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DEPARTMENT OF COMMUNITY AFFAIRS
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JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

October 6, 2025 Government Records Council Meeting

Kevin Ilse
Complainant

Complaint No. 2023-143

v.

South Orange & Maplewood School District (Essex)
Custodian of Record

At the October 6, 2025, public meeting, the Government Records Council (“Council”) considered the September 29, 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 records sought in the Complainant’s two (2) OPRA requests are exempt from disclosure under N.J.S.A. 47:1A-9(a) and N.J.A.C. 6A:32-7.5(g)1 because they related to individual students and reasonable redaction would not be sufficient to conceal the individual students’ identity. Thus, the Custodian lawfully denied access to both OPRA requests. 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 6th Day of October 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: October 7, 2025



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
October 6, 2025 Council Meeting**

**Kellan Ilse¹
Complainant**

GRC Complaint No. 2023-143

v.

**South Orange & Maplewood School District (Essex)²
Custodial Agency**

Records Relevant to Complaint:

June 13, 2023 OPRA request: Copies of:

1. “All Transfer Request records . . . for students who were not placed at the school their sibling attends” from January 2021 to present .
2. “Any correspondence” related to the above requests between the South Orange & Maplewood School District (“SOMSD”) and the parents/guardians filing same.
3. “Records” showing SOMSD’s decisions for all above requests.

June 14, 2023 OPRA request: Copies of:

1. “All approved Transfer Request records . . . for students that were placed using the III algorithm” from January 2021 to present.
2. “Any correspondence” related to the above requests between the SOMSD and the parents/guardians filing same.

Custodian of Record: Eric Burnside

Request Received by Custodian: June 13, 2023; June 14, 2023

Response Made by Custodian: June 22, 2023

GRC Complaint Received: June 26, 2023

Background³

Request and Response:

On June 13, 2023, the Complainant submitted his first (1st) Open Public Records Act

¹ No legal representation listed on record.

² Represented by Patrick F. Carrigg, Esq., of The Lenox Law Firm (Lawrenceville, NJ).

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.

(“OPRA”) request to the Custodian seeking the above-mentioned records. The Complainant asked that “non[-]disclosable” information be redacted. On June 14, 2023, the Complainant submitted his second (2nd) OPRA request to the Custodian seeking the above-mentioned records. The Complainant asked that “non[-]disclosable” information be redacted.

On June 22, 2023, the Custodian responded in writing denying both OPRA requests. The Custodian stated that the content of the requested records contains personally identifiable information, including direct and indirect student identifiers, that can be used to discern individual identities. The Custodian stated that, pursuant to the Federal Educational Rights & Privacy Act (“FERPA”), N.J.A.C. 6A:32-7.5, and N.J.A.C. 6A:32-7.5(g)1, the records are not disclosable because they cannot be sufficiently redacted to ensure confidentiality of student identities.

Denial of Access Complaint:

On June 26, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he sought the records in question based on a process denial he encountered with the SOMSD placement lottery in April 2023. The Complainant noted that, as part of this denial, the Superintendent stated that other parents received a similar denial. The Complainant contended that he believed this statement was inaccurate and that precedent exists to use “the Transfer Request to correct errors in the school placement lottery.”

The Complainant contended that he was unlawfully denied access to both OPRA requests, noting that he explicitly did not seek any personal information. The Complainant argued that disclosure is integral to confirming the truth about how Transfer Requests are used and approved.

Statement of Information:

On July 25, 2023, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he received the Complainant’s OPRA requests on June 13, 2023, and June 14, 2023, respectively. The Custodian certified that he responded in writing on June 22, 2023, denying the request based on the inability to redact the requested records to eliminate the ability to ascertain student identities under FERPA (20 U.S.C. § 1232 (g)); 34 CFR 99; N.J.A.C. 6A:32-7.4-7.5.

The Custodian argued that FERPA and the cited State regulations protect personally identifiable information (“PII”) from student education records and prohibit unauthorized disclosure. The Custodian contended that he could not disclose the requested student records to the Complainant due to this prohibition. The Custodian argued that here the Complainant sought explicit records related to individual student transfers, communications between SOMSD and the parents/guardians on those transfers, and SOMSD’s response. The Custodian thus contended that the Complainant was not entitled to access these records because they contained confidential student information.

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:

The provisions of [OPRA] 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 . . . any federal law; federal regulation; or federal order.

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

On July 5, 2022, the regulations of the State Board of Education and the Commissioner defining a “student record” were amended as follows:

[I]nformation related to an individual student *gathered within or outside the school district and maintained within the school district*, regardless of the physical form in which it is maintained *In the absence of any “information related to an individual student,” the document(s) no longer meets the definition of “student record.”*

[N.J.A.C. 6A:32-2.1 (emphasis added).]⁴

The regulations provide that “[o]nly authorized organizations, agencies or persons as defined herein shall have access to student records,” and lists those individual categories of authorized parties. N.J.A.C. 6A:32-7.5(e). The regulations require that, “[i]n complying with this section, individuals shall adhere to requirements pursuant to [OPRA] and [FERPA].” N.J.A.C. 6A:32-7.5(g). However, to balance the amended definition of a “student record” with disclosability under OPRA, the amended regulations provide that:

When responding to OPRA requests from any party, including parties other than those listed at (e) above, a district board of education or charter school or renaissance school project board of trustees may release, without consent, records removed of all personally identifiable information, as such documents do not meet the definition of a student record. Before making any release, the district board of education or charter school or renaissance school project board of trustees shall

⁴ The prior definition of a “student record” did not contemplate disclosure after adequate redactions. See, e.g., Wall v. Newark Pub. Schs. (Essex), GRC Complaint No. 2021-257 (July 2023).

have made a reasonable decision that a student's identity cannot be determined whether through single or multiple releases, or when added to other reasonably available information.

[N.J.A.C. 6A:32-7.5(g)1.]

Read together, N.J.A.C. 6A:32-2.1 and N.J.A.C. 6A:7.5 allows a requestor, regardless of whether they are an authorized party, to receive records with "information related to an individual student" redacted, thus removing said records from under the definition of a "student record" and only where the identity cannot be determined otherwise.

While the GRC has not previously applied the regulatory amendments in a recent decision, it should be noted that the Courts and Council has looked to the previously promulgated regulatory exemptions and exceptions in determining whether a complainant can access "student records" in part or whole under OPRA. See, e.g., L.R. v. Camden City Public Sch. Dist., 452 N.J. Super. 56 (App. Div. 2017); Martinez v. Edison Bd. of Educ. (Middlesex), GRC Complaint No. 2014-126 (May 2015); but see Inzelbuch v. Lakewood Bd. of Educ. (Ocean), GRC Complaint No. 2014-92 (September 2014).

Here, the Complainant's two (2) OPRA requests sought student transfer requests submitted and approved, communications regarding those requests, and records showing SOMSD's decision thereon. The Custodian responded denying access under FERPA, N.J.A.C. 6A:32-7.5, and N.J.A.C. 6A:32-7.5(g)1 because the responsive records could not reasonably be redacted. This complaint followed, wherein the Complainant argued he sought access to determine how the transfer process worked and that he suspected he was given a false statement by SOMSD regarding his transfer request submission. The Complainant also noted he did not seek personal information. In the SOI, the Custodian maintained his position that he lawfully denied access to both OPRA requests. The Custodian also described the nature and content of the records sought to support his denial.

Upon review, the GRC is persuaded that the Custodian's denial was lawful. Specifically, the Complainant sought individual student transfer requests, communications regarding those requests, and SOMSD's decisions. On their face, the records sought are individually tied to specific students for whom transfer requests were submitted and considered by SOMSD. Considering the forgoing, the GRC finds credible the Custodian's certification regarding the nature of the records sought and his inability to redact them in accordance with N.J.A.C. 6A:32-7.5(g)1.

Accordingly, the records sought in the Complainant's two (2) OPRA requests are exempt from disclosure under N.J.S.A. 47:1A-9(a) and N.J.A.C. 6A:32-7.5(g)1 because they relate to individual students and reasonable redaction would not be sufficient to conceal the individual students' identity. Thus, the Custodian lawfully denied access to both OPRA requests. N.J.S.A. 47:1A-6.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the records sought

in the Complainant's two (2) OPRA requests are exempt from disclosure under N.J.S.A. 47:1A-9(a) and N.J.A.C. 6A:32-7.5(g)1 because they related to individual students and reasonable redaction would not be sufficient to conceal the individual students' identity. Thus, the Custodian lawfully denied access to both OPRA requests. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso
Executive Director

September 29, 2025