



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

### December 9, 2025 Government Records Council Meeting

Veronica Gasmen  
Complainant

Complaint No. 2024-4

v.

Township of Lacey (Ocean)  
Custodian of Record

At the December 9, 2025, public meeting, the Government Records Council (“Council”) considered the December 2, 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 requested minutes from January 2023 through March 2023 are exempt from disclosure because they were in draft form at the time of the Complainant’s OPRA request. N.J.S.A. 47:1A-1.1; Libertarians for Transparent Gov’t v. Gov’t Records Council, 453 N.J. Super. 83 (App. Div.)(certif. denied 233 N.J. 484 (2018)). Thus, the Custodian lawfully denied access to the Complainant’s OPRA request. 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 9<sup>th</sup> Day of December 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: December 11, 2025**



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
December 9, 2025 Council Meeting**

**Veronica Gasmen<sup>1</sup>  
Complainant**

**GRC Complaint No. 2024-4**

**v.**

**Township of Lacey (Ocean)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Copies of executive session meeting minutes from January 2023 through March 2023.

**Custodian of Record:** Veronica Laureigh<sup>3</sup>

**Request Received by Custodian:** November 17, 2023

**Response Made by Custodian:** November 17, 2023

**GRC Complaint Received:** January 4, 2024

**Background<sup>4</sup>**

**Request and Response:**

On November 17, 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 responded in writing denying access to the requested minutes because they were in draft form. The Custodian cited N.J.S.A. 47:1A-1.1, Libertarians for Transparent Gov’t v. Gov’t Records Council, 453 N.J. Super. 83 (App. Div.) (certif. denied 233 N.J. 484 (2018)), and Parave-Fogg v. Lower Alloways Creek Twp., GRC Complaint No. 2006-51 (August 2006) in support of her denial.

On November 24, 2023, the Complainant e-mailed the Custodian confirming that draft minutes are exempt. The Complainant countered by arguing that, in Kean Federation of Teachers v. Morell, 233 N.J. 566 (2018), the New Jersey Supreme Court held that September minutes released five (5) months later (in February of the following year) was unreasonable. The Complainant contended that the minutes sought have surpassed that five (5) month period and accordingly should be disclosed. The Complainant argued that, although it is unlikely that any

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Patrick F. Varga, Esq., of Dasti, McGuckin, McNichols, Connors, Anthony, & Buckley, P.C. (Forked River, NJ).

<sup>3</sup> The current Custodian of Record is Amy McGuckin.

<sup>4</sup> 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.

“private issues” discussed in those meetings “no longer exist,” the Township of Lacey (“Township”) should follow the Kean Court’s guidance by making changes to the minutes to protect personal information and disclose the remainder thereof.

#### Denial of Access Complaint:

On January 4, 2024, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant disputed the Custodian’s denial on the basis that the minutes were in draft form. The Complainant conceded that Libertarians did state that draft minutes are not disclosable, but that decision did not address a time frame within which the draft exemption should apply. The Complainant contended that the Kean Court would disagree with the minutes at issue here still being in draft form nearly a year after the meetings. The Complainant further argued that she reached out to the New Jersey Municipal Clerk’s Association, who attempted to deflect from disclosure even though she advised them of the holding in Kean.

The Complainant requested that the GRC overturn the Custodian’s denial of access and require disclosure of the responsive executive session minutes. The Complainant further stated that, should the Custodian redact the minutes, the GRC should perform an *in camera* review of the unredacted minutes.<sup>5</sup>

#### Statement of Information:

On January 23, 2024, the current Custodian filed a Statement of Information (“SOI”). The current Custodian certified that the Township received the Complainant’s OPRA request on November 17, 2023. The current Custodian certified that the Township’s search included reviewing executive session minutes and determining they were in draft form and not yet approved by the Township Council for dissemination. The current Custodian certified that the Custodian responded in writing on the same day denying the requested records on the basis that they were still in draft form.

The current Custodian contended that it is well-settled that draft records are exempt from disclosure under the “inter-agency or intra-agency advisory, consultative, or deliberative [(“ACD”)] material” exemption at N.J.S.A. 47:1A-1.1 and cited Libertarians, 453 N.J. Super. 83. The current Custodian further noted that, per Paff v. Neptune Twp. Hous. Auth. (Monmouth), GRC Complaint No. 2010-307 (Interim Order dated April 25, 2012), a custodian is not required to treat a request for draft minutes as an “ongoing/continuing” request. The current Custodian asserted that instead, the requestor would have to submit a new OPRA request once the minutes were approved. The current Custodian thus contended that the Township acted appropriately in denying access to the draft minutes.

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<sup>5</sup> The Complainant asserted that the Township should be required to post all public documents online. OPRA does not mandate such an action and the GRC does not have the authority to order such relief.

## 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.

Turning to the central issue in this complaint, OPRA also provides that the definition of a government record “shall not include . . . [ACD] material.” Regarding draft documents, in Libertarians, 453 N.J. Super. 83, the Appellate Division discussed the deliberative process privilege at length regarding a request for draft meeting minutes, stating:

The applicability of the deliberative process privilege is governed by a two-prong test. The judge must determine both that a document is (1) “pre-decisional,” meaning it was “generated before the adoption of an agency’s policy or decision;” and (2) deliberative, in that it “contain[s] opinions, recommendations, or advice about agency policies.” [Educ. Law Ctr. v. Dep’t of Educ., 198 N.J. at 276 (quoting In Re: Liquidation of Integrity Ins. Co., 165 N.J. 75, 84-85 (2000))]. If a document satisfies both prongs, it is exempt from disclosure under OPRA pursuant to the deliberative process privilege.

[Id. at 90-91.]

Regarding the first prong, the court stated that “a draft is not a final document. It has been prepared for another person or persons’ editing and eventual approval.” Id. at 90. Therefore, the court held that by their very nature, draft meeting minutes are pre-decisional since they are subject to revision and not yet approved for public release. Id. at 90-91.

Regarding the second prong, the court held that “the document must be shown to be closely related to the ‘the formulation or exercise of . . . policy-oriented judgment or [to] the process by which policy is formulated.’” Id. at 91 (quoting Ciesla v. N.J. Dep’t of Health & Sr. Servs., 429 N.J. Super. 127, 138 (App. Div. 2012)). The court found that the requested draft minutes, as compiled by the writer in attendance at the meeting, were subject to additions, suggestions, and other edits from the members of the public body. Id. Thus, the draft minutes satisfied the second prong of the test. Id. at 92.

Here, the Complainant sought executive session minutes from January 2023 through March 2023; the Custodian denied access thereto on the basis that same was in “draft” form. This complaint followed, wherein the Complainant contended that although the case law identified that draft documents were exempt from disclosure, the Kean Court set time perimeters requiring disclosure thereof. The Complainant thus requested that the GRC order disclosure of the minutes. In the SOI, the current Custodian maintained the Custodian’s denial was appropriate based on Libertarians. The current Custodian further argued that, according to Paff, GRC 2010-307, the

Township was under no obligation to produce the minutes once approved absent a new OPRA request.

Upon review, the GRC is persuaded that well-settled case law supports the Custodian's denial of access. Specifically, the court's holding in Libertarians, 453 N.J. Super. at 90-91 is clear and in line with the Council's longstanding decision in Parave-Fogg, GRC 2006-51. The GRC further notes that the Complainant's reliance on Kean is in error because that case addressed the availability of meeting minutes in accordance with the Open Public Meetings Act ("OPMA") and not OPRA. However, the GRC has no authority over disputes involving OPMA. Thus, Libertarians controls here, and a lawful denial of access occurred.

Accordingly, the requested minutes from January 2023 through March 2023 are exempt from disclosure because they were in draft form at the time of the Complainant's OPRA request. N.J.S.A. 47:1A-1.1; Libertarians, 453 N.J. Super. at 90-91. Thus, the Custodian lawfully denied access to the Complainant's OPRA request. N.J.S.A. 47:1A-6.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the requested minutes from January 2023 through March 2023 are exempt from disclosure because they were in draft form at the time of the Complainant's OPRA request. N.J.S.A. 47:1A-1.1; Libertarians for Transparent Gov't v. Gov't Records Council, 453 N.J. Super. 83 (App. Div.)(certif. denied 233 N.J. 484 (2018)). Thus, the Custodian lawfully denied access to the Complainant's OPRA request. N.J.S.A. 47:1A-6.

Prepared By: Frank F. Caruso  
Executive Director

December 2, 2025