



PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 819
TRENTON, NJ 08625-0819

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

March 25, 2025 Government Records Council Meeting

David Weiner
Complainant

Complaint No. 2023-56

v.

County of Essex
Custodian of Record

At the March 25, 2025 public meeting, the Government Records Council (“Council”) considered the March 18, 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 unlawfully deny access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian and Ms Brown certified, and the record reflects, that the County provided all responsive records that existed. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (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 25th Day of March 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: March 27, 2025



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
March 25, 2025 Council Meeting**

**David Weiner¹
Complainant**

GRC Complaint No. 2023-56

v.

**County of Essex²
Custodial Agency**

Records Relevant to Complaint: Copies of:

1. “[D]ocuments delineating the respective dates and amounts” the County of Essex (“County”) remitted to Transamerica funds received from employees enrolled in a private program overseen by Connor, Strong, & Buckelew (“CSB”) “with no input from the Administration or the [County] Board of Commissioners based on a 2012 approval of a resolution” to renew CBS’s contract.
2. “Please provide said documents from 2012 to present.”

Custodian of Record: George Seylaz
Request Received by Custodian: February 9, 2023
Response Made by Custodian: March 23, 2023
GRC Complaint Received: April 3, 2023

Background³

Request and Response:

On February 9, 2023, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On the same day, the Custodian acknowledged receipt of the subject OPRA request. On February 28, 2023, the Custodian responded in writing disclosing nine (9) pages of records comprising two (2) resolutions to the Complainant.⁴

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.

⁴ The GRC notes that it appears that a “deemed” denial of access occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). However, the GRC will not address the issue because the Complainant did not raise it.

Denial of Access Complaint:

On April 3, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant appeared to dispute the Custodian’s disclosure, noting that he “merely provided the original [County] Freeholder Board resolution from 2013 approving the contract with [CSB] to provide Transamerica’s services.”

Statement of Information:⁵

On August 3, 2023, the Custodian filed a Statement of Information (“SOI”) attaching a legal certification from Deputy Clerk Kathy Brown from the County Board of Commissioners.⁶ The Custodian certified that he received the Complainant’s OPRA request on February 9, 2023. The Custodian affirmed that his search consisted of contacting Ms. Brown and obtaining nine (9) pages of responsive records. The Custodian certified that he responded in writing on February 28, 2023 disclosing the nine (9) pages of records. The Custodian alleged⁷ that on March 1, 2023, Ms. Brown contacted him stating that the records she forwarded to him represented all that existed and that no payment schedules were maintained by the County. See Brown Cert. ¶ 5. The Custodian also alleged that Ms. Brown asked if the Complainant could be more specific about the records sought. Id.

The Custodian argued that the Council has consistently held that no unlawful denial of access could have occurred where a custodian certifies that all responsive records that existed were provided to a complainant. Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005); Owens v. Mt. Holly Twp. (Burlington), GRC Complaint No. 2013-233 (February 2014). The Custodian argued that the County disclosed the only records within its possession responsive to the Complainant’s OPRA request. See Brown Cert. ¶ 6. The Custodian thus requested that the Council find that no unlawful denial of access occurred here.

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.

In Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (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

⁵ On March 15, 2023, this complaint was referred to mediation. On July 17, 2023, this complaint was referred back to the GRC for adjudication.

⁶ The Custodian initially submitted an SOI on August 3, 2023; however, the GRC returned it as an *ex parte* communication because the Complainant was not copied on the transmittal e-mail.

⁷ The Custodian did not attach to the SOI the alleged correspondence from Ms. Brown.

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 requested the "delineating the respective dates and amounts" the County paid to Transamerica in a program managed by CSB from 2012 to present. On February 28, 2023, the Custodian responded in writing providing nine (9) pages of records comprising two (2) resolutions. This complaint followed, wherein the Complainant appeared to dispute the completeness of the response. However, the Complainant did not provide any additional arguments to support what records he believed were missing.⁸ In the SOI, the Custodian certified that he provided all records that existed and confirmed this fact with Ms. Brown. Further, the Complainant failed to present any evidence that the Custodian failed to provide additional records responsive to the subject OPRA request.

Accordingly, the Custodian did not unlawfully deny access to the Complainant's OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian and Ms Brown certified, and the record reflects, that the County provided all responsive records that existed. See Danis, GRC 2009-156, *et seq.*

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that the Custodian did not unlawfully deny access to the Complainant's OPRA request. N.J.S.A. 47:1A-6. Specifically, the Custodian and Ms Brown certified, and the record reflects, that the County provided all responsive records that existed. See Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).

Prepared By: Frank F. Caruso
Executive Director

March 18, 2025

⁸ The GRC notes that the Complainant's request is invalid on its face because it seeks generic "documents delineating" payments and dates that would require research of the County's records. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008). See also Weiner v. Cnty. of Essex, GRC Complaint No. 2022-213 (October 2023) (holding that the request item seeking "documents delineating" was invalid because it required research).