

ELIZABETH PUBLIC SCHOOLS
Every Child, Achieving Excellence

Olga Hugelmeyer
Superintendent of Schools

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

November 10, 2020

Giovana G. Castaneda <opra+request-18231-62efbfc6@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 "Current Elizabeth Public School District policies and provisions, that are in addition to those outlined in the Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials, which stipulate the requirements and limitations of law enforcement officers' conduct in Elizabeth Public Schools" is denied as the District does not maintain retrievable records that are responsive to your request.
2. Your request "The Memorandum of Agreement (or otherwise titled contract) between Elizabeth Public Schools and the Elizabeth Police Department" is denied as the District does not maintain retrievable records that are responsive to your request.
3. Your request "Data submitted by the District to the U.S. Department of Education Office of Civil Rights as required by the Every Student Succeeds Act in relation to law enforcement referrals, disaggregated by student race and disability status" 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. Civil Rights Data Collection by district and school are available at the U.S. Department of Education web site at <http://ocrdata.ed.gov/DistrictSchoolSearch>.
4. Your request "documents documenting the cost of payments for policing services by Elizabeth Public Schools" 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 Elizabeth Public Schools’ Board of Education meeting minutes regarding, and policies underlying, the increase in security referenced in the board minutes from the following dates: 03/19/2020; Page 3, “Mrs. Hugelmeyer stated that a total of 17 law enforcement officers were provided to support us at our eight locations throughout the City of Elizabeth to service our 22,000 students.” 01/16/2020; Page 12, “Mrs. Barbosa asked if there were any questions. Mrs. Carvalho asked about the payment for police. Mr. Kennedy stated that the payment for the off duty police is in the Claims List and explained the new process for the payment of police.” 11/07/2019; Page 7, “Mrs. Hugelmeyer stated that the report includes an acceptance of grant funds for the 2019 COPS Office School Violence Prevention Program in the amount of \$494,750. to be used for security for our schools and grounds in partnership with our Elizabeth Police Department.” 05/02/2019; Page 7, “Mrs. Hugelmeyer stated that in the 2019-2020 budget the capital projects and maintenance projects include ... security improvements at 2 schools...” 05/09/2019; Page 3, “Mrs. Hugelmeyer stated that the Elizabeth Public Schools presently employs 167 security guards district-wide, police officers in targeted locations, extensive security monitoring, metal detectors, and camera surveillance systems.” 08/23/2018; Page 4, “Mr. Glackin stated that the EPS supports include the Elizabeth Police Department, Juvenile Division, Detective Division, Traffic Bureau, Community Policing, and Union County Emergency Services and Emergency Management and that the Board of Education, lead investigator, investigators, and he work closely with them.” 02/22/2018; Page 8, “Mrs. Hugelmeyer stated that as previously stated in recent communications to our community we presently employ security guards at all of our schools and office locations districtwide, police officers in targeted locations, extensive security monitoring, metal detectors and camera surveillance systems, all schools are locked throughout the day, and all visitors including employees are required to present identification which is scanned through the teacher parent authentication system (TPAS) before being allowed to enter any district building while any unauthorized are prohibited from entering.” 12/17/2015; Page 2; “Mr. Monteiro stated that we have the largest in-house security force in the State of New Jersey with over 160 security guards and probably still not enough.” 05/12/2015; Page 8, “Mrs. Carvalho asked if we are not cutting back on any police services. Mrs. Hugelmeyer stated that is correct that we are not cutting back on the police services. Mr. Rodriguez asked when it changed. Mrs. Hugelmeyer stated that there is no reduction for the services for the Elizabeth Police Department in the budget.” 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.

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Sincerely,



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School Business Administrator/Board Secretary

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