



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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TRENTON, NJ 08625-0819

MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lieutenant Governor

JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

March 31, 2026 Government Records Council Meeting

Aaron Albert Mitchell Jr.
Complainant

Complaint No. 2024-57

v.

Township of Willingboro (Burlington)
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. Ms. Cooper-McBride 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 Ms. Cooper-McBride’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 dated October 31, 2007).
2. The Custodian did not unlawfully deny access to the Complainant’s February 6, 2024 OPRA request. N.J.S.A. 47:1A-6. Specifically, the current Custodian certified, and the record reflects, that she 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 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**

**Aaron Albert Mitchell Jr.¹
Complainant**

GRC Complaint No. 2024-57

v.

**Township of Willingboro (Burlington)²
Custodial Agency**

Records Relevant to Complaint: Electronic copies of phone call logs records, emails, text messages or any other form of communication from Willingboro Township (“Township”) Construction Official Steven Buchoffer and Zoning Official Ted Evans or any other Township Official that would show the attempt made to contact the Complainant on January 12, 2024, or within 90 days prior.

Custodian of Record: Everett Falt³

Request Received by Custodian: February 6, 2024

Response Made by Custodian: February 15, 2024

GRC Complaint Received: March 4, 2024

Background⁴

Request and Response:

On January 26, 2024, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On February 6, 2024, the Complainant purportedly e-mailed Deputy Clerk Latoya Cooper-McBride seeking confirmation that she received his OPRA request. Ms. Cooper-McBride allegedly responded, advising that she had not received same. The Complainant allegedly forwarded the subject OPRA request to Ms. Cooper-McBride.

On February 16, 2024, the eighth (8th) business day after receipt of the OPRA request, Ms. Cooper-McBride responded in writing on behalf of Custodian, disclosing responsive e-mails. On February 28, 2024, Ms. Cooper-McBride forwarded her response to the Complainant stating “[h]ope you can receive this.”

¹ No legal representation listed on record.

² Represented by Nicholas Sullivan, Esq., of Florio, Perrucci, Steinhardt, Cappelli & Tipton, LLC (Cherry Hill, NJ)

³ In the Denial of Access Complaint, the Complainant named Deputy Clerk Latoya Cooper-McBride as the “custodian of record.” The current “custodian of record” is Samantha Savino.

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.

Denial of Access Complaint:

On March 4, 2024, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted he filed an OPRA request with the Township on January 26, 2024. The Complainant also alleged he re-submitted his OPRA request via email on February 6, 2024, after he was advised by Ms. Cooper-McBride that his original request was never received. The Complainant alleged when he contacted Ms. Cooper-McBride on February 15, 2024, she informed him that she already responded to the subject OPRA request. The Complainant asserted that he never received a response from Ms. Cooper-McBride for his OPRA request. The Complainant asserted that he contacted Ms. Cooper-McBride again regarding his OPRA request on February 27, 2024, and she informed him that she responded in writing previously but that her e-mail attempts had failed. The Complainant then alleged that he provided Ms. Cooper-McBride with another email address, but again did not receive a response. The Complainant argued that he suggested alternate options, but the Township did not respond.

Statement of Information:⁵

On August 13, 2024, the current Custodian filed a Statement of Information (“SOI”). The current Custodian certified that the Township received the Complainant’s OPRA request on February 6, 2024. The current Custodian stated that, at the time of the Complainant’s OPRA request, the Township was moving through a transition period for the position of custodian of records. The current Custodian asserted that Ms. Cooper-McBride did not have access to the Township’s online OPRA system and thus did not receive the OPRA request upon original submission. The current Custodian averred that, on February 6, 2024, the Complainant contacted Ms. Cooper-McBride regarding the subject OPRA request and that the Township ultimately received it on February 6, 2024. The current Custodian certified that, after additional communications with the Complainant, Ms. Cooper-McBride responded in writing via e-mail on February 16, 2024, disclosing responsive e-mails with redactions. The current Custodian averred that, on February 27, 2024, the Complainant contacted Ms. Cooper-McBride again regarding the status of the OPRA request, and she informed him a response had already been provided. The current Custodian further certified that, on February 28, 2024, Ms. Cooper-McBride attempted to resend her response to an alternate email provided by the Complainant.

The current Custodian argued that no unlawful denial of access occurred here because the Township disclosed all e-mails responsive to the Complainant’s OPRA request. The current Custodian further argued that, as in Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005), the Township lawfully denied access to the portion of the request seeking phone logs or text messages because none exist. The current Custodian also noted that custodians are not required to conduct research to respond to invalid OPRA requests pursuant to MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005) and Bent v. Stafford Police Dep’t., 381 N.J. Super. 30, 37 (App. Div. 2005).⁶

⁵ On March 26, 2024, this complaint was referred to mediation. On July 15, 2024, this complaint was referred back to the GRC for adjudication.

⁶ The current Custodian included mediation discussions and communications as part of the SOI. The GRC notes that pursuant to the Uniform Mediation Act, N.J.S.A. 2A:23C-1 *et seq.*, communications that take place during the mediation process are not deemed to be public records subject to disclosure under OPRA. N.J.S.A. 2A:23C-2. All

Analysis

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 dated October 31, 2007).

Here, the Complainant filed the instant complaint arguing that the Custodian failed to respond to the subject OPRA request. In the SOI, the current Custodian stated that the Township received the OPRA request on February 6, 2024, and that Ms. Cooper-McBride responded via e-mail on February 16, 2024, the eighth (8th) business day after receipt of the request. Thus, the evidence of record supports that a "deemed" denial of access occurred here.

Therefore, Ms. Cooper-McBride 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, Ms. Cooper-McBride'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.

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 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.

communications that occur during the mediation process are privileged from disclosure and may not be used in any judicial, administrative, or legislative proceeding, or in any arbitration, unless all parties and the mediator waive the privilege. N.J.S.A. 2A:23C-4.

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.

Id.; 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).

Here, the Complainant submitted an OPRA request to the Township seeking phone logs, e-mails, and text messages from Township Construction Official Steven Buchoffer and Zoning Official Ted Evans or any other Township official that would indicate their attempts to contact the Complainant on January 12, 2024, or within 90 days prior. The current Custodian certified in the SOI that the Township disclosed all e-mails that existed and was unable to locate any additional records.

Upon review, the GRC is persuaded that no unlawful denial of access has occurred because the evidence of record indicates that the Township disclosed responsive e-mails and no other records (*i.e.* texts messages or phone logs) existed. Further, the Complainant has not provided any evidence to refute the current Custodian's certification that all responsive records were provided. Thus, a conclusion in line with Danis is appropriate here.

Accordingly, the Custodian did not unlawfully deny access to the Complainant's February 6, 2024 OPRA request. N.J.S.A. 47:1A-6. Specifically, the current Custodian certified, and the record reflects that she 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:

1. Ms. Cooper-McBride 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 Ms. Cooper-McBride'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 dated October 31, 2007).
2. The Custodian did not unlawfully deny access to the Complainant's February 6, 2024 OPRA request. N.J.S.A. 47:1A-6. Specifically, the current Custodian certified, and the record reflects, that she 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: Rose-Valda Julceus
Staff Attorney

March 24, 2026