



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

January 28, 2025 Government Records Council Meeting

Anonymous
Complainant

Complaint No. 2022-577

v.

William Paterson University
Custodian of Record

At the January 28, 2025, public meeting, the Government Records Council (“Council”) considered the January 21, 2025, 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 did not bear her burden of proof that she timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007). Moreover, the Custodian’s failure to respond immediately to the Complainant’s OPRA request item No. 4 seeking salary information results in a violation of N.J.S.A. 47:1A-5(e). See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2011-330 (Interim Order dated February 26, 2013). However, the GRC declines to order any further action because the Custodian disclosed all responsive records to the Complainant as part of the Statement of Information.

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 28th Day of January 2025

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: January 30, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
January 28, 2025 Council Meeting**

**Anonymous¹
Complainant**

GRC Complaint No. 2022-577

v.

**William Paterson University²
Custodial Agency**

Records Relevant to Complaint: Electronic copies via e-mail of the following for a former Campus Police employee:

1. Dates of hiring or appointment.
2. Dates and titles for all positions.
3. Dates of separation and reason therefor (in September 2012).
4. Salary/earnings history.
5. Oath of Office.

Custodian of Record: Melissa Reardon Henry
Request Received by Custodian: September 27, 2022
Response Made by Custodian: None.
GRC Complaint Received: October 20, 2022

Background³

Request and Response:

On September 27, 2022, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. The Custodian did not respond to the OPRA request.

Denial of Access Complaint:

On October 20, 2022, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that they did not receive a response to the OPRA request.

¹ No legal representation listed on record.

² No legal representation listed on record.

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 Executive Director the submissions necessary and relevant for the adjudication of this complaint.

Statement of Information:

On November 2, 2022 the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she received the Complainant’s OPRA request on September 27, 2022. The Custodian acknowledged that no response was provided to the Complainant. The Custodian averred that upon receipt of this complaint, she searched for and obtained the records responsive to the subject OPRA request, which were attached. The Custodian asserted that while she acknowledges the response failure, same was the result of an “administrative error.”

Analysis⁴

Timeliness

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian’s failure to respond within the required seven (7) business days results in a “deemed” denial. Id. Further, a custodian’s response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).⁵ Thus, a custodian’s failure to respond in writing to a complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).

Likewise, barring extenuating circumstances, a custodian’s failure to respond immediately in writing to a complainant’s OPRA request for immediate access records, either granting access, denying access, seeking clarification, or requesting an extension of time, also results in a “deemed” denial of the request pursuant to N.J.S.A. 47:1A-5(e), N.J.S.A. 47:1A-5(g), and N.J.S.A. 47:1A-5(i).⁶ Cody v. Middletown Twp. Pub. Sch., GRC Complaint No. 2005-98 (December 2005) and Harris v. N.J. Dep’t of Corr., GRC Complaint No. 2011-65 (August 2012). See also Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007) (holding that the custodian was obligated to notify the complainant immediately as to the status of “immediate access” records). Additionally, the Council has held that custodians have “an obligation to immediately” respond to immediate access items within a larger OPRA request either granting access, denying access, seeking clarification, or requesting an extension time. See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2011-330 (Interim Order dated February 26, 2013).

⁴ P.L. 2024, c.16, enacted on September 3, 2024, provides anonymous complaints “. . . may be dismissed with prejudice upon a motion by the public agency . . .” unless a complainant files an amended complaint identifying themselves by name and address within 90 days after enactment. N.J.S.A. 47:1A-7.1. The GRC notes although the Complainant did not submit the required amended complaint, this complaint has not been dismissed because William Paterson University did not submit such a motion as required under the new provision.

⁵ A custodian’s written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency’s official OPRA request form, is a valid response pursuant to OPRA.

⁶ OPRA lists immediate access records as “budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.” N.J.S.A. 47:1A-5(e). The Council has also determined that invoices are “immediate access” records. See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2012-03 (April 2013).

Here, the Complainant submitted the subject OPRA request on September 27, 2022; item No. 4 thereof sought “immediate access” salary information. N.J.S.A. 47:1A-5(e). In the SOI, the Custodian conceded that she failed to timely respond to the OPRA request due to an administrative error. The Custodian also certified that after receiving the complaint, she amassed all records responsive to the Complainant. The Custodian disclosed them as attachments to the SOI, which was simultaneously provided to the Complainant, and the GRC confirms that they sufficiently address the totality of the Complainant’s OPRA request.

Therefore, the Custodian did not bear her burden of proof that she timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11. Moreover, the Custodian’s failure to respond immediately to the Complainant’s OPRA request item No. 4 seeking salary information results in a violation of N.J.S.A. 47:1A-5(e). See Kohn, GRC 2011-330. However, the GRC declines to order any further action because the Custodian disclosed all responsive records to the Complainant as part of the SOI.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Custodian did not bear her burden of proof that she timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007). Moreover, the Custodian’s failure to respond immediately to the Complainant’s OPRA request item No. 4 seeking salary information results in a violation of N.J.S.A. 47:1A-5(e). See Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2011-330 (Interim Order dated February 26, 2013). However, the GRC declines to order any further action because the Custodian disclosed all responsive records to the Complainant as part of the Statement of Information.

Prepared By: Frank F. Caruso
Executive Director

January 21, 2025