



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

July 28, 2026 Government Records Council Meeting

Philip I. Brilliant

Complainant

v.

Irvington Board of Education (Essex)

Custodian of Record

Complaint No. 2026-53

At the July 28, 2026, public meeting, the Government Records Council (“Council”) considered the July 21, 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. The portions of the complaint related to October 13, 2025, and November 7, 2025 OPRA requests should be dismissed because they were filed out of time. N.J.S.A. 47:1A-6. Additionally, the Complainant did not provide, nor does the record evidence show that good cause exists to accept those portions of the complaint as within time.
2. The original Custodian did not bear his burden of proof that there was a timely response to the Complainant’s December 18, 2025 OPRA request. N.J.S.A. 47:1A-6. As such, the original 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 dated October 31, 2007). However, the GRC declines any further action because the Custodian disclosed the records to the Complainant as part of the Statement of Information.

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 28th Day of July 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: July 30, 2026

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
July 28, 2026 Council Meeting**

**Philip I. Brilliant¹
Complainant**

GRC Complaint No. 2026-53

v.

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

Records Relevant to Complaint:

October 13, 2025 and November 7, 2025 OPRA requests: Electronic copies of attendance records of Daniel Rodrick, work schedule, contract requirements and time clock information from September 1, 2025 to October 10, 2025.

December 18, 2025 OPRA request: Electronic copies of attendance records of Daniel Rodrick, work schedule, contract requirements and time clock information from September 1, 2025 to December 18, 2025.

Custodian of Record: Craig Smith³

Request Received by Custodian: October 13, 2025; November 7, 2025; December 18, 2025.

Response Made by Custodian: None

GRC Complaint Received: February 5, 2026

Background⁴

Request and Response:

On October 13, 2025, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Irvington Board of Education (“Board”) seeking the above-mentioned records. The Complainant received no response to the request. On November 7, 2025, the Complainant submitted a second (2nd) OPRA request to the Board for the same records, to which the Board did not respond. On December 18, 2025, the Complainant submitted a third (3rd) OPRA request to the Board seeking the same records with a revised date range, but the Board failed to respond.

¹ No legal representation listed on record.

² Represented by Ronald Hunt, Esq., of The Law Firm of Hunt, Hamlin & Ridley (Newark, NJ).

³ The original custodian of records was Reginald Lamptey.

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 February 5, 2026, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that he submitted three (3) OPRA requests to the Board and did not receive a response to any of them. The Complainant thus requested that the Council compel the Board to release the information requested in accordance with OPRA.

Statement of Information:

On March 19, 2026, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that he did not receive the Complainant’s OPRA request. The Custodian certified the Complainant’s OPRA requests were sent to the original Custodian, who is no longer employed with the Board. The Custodian also certified he cannot determine if any efforts were made to accommodate the Complainant’s previous requests. The Custodian further certified that once he was made aware of the Complainant’s OPRA requests, he reached out to the prospective parties responsible for the requested information and compiled the requested data to be sent to the GRC and the Complainant as part of the SOI.

Analysis

Statutory of Limitations

As of September 3, 2024, the statute of limitations for a complainant to file a denial of access complaint is as follows:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor who is accurately identified by name, may, *within 45 days of the date of denial* institute a proceeding to challenge the custodian’s decision by filing an action in Superior Court . . . or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council established pursuant to [N.J.S.A. 47:1A-7].

[N.J.S.A. 47:1A-6 (emphasis added).]

A denial occurs if the requestor has received a written denial of access from the custodian; or if the custodian has failed to respond in writing within seven (7) business days. The statute of limitations may allow a requestor filing beyond the new time frame to submit a motion providing reasons why the GRC should accept the complaint “as within time.” N.J.A.C. 5:105-2.1(a). Unless a requestor can successfully argue that their complaint should be accepted “as within time,” the complaint will be rejected for filing. This applies to complaints filed on or after September 3, 2024.

In the instant matter, the complaint alleges the Custodian failed to respond to any of his three (3) individual OPRA requests filed on three (3) separate days. The Complainant submitted his first (1st) request to the Board on October 13, 2025. Absent evidence in the record showing that the Custodian responded to this OPRA request, the “deemed” denial date is estimated to be on

October 22, 2025. At the time this complaint was filed, approximately one hundred and six (106) calendar days later, the statute of limitations had expired. The Complainant submitted his second (2nd) request to the Board on November 7, 2025. Absent evidence in the record showing that the Custodian responded to this OPRA request, the “deemed” denial date is estimated to be on November 19, 2025. At the time this complaint was filed, approximately seventy-eight (78) calendar days later, the statute of limitations had expired and the Complainant failed to include a motion arguing why those portions of the complaint should be accepted as within time.

Therefore, the portions of the complaint relating to the October 13, 2025 and November 7, 2025 OPRA requests should be dismissed as untimely pursuant to N.J.S.A. 47:1A-6. Additionally, the Complainant did not contend, nor does the record evidence show, that good cause exists to accept those portions of the complaint as within time.

The GRC will move forward addressing only the December 18, 2025, OPRA request that remains at issue.

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).⁵ 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 submitted the third (3rd) and final OPRA request on December 18, 2025. The Complainant subsequently filed this complaint alleging that the Board failed to respond to his OPRA request. In the SOI, the Custodian certified that the request was made to the original Custodian and that he never received the Complainant’s OPRA request. The Custodian also certified that he is unable to confirm whether any efforts were made to address the Complainant’s request. Therefore, the record evidence supports the conclusion that the original Custodian failed to respond to the Complainant’s OPRA request in a timely manner.

Therefore, the original Custodian did not bear his burden of proof that there was a timely response to the Complainant’s December 18, 2025 OPRA request. N.J.S.A. 47:1A-6. As such, the original 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.

⁵ 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.

However, the GRC declines any further action because the Custodian disclosed the records to the Complainant as part of the SOI.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The portions of the complaint related to October 13, 2025, and November 7, 2025 OPRA requests should be dismissed because they were filed out of time. N.J.S.A. 47:1A-6. Additionally, the Complainant did not provide, nor does the record evidence show that good cause exists to accept those portions of the complaint as within time.
2. The original Custodian did not bear his burden of proof that there was a timely response to the Complainant's December 18, 2025 OPRA request. N.J.S.A. 47:1A-6. As such, the original 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 dated October 31, 2007). However, the GRC declines any further action because the Custodian disclosed the records to the Complainant as part of the Statement of Information.

Prepared By: Rose-Valda Julceus
Staff Attorney

July 21, 2026