the Custodian disclosed responsive records to the Complainant on March 13, 2022.

Knowing & Willful

OPRA states that “[a] public official, officer, employee or custodian who knowingly or willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty.” N.J.S.A. 47:1A-11(a). OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically, OPRA states that, “[i]f the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA].” N.J.S.A. 47:1A-7(e).

Certain legal standards must be considered when making the determination of whether the Custodian’s actions rise to the level of a “knowing and willful” violation of OPRA. The following statements must be true for a determination that the Custodian “knowingly and willfully” violated OPRA: the Custodian’s actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170, 185 (2001)); the Custodian must have had some knowledge that his actions were wrongful (Fielder v. Stonack, 141 N.J. 101, 124 (1995)); the Custodian’s actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian’s actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (id.; Marley v. Borough of Palmyra, 193 N.J. Super. 271, 294-95 (Law Div. 1993)); the Custodian’s actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

Here, the Complainant demanded the GRC impose a civil penalty against the Custodian because she conducted an insufficient search which resulted in an initial denial of access. However, the evidence of record reveals that the Custodian subsequently provided the Complainant with all records responsive to the request. Additionally, the evidence of record does not indicate that the Custodian’s actions had a positive element of conscious wrongdoing or were intentional and deliberate. Therefore, the Custodian’s actions did not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian performed an insufficient search for “colloquium speakers in the DGA for the years 2010-2016.” Specifically, the Custodian’s failure to locate said records until after conducting an additional search prompted by the Complainant resulted in an insufficient search and unlawful denial of access. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep’t of Env’tl. Prot., GRC Complaint No. 2007-220 (April 2008). However, the GRC declines to order disclosure because the Custodian disclosed responsive records to the Complainant on March 13, 2022.

2. The Complainant demanded the GRC impose a civil penalty against the Custodian because she conducted an insufficient search which resulted in an initial denial of access. However, the evidence of record reveals that the Custodian subsequently provided the Complainant with all records responsive to the request. Additionally, the evidence of record does not indicate that the Custodian’s actions had a positive element of conscious wrongdoing or were intentional and deliberate. Therefore, the Custodian’s actions did not rise to the level of a knowing and willful violation of OPRA and unreasonable denial of access under the totality of the circumstances.

Prepared By: John E. Stewart

January 20, 2026⁵

⁵ This complaint was prepared for adjudication at the Council’s November 7, 2024 meeting, but could not be adjudicated due to lack of quorum.