



Livingston

PUBLIC SCHOOLS

Michael Davison
Business Administrator/Board Secretary

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December 12, 2022

Via E-Mail [opra+request-37221-a22329c1@requests.opramachine.com]
LTown United

Re: Open Public Records Act/Common Law Request

Dear Sir/Madam:

The Livingston Public Schools ("District") records custodian received your Open Public Records Act ("OPRA") and common law request ("Request") on December 5, 2022. The seven business day deadline to respond to your Request is December 14, 2022. As such, the District is timely responding to your Request in accordance with New Jersey law.

Your Request seeks the following records:

The Number of K-12 Students enrolled in the Livingston Public Schools and living at the Hillside Club located at 1000 Murray Court, Livingston NJ 07039. Additionally, please provide a breakdown of the number of students in each grade, K-12, living at the Hillside Club.

Please note that OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. § 47:1A-1; MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). MAG Entertainment, LLC held, "[w]hile 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." Id. at 547. "Under OPRA, agencies are required to disclose only 'identifiable' government records not otherwise exempt. Wholesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein." Id. at 549; see also Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005) (holding that OPRA only allows requests for records as contrasted from information, and to qualify under OPRA a request must reasonably identify a record and not generally data, information or statistics). The Appellate Division repeated these principles in holding:

[A]gencies are only obligated to disclose identifiable government records. The statute "only allows requests for records, not requests for information." A proper request "must identify with reasonable clarity those documents that are desired." "Wholesale requests for general information to be analyzed, collated and compiled" by the agency are outside OPRA's scope.

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Burke v. Brandes, 429 N.J. Super. 169, 174 (App. Div. 2012) (citations omitted); see also Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 237 (App. Div. 2013) (holding that OPRA does not convert a custodian into a researcher, which would have been the effect of the request).

In light of the above, your Request for the number of Livingston Public School students living at the Hillside Club and a breakdown of the number clearly constitutes a request for information that is outside of the scope of OPRA. Accordingly, the District cannot respond to your Request in its present form.

Moreover, it is the District's position that release of this information would create a risk to the safety of the students who reside at the Hillside Club, and is thus legally precluded. See N.J.S.A. § 47:1A-1.1.

Lastly, to the extent that your Request may be construed as a request for specifically identifiable records and you are seeking this information pursuant to the common law right of access, your Request is also denied. In O'Boyle v. Borough of Longport, 218 N.J. 168, 196 (2014), the Supreme Court of New Jersey held that the party requesting documents under the common law right of access must explain why he seeks access to the requested documents. Here, your Request lacks any explanation with respect to your purported interest in accessing the information at issue.

Your Request is now deemed answered and closed. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Davison", followed by a horizontal line.

Michael Davison
Business Administrator