

East Newark Public School

Rosaura Bagolie, Ed. D.
Superintendent / Principal



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September 17, 2024

VIA E-MAIL [opra+request-65777-c39b4121@requests.opramachine.com]

EastNewark

Re: Open Public Records Act/Common Law Request

Dear Sir/Madam:

The East Newark School Public School ("District") records custodian received your Open Public Records Act ("OPRA") and common law request ("Request") on August 27, 2024. The seven business day deadline to respond to your Request is September 19, 2024. As such, the District is timely responding to your Request in accordance with New Jersey law.

Your Request seeks the following records:

ALL Agreements, Contracts, Communications between East Newark Board of Education, Superintendent and Kearny Board of Education on all topics, summer school, property lease, transportation [sic] for the years 2020 to 2024

With respect to the portion of your Request seeking communications, please be advised that this portion of your request is invalid as overly broad. Both New Jersey courts and the GRC have upheld an established criteria deemed necessary to specifically identify and facilitate a search for responsive e-mails and other written communications. See Armenti v. Robbinsville Bd. of Educ., GRC Complaint No. 2009-154 (Interim Order May 24, 2011); see also Zahler v. Ocean County College, GRC Complaint No. 2013-266 (Jan. 2016).

In Elcavage v. West Milford Township, GRC Complaint No. 2009-07 and 2009-08 (April 2010), the GRC determined that in accordance with legal precedent: "[I]n order to specifically identify an e-mail the OPRA request 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 e-mails were transmitted, and (3) identification of the sender and/or the recipient thereof." Requests seeking correspondence but omitting specific senders and/or recipients are invalid. See Lewis-Gallagher v. Monroe Twp. Pub. Sch. Dist., GRC Complaint No. 2018-8 (Sept. 2019); see also Shipyard Associates, L.P. v. City of Hoboken, 2015 WL 10352982 (App. Div. 2015) (holding, in part, that a request for correspondence received by the public entity's employees, agents, or City Council lacked the requisite level of specificity because it failed to provide the names of any of the entity's employees or agents); see also Burke v. Ocean Cty., 2013 WL 6169154 (App. Div. 2013) (holding that an OPRA request is not the equivalent of lawsuit discovery).

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In Coughlin v. Borough of High Bridge, GRC Complaint No. 2011-120 (Sept. 2012), the GRC held that a request identifying e-mails sent to or from the Borough's golf department failed OPRA's specificity requirements, explaining:

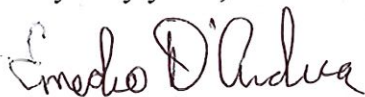
In order for the Custodian to respond to this request, the Custodian would be required to evaluate all e-mails in their database in order to determine whether the named recipients of such communications were employed in the golf department. Such a request is not feasible. Pursuant to Elcavage and MAG, it is not the Custodian's duty to discern which e-mails in their database have been received by or sent to a golf department employee. A search for the individual employees' names and related e-mail addresses would constitute research that is not the statutory duty of a Custodian.

See also Wolosky v. Township of Randolph, GRC Complaint No. 2010-244 (Feb. 2012) ("The request failed to name a specific identifiable sender and recipient: the request seeks e-mails from and to a specific class of employee (specifically, Morris County Municipal Clerks) and not individually named senders and recipients."). See also Wares v. Passaic Cty. Prosecutor's Office, GRC Complaint No. 2014-330 (June 2015); Love v. Borough of Spotswood, GRC Complaint No. 2014-223 (Interim Order March 2015). Here, your Request is invalid as it purports to require the District's records custodian to conduct research in order to identify the members of the East Newark and Kearny Boards of Education for the relevant time period. As such, this portion of your Request fails to comport with OPRA's specificity requirements. To the extent that you are seeking access pursuant to the common law right of access, your Request is similarly deficient for the reasons stated above.

With respect to the remainder of your Request, the District conducted a good-faith search and determined that it is not in possession of any potentially responsive records.

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

Very truly yours,



Emidio D'Andrea

Business Administrator/Board Secretary