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State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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JACQUELYN A. SUÁREZ
Commissioner

INTERIM ORDER

November 7, 2024 Government Records Council Meeting

Kara Fitzsimmons
Complainant

Complaint No. 2024-187

v.

Montclair Board of Education (Essex)
Custodian of Record

At the November 7, 2024, public meeting, the Government Records Council (“Council”) considered the October 29, 2024, 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’s failure to provide a completed SOI to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(g). Moreover, the Custodian’s failure to respond additionally obstructed the GRC in its efforts to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . .” N.J.S.A. 47:1A-7(b).
2. 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 contracts results in a violation of N.J.S.A. 47:1A-5(e). Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2011-330 (Interim Order dated February 26, 2013).
3. The Complainant’s request item Nos. 3 and above-described portion of 5 are invalid because they fail to conform to the criteria set forth in Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010) and require research. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Tracey-Coll v. Elmwood Park Bd. of Educ. (Bergen), GRC Complaint No. 2009-206 (June 2010); Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-147, *et seq.* (July 2012). Thus, the Custodian did not unlawfully deny these request items because they were invalid. N.J.S.A. 47:1A-6.

4. The Custodian may have unlawfully denied access to those records sought in the Complainant's OPRA request item Nos. 1, 2, and 4. N.J.S.A. 47:1A-6. Therefore, the Custodian shall either: 1) locate and disclose to the Complainant the records individually responsive to each OPRA request items, with redactions and legal basis therefor where applicable, 2) identify any records exempt from disclosure in their totality including the legal basis for the denial; or 3) certify if no records responsive to any of the remaining OPRA request items exist.
5. **The Custodian shall comply with conclusion No. 4 above within ten (10) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver¹ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,² to the Executive Director.³**
6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the
Government Records Council
On The 7th Day of November 2024

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: November 12, 2024

¹ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

² "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

³ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
November 7, 2024 Council Meeting**

**Kara Fitzsimmons¹
Complainant**

GRC Complaint No. 2024-187

v.

**Montclair Board of Education (Essex)²
Custodial Agency**

Records Relevant to Complaint: Copies of:

1. E-mails to and from Maureen O’Connell between June 1, 2023 and June 30, 2023 containing the term “eligibility”.
2. E-mails to and from Ms. O’Connell between June 1, 2023 and June 30, 2023 containing the term “504”.
3. “Any and all written correspondence” with the Special Services Director containing the term “Fusion Academy.”
4. Contracts with Fusion Academy.
5. “Any and all written correspondence and/or policies” relating to “school refusal” or “school avoidance”.

Custodian of Record: Christina Hunt
Request Received by Custodian: April 19, 2024
Response Made by Custodian: May 7, 2024
GRC Complaint Received: July 18, 2024

Background³

Request and Response:

On April 19, 2024, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On May 7, 2024, the twelfth (12th) business day after receipt of the OPRA request, the Custodian responded in writing advising that an extension of time through May 17, 2024 was needed to provide the Montclair Board of Education (“BOE”) additional time to gather and disclose responsive records.

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.

On June 17, 2024, the Complainant e-mailed Confidential Secretary Shareakah Hopson seeking an update on her OPRA request. On June 27, 2024, the Complainant again e-mailed Ms. Hopson seeking a date on which the BOE intended to respond to her OPRA request. On July 15, 2024, the Complainant e-mailed Ms. Hopson a third time noting that nearly two (2) months had passed since the extended deadline expired. The Complainant again asked for an update.

Denial of Access Complaint:

On July 18, 2024,⁴ the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that after extending the initial response time frame through May 17, 2024, the Custodian failed to provide any further response despite her three (3) attempts to follow up on the status of the subject OPRA request. The Complainant asserted that, according to a recent media article, the BOE has a pattern of non-responsiveness that warrants an investigation.⁵

Statement of Information:

On August 1, 2024, the GRC sent the Custodian a request to file the Statement of Information (“SOI”) for both complaints. On August 19, 2024, the GRC sent a “No Defense” letter to the Custodian, requesting a completed SOI within three (3) business days of receipt, noting the Custodian’s failure to submit an SOI could lead to an adjudication based solely on the Complainant’s submission. N.J.A.C. 5:105-2.4(f).⁶

Analysis

Failure to Submit SOI

In furtherance of the GRC’s obligation to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to government records[,]” pursuant to N.J.S.A. 47:1A-7(b), it requires a custodian to submit a completed SOI.

The New Jersey Administrative Code provides:

Custodians shall submit a completed and signed SOI for each complaint to the Council's staff and the complainant not later than 10 business days from the date of receipt of the SOI form from the Council's staff. Custodians must sign the SOI . . . Failure to comply with this time period may result in the complaint being adjudicated based solely on the submissions of the complainant.

[N.J.A.C. 5:105-2.4(g).]

⁴ The Complainant e-mailed her complaint to the GRC on July 16, 2024, which was the sixtieth (60th) calendar after the end of the extended time frame. Thus, per N.J.A.C. 5:105-2(a), this complaint was timely filed.

⁵ The GRC notes that it can only adjudicate the handling of the OPRA request currently before it in this complaint. N.J.S.A. 47:1A-6. Thus, any other OPRA requests submitted to the agency are not part of this complaint and cannot be considered during the adjudication of this complaint.

⁶ The GRC notes that it received a “Read” receipt from the Custodian confirming receipt of the initial SOI request and “No Defense” letter.

In Alterman, Esq. v. Sussex Cnty. Sheriff's Office, GRC Complaint No. 2013-353 (September 2014), the custodian failed to provide a completed SOI to the GRC within the allotted deadline. Thus, the Council noted the custodian's failure to adhere to N.J.A.C. 5:105-2.4(a). See also Kovacs v. Irvington Police Dep't (Essex), GRC Complaint No. 2014-196 (January 2015); Howell v. Twp. of Greenwich (Warren), GRC Complaint No. 2015-249 (November 2016).

In the instant matter, the GRC sent an SOI request to the Custodian on August 1, 2024, 2024. On August 19, 2024, after the expiration of the ten (10) business day deadline, the GRC sent the Custodian a "No Defense" letter providing her an additional three (3) business days to submit the requested SOI. The transmission also included a copy of the original SOI letter providing detailed instructions on how to properly submit an SOI. The GRC never received a completed SOI or any other correspondence from the Custodian.

Accordingly, the Custodian's failure to provide a completed SOI to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(g). Moreover, the Custodian's failure to respond additionally obstructed the GRC in its efforts to "receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . ." N.J.S.A. 47:1A-7(b).

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).⁷ 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).⁸ See 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"

⁷ 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.

⁸ 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).

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).

Here, the Complainant submitted her OPRA request to the BOE on April 19, 2024. Item No. 4 of that OPRA request sought contracts, which are considered “immediate” access records. On May 7, 2024, the twelfth (12th) business day after receipt of the OPRA request, the Custodian responded in writing extending the response time frame. As part of that correspondence, she confirmed the receipt date as April 19, 2024. Thus, the facts readily support that the Custodian failed to timely respond and a “deemed” denial of access occurred. The facts further support the Custodian failed to immediately address OPRA request item No. 4 seeking contracts. Thus, a violation of N.J.S.A. 47:1A-5(e) has also occurred.

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 contracts results in a violation of N.J.S.A. 47:1A-5(e). Kohn, GRC 2011-330.

Validity of Request

The New Jersey Appellate Division has held that:

While OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records “readily accessible for inspection, copying, or examination.”* N.J.S.A. 47:1A-1.

[MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005) (emphasis added).]

The court reasoned that:

Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. *MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past.* Such an open-ended demand required the Division's records custodian to manually search through all of the agency's files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be

required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

[Id. at 549 (emphasis added).]

The court further held that “[u]nder OPRA, *agencies are required to disclose only ‘identifiable’ government records* not otherwise exempt . . . In short, OPRA does not countenance open-ended searches of an agency’s files.” Id. (emphasis added). Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005);⁹ N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 180 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

The validity of an OPRA request typically falls into three (3) categories. The first is a request that is overly broad (“any and all,” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second is those requests seeking information or asking questions. See e.g. Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. See e.g. Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

Regarding requests for communications, including e-mails, text messages, and written correspondence, the GRC has established criteria deemed necessary under OPRA to request them. In Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010), the Council determined that to be valid, such requests must contain: (1) the content and/or subject of the e-mail, (2) the specific date or range of dates during which the e-mail(s) were transmitted, and (3) the identity of the sender and/or the recipient thereof. See also Sandoval v. NJ State Parole Bd., GRC Complaint No. 2006-167 (Interim Order March 28, 2007). The Council has also applied the criteria set forth in Elcavage to other forms of correspondence, such as letters. See Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order May 24, 2011). And the Council has routinely determined that requests omitting the specific date or range of dates are invalid. See Tracey-Coll v. Elmwood Park Bd. of Educ. (Bergen), GRC Complaint No. 2009-206 (June 2010); Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2013-118 (January 2014).

With respect to requests requiring research, the distinction between search and research is fact sensitive. That is, there are instances where the very specificity of a request requires only a search. As the Council determined in Verry v. Borough of S. Bound Brook (Somerset), GRC Complaint Nos. 2013-43 and 2013-53 (Interim Order dated September 24, 2013), “. . . a valid OPRA request requires a search, not research . . . what will be sufficient to determine a proper search will depend on how detailed the OPRA request is, and will differ on a case-by-case basis. What a custodian is not required to do, however, is to actually read through numerous [records] to determine if same is responsive: in other words, conduct research.”

⁹ Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004).

Conversely, there are instances where a request can be specific enough to induce research, thus rendering it invalid. For example, in Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-147, *et seq.* (July 2012), the complainant submitted four (4) OPRA requests seeking copies of meeting minutes containing motions to approve other minutes. The Council, citing Taylor v. Cherry Hill Bd. of Educ. (Camden), GRC Complaint No. 2008-258 (August 2009) and Ray v. Freedom Academy Charter Sch. (Camden), GRC Complaint No. 2009-185 (August 2010), determined that the requests were overly broad:

[S]aid requests do not specify the date or time frame of the minutes sought. Rather, the requests seek those minutes at which the UCBOE motioned to approve meeting minutes for four (4) other meetings. Similar to the facts of both Taylor and Ray, the requests herein *seek minutes that refer to a topic and would require the Custodian to research the UCBOE's meeting minutes in order to locate the particular sets of minutes that are responsive to the Complainant's requests . . .* because the Complainant's four (4) requests for minutes "that include a motion made by the Union City Board of Education to approve the minutes" from other meetings fail to identify the specific dates of the minutes sought and would require the Custodian to conduct research in order to locate the responsive records, the Complainant's requests are invalid under OPRA.

[Valdes, GRC 2011-147 *et seq.* (emphasis added) (citing N.J. Builders Ass'n, 390 N.J. Super. at 180; Bent, 381 N.J. Super. at 37; MAG, 375 N.J. Super. at 546; Schuler, GRC 2007-151; Donato, GRC 2005-182. See also Valdes v. Gov't Records Council, GRC Complaint No. 2013-278 (September 2014).]

Here, the Complainant's OPRA request item Nos. 1 and 2 sought e-mails to and from Ms. O'Donnell with a clear range of dates and specific keyword. These items are thus obviously valid according to Elcavage and will be addressed later in this analysis.

As for request item Nos. 3 and portion of 5, the Complainant did not include a date or range of dates within her request for correspondence. The GRC's past case law thus supports that these items were invalid by failing to comply with the Elcavage criteria. See Tracey-Coll, GRC 2009-206. Moreover, the portion of request item No. 5 seeking "policies" would likely require research to identify specific policies for the keywords presented. Specifically, the Custodian would have been tasked with having to carefully read through all of the BOE's policies over an undetermined amount of time to see if any contained the specific terms identified by the Complainant. Thus, this portion of request item No. 5 is like the one considered in Valdes, GRC 2011-147, *et seq.*

Accordingly, the Complainant's request item Nos. 3 and above-described portion of 5 are invalid because they fail to conform to the criteria set forth in Elcavage and require research. MAG, 375 N.J. Super. at 546; Tracey-Coll, GRC 2009-206; Valdes, GRC 2011-147, *et seq.* Thus, the Custodian did not unlawfully deny these request items because they were invalid. N.J.S.A. 47:1A-6.

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 the matter before the Council, the Complainant’s April 19, 2024 OPRA request has gone unanswered since the expiration of the May 17, 2024 extended time frame. As noted above, the Complainant’s request item Nos. 3 and 5 are considered invalid and will not be addressed here. Thus, the GRC will proceed to adjudicate the remaining OPRA request items. Those are OPRA request item Nos. 1, 2, and 4.

Regarding these items, the Custodian did not submit an SOI or any other responses or arguments asserting that any of the requested records were exempt, in part or whole, or did not exist. Thus, absent any argument from the BOE and the Custodian, the GRC must find that an unlawful denial of access may have occurred to these OPRA request items.

Accordingly, the Custodian may have unlawfully denied access to those records sought in the Complainant’s OPRA request item Nos. 1, 2, and 4. N.J.S.A. 47:1A-6. Therefore, the Custodian shall either: 1) locate and disclose to the Complainant the records individually responsive to each OPRA request items, with redactions and legal basis therefor where applicable, 2) identify any records exempt from disclosure in their totality including the legal basis for the denial; or 3) certify if no records responsive to any of the remaining OPRA request items exist.

Knowing & Willful

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian’s compliance with the Council’s Interim Order.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian’s failure to provide a completed SOI to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(g). Moreover, the Custodian’s failure to respond additionally obstructed the GRC in its efforts to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . .” N.J.S.A. 47:1A-7(b).
2. 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 contracts results in a violation of N.J.S.A. 47:1A-5(e). Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2011-330 (Interim Order dated February 26, 2013).

3. The Complainant’s request item Nos. 3 and above-described portion of 5 are invalid because they fail to conform to the criteria set forth in Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010) and require research. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Tracey-Coll v. Elmwood Park Bd. of Educ. (Bergen), GRC Complaint No. 2009-206 (June 2010); Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-147, *et seq.* (July 2012). Thus, the Custodian did not unlawfully deny these request items because they were invalid. N.J.S.A. 47:1A-6.
4. The Custodian may have unlawfully denied access to those records sought in the Complainant’s OPRA request item Nos. 1, 2, and 4. N.J.S.A. 47:1A-6. Therefore, the Custodian shall either: 1) locate and disclose to the Complainant the records individually responsive to each OPRA request items, with redactions and legal basis therefor where applicable, 2) identify any records exempt from disclosure in their totality including the legal basis for the denial; or 3) certify if no records responsive to any of the remaining OPRA request items exist.
5. **The Custodian shall comply with conclusion No. 4 above within ten (10) business days from receipt of the Council’s Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver¹⁰ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,¹¹ to the Executive Director.¹²**
6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian’s compliance with the Council’s Interim Order.

Prepared By: Frank F. Caruso
Executive Director

October 29, 2024

¹⁰ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

¹¹ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

¹² Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.