



331 Monmouth Road
Wrightstown, NJ 08562
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[\(609\) 738-2600](tel:(609)738-2600)

Mrs. Helen E. Payne
Superintendent

Mrs. Amy S. Lerner
School Business Administrator

October 23, 2023

VIA E-MAIL

opra+request-53429-b718211c@requests.opramachine.com

Re: OPRA Request

The North Hanover Township School District (“District”) records custodian received your Open Public Records Act (“OPRA”) requests on September 27, 2023 with further clarification on October 17, 2023. This response is therefore being timely submitted in accordance with New Jersey law. See N.J.S.A. 47:1A-5.

Your OPRA requests seek the following records listed below. The District’s response follows the requests.

1. Information and supporting documentation pertaining to any Settlement Agreement(s) resulting from educators and/or educator support staff of the North Hanover school district that worked within the district between 2010 and 2015.

Response: Please be advised that to the extent this request seeks information rather than a specific record, it constitutes an impermissible request for information, as an entity is not required to create a record in response to an OPRA request. See Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005) (noting that OPRA allows requests for specific records, not requests for general information, data or statistics). “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.” MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546-7 (App. Div. 2005) (“[u]nder 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”).



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Further, this request for “supporting documentation” pertaining to a subject matter is overly broad. New Jersey Courts have consistently held that OPRA does not countenance open-ended searches of an agency's files. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); See New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div.), cert. denied, 190 N.J. 394 (2007). Consequently, 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.” See e.g., Spectraserv, Inc. v. Middlesex Cnty. Utilities Auth., 416 N.J. Super. 565, 576 (App. Div. 2010); Bent v. Twp. of Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005). OPRA is not intended to be used as a research tool used to force government officials to manually search, analyze, identify and siphon useful information. MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005).

Requests such as this one seeking all documents relating to a subject are held to be overly broad and unclear. Bent v. Twp. of Stafford Police Dep't, 381 N.J. Super. 3 (App. Div. 2005) (holding that request for “any and all” records did not amount to a request for an identifiable government record); see also New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div. 2007) (holding that request for “any and all documents and data used or considered...supporting, demonstrating, justifying or verifying” determinations relevant to COAH’s determinations about fair-share housing was overly broad).

Notwithstanding the overly broad nature of the request, the District engaged in a good faith search of its records, and identified the enclosed records as potentially responsive to this request. Please note that a redaction was made to remove an individual’s social security number, which is exempt from access pursuant to N.J.S.A. 47:1A-1.1 (stating a government record shall not include “that portion of any document which discloses the social security number...of any person”).

2. Records of legal fees incurred by North Hanover school district (and thus, it’s taxpayers) and/or it’s employees as a result of any lawsuits targeting the district and/or it’s employees, for the period of 1/1/2010 through 10/7/2023.

Response: Please be advised that this request is overly broad. New Jersey Courts have consistently held that OPRA does not countenance open-ended searches of an agency's files. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); See New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div.), cert. denied, 190 N.J. 394 (2007). OPRA is not intended to be used as a research tool used to force government officials to manually search, analyze, identify and siphon useful information. MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). Here, the request purports to require the District’s records custodian to search and analyze the District’s legal



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billing records to identify and siphon which billing entries were the result of lawsuits targeting the district and/or its employees, which is beyond the obligations of a records custodian. See Lagerkvist v. Office of Governor of State, 443 N.J. Super. 230, 237 (App. Div. 2015) (holding that OPRA does not convert a custodian into a researcher, which would have been the effect of the request).

Notwithstanding these objections, the District did search its records and identified the enclosed records that have been identified as responsive to your request. Please note that the District no longer has billing records going back to 1/1/2010, as records have been destroyed as per the required records retention schedule. In addition, please note that the Taxpayer Identification/Federal Employer Identification Numbers have been redacted, as such are considered confidential pursuant to federal law, and OPRA does not abrogate any exemption of a public record or government record from public access as recognized by other laws, including federal law. 26 U.S.C.A. § 6103; N.J.S.A. 47:1A-9(a); Scheeler v. NJ Office of the Attorney General, GRC Complaint No. 2014-236 (January 2016). In addition, an employee's name from three billing entries dated 5/3/23, 5/31/23 and 8/10/23, and an employee's job title from two entries dated 7/6/23 and 7/19/23 were redacted under the personnel exemption under OPRA as a personnel record not within the exceptions listed in N.J.S.A. 47:1A-10.

3. Information and supporting documentation identifying members of the North Hanover community as ineligible to serve on the North Hanover BOE.

Response: Please be advised that this request seeks information rather than a specific record, and thus constitutes an impermissible request for information, as an entity is not required to create a record in response to an OPRA request. See Bent v. Stafford Police Department, 381 N.J. Super. 30, 37 (App. Div. 2005) (noting that OPRA allows requests for specific records, not requests for general information, data or statistics). "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." MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546-7 (App. Div. 2005) ("[u]nder 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").



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Further, to the extent this request is for “supporting documentation” pertaining to a subject it is overly broad. New Jersey Courts have consistently held that OPRA does not countenance open-ended searches of an agency's files. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); See New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166 (App. Div.), cert. denied, 190 N.J. 394 (2007). Consequently, 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.” See e.g., Spectraserv, Inc. v. Middlesex Cnty. Utilities Auth., 416 N.J. Super. 565, 576 (App. Div. 2010); Bent v. Twp. of Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005). OPRA is not intended to be used as a research tool used to force government officials to manually search, analyze, identify and siphon useful information. MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005).

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Notwithstanding the overly broad nature of the request, the District engaged in a good faith search of its records and did not identify any records responsive to this request.

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

Very truly yours,

Amy Lerner

Amy Lerner
School Business Administrator/
Board Secretary