

GERARD CLAUSS, *Mayor*
KEN MONTGOMERY, *Deputy Mayor*
LEILA GILMORE, *Committeewoman*
ANNA EVANS, *Committeewoman*
BRUCE LEVINSON, *Committeeman*

PAULA L. KOSKO, *Administrator/Clerk*



P.O. Box 477
1401 Marne Highway
Hainesport, New Jersey 08036

Phone (609) 267-2730
Fax (609) 261-4762

April 19, 2023

Debra Harris
c/o DebraHarrisLaw@gmail.com
7 Elsinore Drive
Hainesport, NJ 08036

RE: April 17, 2023 OPRA and Common Law Right of Access

Dear Ms. Harris:

Hainesport Township received your April 17, 2023 government records request pursuant to the New Jersey Open Public Records Act ("OPRA") and the common law right of access. This timely response denies your OPRA request and requires that you resubmit a valid OPRA request should you wish to continue. In addition, as noted below, your request is further denied under the common law right of access.

Your request sought:

All communications between Hainesport Township School Representatives/Board of Education Members/Superintendent and Hainesport Township officials/representatives/employees/committee members between January 1, 2022 and December 31, 2022.

OPRA does not "authorize a party to make a blanket request for every document" a public agency has on file. Gannett New Jersey Partners L.P. v. County of Middlesex, 379 N.J. Super. 205, 213 (App. Div. 2005). Rather, a party requesting access to a public record under OPRA must specifically describe the document sought. OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. 47:1A-1. As such, a proper request under OPRA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents. OPRA does not authorize unbridled searches of an agency's property.

Under OPRA, a proper request for an e-mail or e-mails must focus upon the following four (4) characteristics:

- Content and/or subject
- Specific date or range of dates
- Sender
- Recipient

In order to specifically identify an e-mail, OPRA 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 was transmitted or the emails were transmitted, and (3) a valid e-mail request must identify the sender and/or the recipient thereof.

Here, your request fails to specifically identify a sender or recipient and instead seeks emails from “officials/representatives/employees/committee members” of Hainesport Township. Without specifically identifying individuals this requests would require a search of every person associated with Hainesport Township. As noted above, this is beyond the scope of a proper OPRA request. Similarly, your use of the term “Hainesport Township School Representative” is equally overbroad as the plain meaning of your request appears to reference individuals other than the Board of Education members or the Superintendent without specifically identifying who those individuals. Equally important, your request fails to identify the content and/or subject of the communication. Without this necessary element, the Township cannot locate responsive documents.

If you choose to resubmit, please be advised that you must identify specific subject terms. By way of example, requesting all emails that contain the word “Hainesport” would still be considered overbroad. Similarly, if your subject terms are too generic, such as seeking the word “road” or “street,” these terms would again not specifically identify records. Further, each and every document identified needs to be reviewed for potential redactions. Redactions can include simple things such as personal identifying information (phone numbers) to more complicated exemptions such as advisory-consultative-deliberative documents or documents protected by the attorney client privilege. We raise this issue because if the new request is not specific enough and returns a voluminous amount of materials to be reviewed, it could trigger a special service charge.

Turning to your request under the common law right of access, the Township is required to perform a balancing test weighing the government’s need for privacy against an individual’s right to access government records. In order to conduct the balancing test the requestor, in addition to specifically identifying documents as discussed above, must also provide a reason for the request. Because you did not specifically identify documents and because you provided no specific reason for seeking the government records, the Township is unable to perform the balancing test and denies this portion of your request.

This completes your OPRA and common law right of access request.

Sincerely,

Paula L Kosko

Paula L Kosko, Municipal Clerk
Records Custodian