

ELIZABETH PUBLIC SCHOOLS
Every Child, Achieving Excellence

Olga Hugelmeyer
Superintendent of Schools

Harold E. Kennedy, Jr.
School Business Administrator/Board Secretary

August 10, 2020

Giovana G. Castaneda <opra+request-15596-0f80509e@requests.opramachine.com>

Dear Giovana G. Castaneda:

I am in receipt of your request for records pursuant to the State's Open Public Records Act.

1. Your request "any records that cover all contracts between the Elizabeth Public Schools' Board of Education and the Elizabeth Police Department covering any part of the time period January 1, 2015 to present" is denied as the District does not maintain retrievable records that are responsive to your request.
2. Your request "any documents, including inter-agency agreements, letters and memoranda, sufficient to identify the nature of any relationship (whether formal or informal) between the Elizabeth Public Schools' Board of Education and the Elizabeth Police Department from January 1, 2015 to present" is denied as the District does not maintain retrievable records that are responsive to your request.
3. Your request "any documents demonstrating what the process is with regard to the hiring of the police officers assigned to schools, how does the process work, and who has supervised the hired officers covering any part of the time period January 1, 2015 to present" is denied as the request is overly broad and lacks specificity as to the retrievable record being requested. This request as presently drafted does not identify with reasonable clarity a governmental record. "OPRA request must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of any agency's documents." Bent v. Twp. Of Stafford Police Dep't Custodian of Records, 381 N.J. Super. 30,37 (App. Div. 2005). A proper OPRA request must state "a specific subject matter that [is] clearly and reasonably described with sufficient identifying information." Burke v. Brandes, 429 N.J. Super. 169, 176 (App. Div. 2012). The District is "only obligated to disclose identifiable government records." Burke v. Brandes, 429 N.J. Super. 169, 174-75 (App. Div. 2012)(citations omitted). OPRA "only allows for requests for records" and does not permit for "requests for information." Bent v. Twp. Of Stafford Police Dept, 381 N.J. Super. 30, 37 (App. Div. 2005). As set forth in Burke v. Brandes, 429 N.J. Super. 169, 174-75 (App. Div. 2012): "agencies are only obligated to disclose identifiable government records. (citation omitted). MAG Entm't, supra, 375 N.J. Super. at 549. The statute "only allows requests for records, not requests for information." Bent v. Twp. of Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005). OPRA does not require public entities to respond to an open-ended demand for records that would require a search of voluminous records of the District to evaluate and/or sort out to determine what documents should be disclosed. See MAG Entertainment LLC v. ABC, 375 N.J. Super. 534, 543 (App. Div. 2005)("Wholesale requests for general information to be analyzed, collated and compiled" by the agency are outside OPRA's scope"). Researching, compiling and creating such information falls outside the controlling authority of the Open Public Records Act. The law provides that while "the custodian is obligated to search [his] files to find the identifiable government records listed in the Complainant's OPRA request... the Custodian is not required to research [his] files to figure out which records, if any, might be responsive to a broad or unclear OPRA request." Burnett v. City of Gloucester, 415 N.J. Super. 506, 515 (App. Div. 2010), quoting Donato v. Township of Union, GRC 2005-182, interim order (January 31, 2007). OPRA "is not intended as a research tool litigants may use to force government

officials to identify and siphon useful information.” MAG Entm't, 375 N.J. Super. at 546. Additionally, your request is overbroad and unduly burdensome. N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 181–82 (App. Div.), certif. denied, 190 N.J. 394 (2007) (finding that custodian of public records may reject a request that is overly broad or vague so as to prevent identification of the records sought); see also Shipyard Associates, L.P. v. City of Hoboken, 2015 WL 10352982, at *4 (N.J. Super. Ct. App. Div. Sept. 1, 2015) (calling for the custodian to research and compile a database of responsive records within a topic, prior to determining what records were exempted or could be redacted, was overbroad). Your request is not limited to particularized identifiable government records. Your request requires the custodian to exercise discretion, survey employees or conduct research. As such, your request is denied as it is overly broad and invalid under OPRA as it fails to properly identify the records being sought.

4. Your request “for the Elizabeth Public Schools’ Board of Education school board meeting minutes that pertain to all contracts and inter-agency agreements, including letters and memoranda, underlying the increase in security referenced in the board minutes from the following dates: 03/19/2020, 01/06/2020, 11/07/2019, 05/02/2019, 05/09/2019, 08/23/2018, 02/22/2018, 12/17/2015, 05/12/2015, 05/07/2015” is denied as the request is overly broad and lacks specificity as to the retrievable record being requested. This request as presently drafted does not identify with reasonable clarity a governmental record. “OPRA request must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of any agency’s documents.” Bent v. Twp. Of Stafford Police Dep’t Custodian of Records, 381 N.J. Super. 30, 37 (App. Div. 2005). A proper OPRA request must state “a specific subject matter that [is] clearly and reasonably described with sufficient identifying information.” Burke v. Brandes, 429 N.J. Super. 169, 176 (App. Div. 2012). The District is “only obligated to disclose identifiable government records.” Burke v. Brandes, 429 N.J. Super. 169, 174-75 (App. Div. 2012) (citations omitted). OPRA “only allows for requests for records” and does not permit for “requests for information.” Bent v. Twp. Of Stafford Police Dept, 381 N.J. Super. 30, 37 (App. Div. 2005). As set forth in Burke v. Brandes, 429 N.J. Super. 169, 174-75 (App. Div. 2012): “agencies are only obligated to disclose identifiable government records. (citation omitted). MAG Entm't supra, 375 N.J. Super. at 549. The statute “only allows requests for records, not requests for information.” Bent v. Twp. of Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005). OPRA does not require public entities to respond to an open-ended demand for records that would require a search of voluminous records of the District to evaluate and/or sort out to determine what documents should be disclosed. See MAG Entertainment LLC v. ABC, 375 N.J. Super. 534, 543 (App. Div. 2005) (“Wholesale requests for general information to be analyzed, collated and compiled” by the agency are outside OPRA’s scope”). Researching, compiling and creating such information falls outside the controlling authority of the Open Public Records Act. The law provides that while “the custodian is obligated to search [his] files to find the identifiable government records listed in the Complainant’s OPRA request... the Custodian is not required to research [his] files to figure out which records, if any, might be responsive to a broad or unclear OPRA request.” Burnett v. City of Gloucester, 415 N.J. Super. 506, 515 (App. Div. 2010), quoting Donato v. Township of Union, GRC 2005-182, interim order (January 31, 2007). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG Entm't, 375 N.J. Super. at 546. Additionally, your request is overbroad and unduly burdensome. N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 181–82 (App. Div.), certif. denied, 190 N.J. 394 (2007) (finding that custodian of public records may reject a request that is overly broad or vague so as to prevent identification of the records sought); see also Shipyard Associates, L.P. v. City of Hoboken, 2015 WL 10352982, at *4 (N.J. Super. Ct. App. Div. Sept. 1, 2015) (calling for the custodian to research and compile a database of responsive records within a topic, prior to determining what records were exempted or could be redacted, was overbroad). Your request is not limited to particularized identifiable government records. Your request requires the custodian to exercise discretion, survey employees or conduct research. As such, your request is denied as it is overly broad and invalid under OPRA as it fails to properly identify the records being sought.
5. Your request “all documents demonstrating the breakdown of costs on security and security measures (i.e. breakdown on Nonpublic Security Aid, breakdown on Categorical Security Aid, metal detectors, costs of police in sport events/prom, etc.) covering any part of the time period January 1, 2015 to present” is denied as the District does not maintain retrievable records that are responsive to your request. Researching, compiling and creating such information falls outside the controlling authority of the Open Public Records Act. The law is settled that under OPRA government agencies “are required to disclose only ‘identifiable’ governmental records... [w]holesale requests for general information to be analyzed, collated and compiled

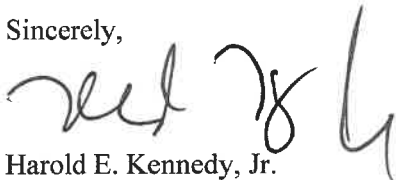
by the responding government entity are not encompassed therein.” *Burnett v. Cnty. Of Gloucester*, 415 N.J. Super. 506, 514 (App. Div. 2010) (quoting *MAG Entm’t, LLC v. Div. of Alcoholic Bev. Control*, 375 N.J. Super. 534, 549 (App. Div. 2005)). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” *MAG Entm’t*, 375 N.J. Super. at 546.

6. Your request “all documents demonstrating the costs on the updated security cameras at all schools to monitor buildings and grounds; the salary and names of the Director of Security and a Lead Investigator along with a team of former law enforcement professionals who lead the efforts through collaboration and communication with educational staff from January 1, 2015 to present” is denied as the District does not maintain retrievable records that are responsive to your request. Researching, compiling and creating such information falls outside the controlling authority of the Open Public Records Act. The law is settled that under OPRA government agencies “are required to disclose only ‘identifiable’ governmental records...[w]holesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein.” *Burnett v. Cnty. Of Gloucester*, 415 N.J. Super. 506, 514 (App. Div. 2010) (quoting *MAG Entm’t, LLC v. Div. of Alcoholic Bev. Control*, 375 N.J. Super. 534, 549 (App. Div. 2005)). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” *MAG Entm’t*, 375 N.J. Super. at 546.
7. Your request “all documents demonstrating the number of security guards, school resource officers, and any other security or rule enforcement personnel that exist, their names, the number of hours they work, and their salary covering any part of the time period January 1, 2015 to present” ” is denied as the District does not maintain retrievable records that are responsive to your request. Researching, compiling and creating such information falls outside the controlling authority of the Open Public Records Act. The law is settled that under OPRA government agencies “are required to disclose only ‘identifiable’ governmental records...[w]holesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein.” *Burnett v. Cnty. Of Gloucester*, 415 N.J. Super. 506, 514 (App. Div. 2010) (quoting *MAG Entm’t, LLC v. Div. of Alcoholic Bev. Control*, 375 N.J. Super. 534, 549 (App. Div. 2005)). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” *MAG Entm’t*, 375 N.J. Super. at 546.
8. Your request “all documents underlying the termination and/or investigation of security guards for alleged misconduct involving student interactions and relationships, use of force, or misuse of resources covering any part of the time period January 1, 2015 to present” is for documents that refer to and/or relates to information contained within a personnel record and is denied because it does not encompass a government record as defined by state law. See N.J.S.A.47:1A-10 (exempting personnel records from the definition of government records under OPRA); see also *McGee v. Township of East Amwell*, 416 N.J. Super. 602, 614 (App. Div. 2010)(noting that courts tend to favor confidentiality of employee personnel records). Thus, the District cannot provide you with anything further in response to your OPRA request. See *Burnette v. County of Bergen*, 198 N.J. 408 (2009)(holding that the privacy provision contained within OPRA “is neither a preface nor a preamble” but rather focuses the law’s implementation to “impose[]an obligation on public agencies to protect against disclosure of personal information which would run contrary to reasonable privacy interests.”).
9. Your request “all documents demonstrating the kind of training security guards receive (i.e. using metal detectors, checking backpacks, etc.), the dates security guards have been trained, and the names of those who train the security guards covering any part of the time period January 1, 2015 to present” is denied as the District does not maintain retrievable records that are responsive to your request. Researching, compiling and creating such information falls outside the controlling authority of the Open Public Records Act. The law is settled that under OPRA government agencies “are required to disclose only ‘identifiable’ governmental records...[w]holesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein.” *Burnett v. Cnty. Of Gloucester*, 415 N.J. Super. 506, 514 (App. Div. 2010) (quoting *MAG Entm’t, LLC v. Div. of Alcoholic Bev. Control*, 375 N.J. Super. 534, 549 (App. Div. 2005)). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” *MAG Entm’t*, 375 N.J. Super. at 546.
10. Your request “all documents demonstrating the number of security guards, school resource officers, and any other security, rule, or law enforcement personnel assigned in each of the following individual schools or who typically are assigned to these schools more than 3 days a week: Admiral William F. Halsey Jr. Health & Public Safety Academy Alexander Hamilton Preparatory Academy Elizabeth High School - Frank J Cicarell Academy J. Christian Bollwage Finance Academy John E. Dwyer Technology Academy

Thomas A. Edison Career and Technical Academy Thomas Jefferson Arts Academy ...covering any part of the time period January 1, 2015 to present” ” is denied as the District does not maintain retrievable records that are responsive to your request. Researching, compiling and creating such information falls outside the controlling authority of the Open Public Records Act. The law is settled that under OPRA government agencies “are required to disclose only ‘identifiable’ governmental records...[w]holesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed therein.” *Burnett v. Cnty. Of Gloucester*, 415 N.J. Super. 506, 514 (App. Div. 2010) (quoting *MAG Entm’t, LLC v. Div. of Alcoholic Bev. Control*, 375 N.J. Super. 534, 549 (App. Div. 2005)). OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” *MAG Entm’t*, 375 N.J. Super. at 546.

11. Your request “any documents, including inter-agency agreements, letters and memoranda, sufficient to identify the nature of any relationship (whether formal or informal) between the Elizabeth Public Schools’ Board of Education and the U.S. Army Recruiting Station in Elizabeth, NJ in the following schools: Admiral William F. Halsey Jr. Health & Public Safety Academy Alexander Hamilton Preparatory Academy Elizabeth High School - Frank J Cicarell Academy J. Christian Bollwage Finance Academy John E. Dwyer Technology Academy Thomas A. Edison Career and Technical Academy Thomas Jefferson Arts Academy ...covering any part of the time period January 1, 2015 to present” is denied as the District does not maintain retrievable records that are responsive to your request.
12. Your request “any documents, including inter-agency agreements, letters and memoranda, sufficient to identify the nature of any relationship (whether formal or informal) between the Elizabeth Public Schools’ Board of Education and U.S. Marine Corps Junior ROTC covering any part of the time period January 1, 2015 to present” is denied as the District does not maintain retrievable records that are responsive to your request.
13. Your request “any documents, including inter-agency agreements, letters and memoranda, sufficient to identify the nature of any relationship (whether formal or informal) between the Elizabeth Public Schools’ Board of Education and the United States Department of Homeland Security covering any part of the time period January 1, 2019 to present” is denied as the District does not maintain retrievable records that are responsive to your request.

Sincerely,



Harold E. Kennedy, Jr.
School Business Administrator/Board Secretary

Office of the School Business Administrator/Board Secretary