



State of New Jersey
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Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

March 31, 2026 Government Records Council Meeting

Renata Hobbs
Complainant

Complaint No. 2023-109

v.

Jersey City Board of Education (Hudson)
Custodian of Record

At the March 31, 2026, public meeting, the Government Records Council (“Council”) considered the March 24, 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 lawfully denied access to the Complainant’s OPRA request items Nos. 1 through 3 and 5 through 6. N.J.S.A. 47:1A-6. Specifically, the requested records all relate to the Jersey City Board of Education’s recruitment process connected to job posting Nos. 4972 and 5240 and are clearly exempt from disclosure under N.J.S.A. 47:1A-10 and Executive Order No. 26 (Gov. McGreevey, 2002). N.J.S.A. 47:1A-9(a); Toscano v. N.J. Dep’t of Human Servs., Div. of Health Servs., GRC Complaint No. 2010-147 (May 2011); Vandy v. Burlington Co. Bd. of Social Servs., GRC Complaint No. 2016-319 (December 2018).
2. The responsive records to OPRA request item Nos. 4 and 7 are exempt from disclosure under the “inter-agency or intra-agency advisory, consultative, or deliberative material” exemption. N.J.S.A. 47:1A-1.1; Vandy v. Burlington Co. Bd. of Social Servs., GRC Complaint No. 2016-319 (December 2018). For this reason, the Custodian lawfully denied access to same. N.J.S.A. 47:1A-6.

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 31st Day of March 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: April 2, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
March 31, 2026 Council Meeting**

**Renata Hobbs¹
Complainant**

GRC Complaint No. 2023-109

v.

**Jersey City Board of Education (Hudson)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies of the following relating to the Jersey City Board of Education (“JCBOE”) Job Posting Nos. 4972 and 5240:

1. Electronic applications;
2. List of Interview Panel;
3. Interview Schedule for Job Postings;
4. Supporting interview documentation, including but not limited to score cards and basis of scores;
5. Final interview schedule;
6. Emails notifying selectees of final interviews;
7. Final interview supporting documentation demonstrating why recommended candidates were deemed the best.³

Custodian of Record: Dr. Dennis Frohnapfel

Request Received by Custodian: April 5, 2023

Response Made by Custodian: April 14, 2023; April 24, 2023

GRC Complaint Received: May 16, 2023

Background⁴

Request and Response:

On April 4, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On April 14, 2023, the Custodian responded in writing extending the response timeframe until April 21, 2023, because JCBOE staff

¹ No legal representation listed on record.

² Represented by John E. Croot, Jr., Esq. of Adams Gutierrez & Lattiboudere, LLC (Iselin, NJ).

³ The Complainant sought additional records that are not at issue in this complaint.

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.

were on spring break. On April 24, 2023,⁵ the Custodian responded in writing denying access to the requested records as confidential personnel records exempt from disclosure under N.J.S.A. 47:1A-10.

Denial of Access Complaint:

On May 16, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the Custodian unlawfully denied her access to the requested records. The Complainant asserted that she requested the subject records due to negative allegations regarding the JCBOE’s hiring practices. The Complainant stated that following an extension of time, she received “some information” in response to her request, but the Custodian denied access to the “majority of the items” under OPRA’s personnel exemption.

The Complainant argued that pursuant to N.J.A.C. 13:92-10.4 the only record requested that could be defined as a personnel record is the employment applications sought in OPRA request item No. 1. The Complainant contended, however, that the exemption is not applicable here since “no one from the two Job postings have been selected” and thus applicants could not be considered “current employees.” The Complainant further asserted that the “NJ Records manual”⁶ provides that “all e-mail communications that document an agency’s functions, policies, decisions, procedures, operations or other official activities fall under the umbrella of the definition of a government record per N.J.S.A. 47:1A-1.1.”

The Complainant requested that the Custodian disclose the records responsive to her OPRA request to allow full transparency and accountability of the JCBOE’s practices and ensure selection of the best candidates.

Statement of Information:⁷

On May 16, 2024, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA request on April 5, 2023. The Custodian certified that his search included a search of the JCBOE email system and the database where job applications and postings are maintained. The Custodian noted that the JCBOE was closed for spring break from April 7, 2023 to April 17, 2023. The Custodian certified that he responded in writing on April 14, 2023, extending the response timeframe until April 21, 2023, due to the ongoing spring break. The Custodian certified that he again responded in writing on April 24, 2023, disclosing records responsive to “certain parts” of the Complainant’s request and denying access to “other documents because they would reveal confidential personnel information regarding the candidates for the principal position including the identity of the candidates, their

⁵ While it is unclear whether a timeliness violation occurred here, the GRC declines to address the issue because the Complainant did not raise it.

⁶ This appears to refer to the “New Jersey Records Manual” created and disseminated by the N.J. Department of Treasury, Division of Revenue and Enterprise Services. That manual is specific to records retention and destruction practices administrated by Records Management Services.

⁷ On August 14, 2023, this complaint was referred to mediation. On April 8, 2024, this complaint was referred back to the GRC for adjudication.

employment applications, and information regarding the results of the interviews and the assessments of the candidates.”

The Custodian stated that Complainant’s OPRA request sought a host of records related to two (2) job postings for the position of principal including applications, resumes, e-mails, interview schedules, notes, and lists. The Custodian asserted that said records were exempt from disclosure as confidential personnel information pursuant to N.J.S.A. 47:1A-10, and as “inter-agency or intra-agency advisory, consultative, or deliberative [(“ACD”)] material” pursuant to N.J.S.A. 47:1A-1.1. The Custodian further argued that the requested records were exempt from disclosure in accordance with the privacy interests set forth in N.J.S.A. 47:1A-1 and also under Executive Order No. 26 (Gov. McGreevey, 2002) (“EO 26”).

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.

OPRA provides that, “[n]otwithstanding the provisions [OPRA] or any other law to the contrary, the personnel or pension records of any individual in the possession of a public agency . . . shall not be considered a government record.” N.J.S.A. 47:1A-10. OPRA begins with a presumption against disclosure and “proceeds with a few narrow exceptions that . . . need to be considered.” Kovalcik v. Somerset Cnty. Prosecutor’s Office, 206 N.J. 581 (2011). These exceptions include disclosure “when authorized by an individual in interest” *Id.*; see McGee v. Twp. of East Amwell (Hunterdon), GRC Complaint No. 2007-305 (March 2011) (holding that a waiver of the personnel exemption requires the requestor to know of their confidentiality rights and intent to waive same). Further, the personnel record exemption may apply to records that “. . . bear many of the indicia of personnel files.” N. Jersey Media Grp. v. Bergen Cnty. Prosecutor’s Office, 405 N.J. Super. 386, 390 (App. Div. 2009); Rodriguez v. Kean Univ., GRC Complaint No. 2013-296 (June 2014)

OPRA further provides that:

The provisions of this act . . . shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to [OPRA]; any other statute; resolution of either or both Houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order.

[N.J.S.A. 47:1A-9(a)].

Further, EO 26 provides in relevant part:

No public agency shall disclose the resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing. The résumés of successful candidates shall be disclosed once the successful candidate is hired. The résumés of unsuccessful candidates may be disclosed after the search has been concluded and the position has been filled, but only where the unsuccessful candidate has consented to such disclosure.

[Id. (emphasis added).]

OPRA request items Nos. 1- 3 and 5-6

EO 26 is clear on the disclosability of resumes at the conclusion of the recruitment process: successful candidate resumes must be disclosed. Id. However, EO 26 is less clear on applications and “other information concerning job applicants.” To this end, in Toscano v. N.J. Dep’t of Human Servs., Div. of Health Servs., GRC Complaint No. 2010-147 (May 2011), the Council has previously held that employment applications were not disclosable, reasoning that EO 26 made no mention of employment applications being disclosed after the completion of the recruitment search. The Council further equated applications to “personnel records” not among the enumerated list of releasable records set forth at N.J.S.A. 47:1A-10 (allowing for limited disclosure of certain personnel information). Id.; see also Deutsch v. N.J. Civil Serv. Comm’n, GRC Complaint No. 2011-361 (March 2013); Keenan v. N.J. Dep’t of Labor & Workforce Dev., Div. of Disability Determination Servs., GRC Complaint NO. 2015-388 (Interim Order dated June 27, 2017).

The GRC has also applied EO 26 to other types of information regarding candidates for an open position. For instance, in Vandy v. Burlington Co. Bd. of Social Servs., GRC Complaint No. 2016-319 (December 2018), the Council held that candidate essays were exempt under EO 26 as “other information concerning job applicants.” Id. at 6-7.

Here, the Complainant’s OPRA request item Nos. 1 through 3 and 5 through 6 sought various records associated with the JCBOE Principal job posting Nos. 4972 and 5240. Those records include electronic applications, various lists associated with interviewers and interviewees for the positions, and e-mails to and from the potential candidates. The Custodian responded in writing denying access to the records as confidential personnel records exempt from disclosure under N.J.S.A. 47:1A-10. This complaint followed, wherein the Complainant contended that none of the records sought could be exempt under the personnel exemption because no one was hired for the position. In the SOI, the Custodian certified that the responsive records included electronic applications, inclusive of the resumes, references, certifications of job applicants, and other records. The Custodian maintained his position that the requested records qualified as personnel records exempt from disclosure under N.J.S.A. 47:1A-10, adding N.J.S.A. 47:1A-1 and EO 26.

Upon review and considering all the cited prior decisions related to candidate records during recruitment for job posting Nos. 4972 and 5240, the GRC is satisfied that the Custodian lawfully denied access to all records sought. Initially, the Complainant acknowledged that no candidates were selected for the position; thus, any consideration regarding the disclosure of

resumes for successful candidates is moot. Further, as to OPRA request item No. 1, Toscano supports that employment applications are exempt from disclosure under N.J.S.A. 47:1A-10 and EO 26. The GRC finds that the interview list sought in OPRA request item No. 2, which is likely comprised of JCBOE employees, would fall within the definition of a personnel record exempt from disclosure under N.J.S.A. 47:1A-10. Specifically, the personnel exemption does not contain an exception requiring an agency to identify specific employees involved in the interview process. Further, as to OPRA request items Nos. 3, 5, and 6,⁸ Vandy supports the applicability of EO 26 to “other information concerning job applicants,” inclusive of interviewee schedules and candidate notification e-mails.

Accordingly, the Custodian lawfully denied access to the Complainant’s OPRA request items Nos. 1 through 3 and 5 through 6. N.J.S.A. 47:1A-6 because those requested records all relate to JCBOE’s recruitment process connected to job posting Nos. 4972 and 5240 and are clearly exempt from disclosure under N.J.S.A. 47:1A-10 and EO 26. N.J.S.A. 47:1A-9(a); Toscano, GRC 2010-147; Vandy, GRC 2016-319.

OPRA request item Nos. 4 and 7

OPRA provides that the definition of a government record “shall not include . . . inter-agency or intra-agency advisory, consultative, or deliberative [(“ACD”)] material.” When the exception is invoked, a governmental entity may “withhold documents that reflect advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated.” Educ. Law Center v. N.J. Dep’t. of Educ., 198 N.J. 274, 285 (2009) (citing NLRB v. Sears, Roebuck & Co., 421 U.S. 132 (1975)). The New Jersey Supreme Court has also ruled that a record that contains or involves factual components is entitled to deliberative-process protection under the exemption in OPRA when it was used in decision-making process and its disclosure would reveal deliberations that occurred during that process. Id.

A custodian claiming an exception to the disclosure requirements under OPRA on that basis must initially satisfy two conditions: 1) the document must be pre-decisional, meaning that the document was generated prior to the adoption of the governmental entity’s policy or decision; and 2) the document must reflect the deliberative process, which means that it must contain opinions, recommendations, or advice about agency policies. Id. at 286 (citations omitted). The key factor in this determination is whether the contents of the document reflect “formulation or exercise of . . . policy-oriented judgment or the process by which policy is formulated.” Id. at 295 (adopting the federal standard for determining whether material is “deliberative” and quoting Mapother v. Dep’t of Justice, 3 F.3d 1533, 1539 (D.C. Cir. 1993)). Once the governmental entity satisfies these two threshold requirements, a presumption of confidentiality is established, which the requester may rebut by showing that the need for the materials overrides the government’s interest in confidentiality. Id. at 286-87.

In Vandy, GRC 2016-319, the complainant sought, in part, interview score sheets and interview panel notes. The custodian initially denied access under the personnel exemption;

⁸ The GRC notes that OPRA request item No. 6 on its face is invalid because it failed to include the required criteria set forth in Elcavage v. West Milford Twp., GRC Complaint No. 2009-07 (April 2010) and specifically the date or range of dates. Tracey-Coll v. Elmwood Park Bd. of Educ. (Bergen), GRC Complaint No. 2009-206 (June 2010)

however, she expanded her bases for denial in the SOI to include the ACD exemption. The Council looked to Fegley, Esq. v. N.J. Dep't of Env'tl. Prot., GRC Complaint No. 2006-91 (Interim Order dated November 13, 2018), in determining that the custodian lawfully denied access to the responsive score sheets and summaries under the ACD exemption. Id. at 4.

Here, Complainant's OPRA request item No. 4 sought "supporting interview docs . . . including but not limited to score cards and basis of scores." The Complainant's OPRA request item No. 7 sought "final interview supporting doc . . . demonstrating why recommended candidates were deemed the best." The Custodian responded in writing, denying access to the records as confidential personnel records exempt from disclosure under N.J.S.A. 47:1A-10; this complaint followed. In the SOI, the Custodian certified that the responsive records involved ACD records related to the selection and assessment of job applicants. The Custodian maintained his position that the requested records were exempt from disclosure under N.J.S.A. 47:1A-10 and included EO 26 as an applicable exemption.

The Council's decision in Vandy, GRC 2016-319, supports that the Custodian lawfully denied access to these records. Specifically, on their face and as described in the OPRA request, the deliberative nature of the interview score sheets along with the supporting documentation regarding JCBOE's select of final candidates over others is apparent. It is thus clear that the requested records meet the two-prong test necessary to qualify as ACD material.

Accordingly, the responsive records to OPRA request item Nos. 4 and 7 are exempt from disclosure under the ACD exemption. N.J.S.A. 47:1A-1.1; Vandy, GRC 2016-319. For this reason, the Custodian lawfully denied access to same. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian lawfully denied access to the Complainant's OPRA request items Nos. 1 through 3 and 5 through 6. N.J.S.A. 47:1A-6. Specifically, the requested records all relate to the Jersey City Board of Education's recruitment process connected to job posting Nos. 4972 and 5240 and are clearly exempt from disclosure under N.J.S.A. 47:1A-10 and Executive Order No. 26 (Gov. McGreevey, 2002). N.J.S.A. 47:1A-9(a); Toscano v. N.J. Dep't of Human Servs., Div. of Health Servs., GRC Complaint No. 2010-147 (May 2011); Vandy v. Burlington Co. Bd. of Social Servs., GRC Complaint No. 2016-319 (December 2018).
2. The responsive records to OPRA request item Nos. 4 and 7 are exempt from disclosure under the "inter-agency or intra-agency advisory, consultative, or deliberative material" exemption. N.J.S.A. 47:1A-1.1; Vandy v. Burlington Co. Bd. of Social Servs., GRC Complaint No. 2016-319 (December 2018). For this reason, the Custodian lawfully denied access to same. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso
Executive Director

March 24, 2026