

East Newark Public School

Rosaura Bagolie, Ed. D.
Superintendent / Principal



501-11 North Third Street
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(973) 481-6800
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October 8, 2024

VIA E-MAIL [opra+request-66105-1523c500@requests.opramachine.com]
NJ411News

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 September 3, 2024. On September 10, 2024, the District received your answers with respect to the intended use of the requested records, as required by the amended OPRA statute. The District obtained an extension of time to respond to your Request until October 10, 2024. As such, the District is timely responding to your Request.

Your Request seeks the following records:

All of the requests below are to be produced from January 1, 2020 to present.

All materials, communications, emails or any other format between the board of education trustees, superintendent Dr. Rosaura Bagolie, and/or Frances L. Febres, Esq. regarding:

1. Jorge Castro's termination and filing of suspension of his teaching certification.
2. Produce name of who made the recommendation to file to suspend Jorge Castro's teaching certification.
3. Produce resolution to engage Frances L. Febres, Esq. to represent the board of education in the above matter
4. Resolution authorizing the board of education to file for the suspension of the teaching certificate of Jorge Castro.
5. Produce all legal invoices related to the above matter
6. Name of approver who signed off on the legal invoices for the above matter
7. Produce resolution for payment of all invoices, including but not limited to legal for the above matter
8. Produce offer letter and termination letter sent to Jorge Castro.
9. Produce job listing originally posted for this position, list of candidates who responded and who were interviewed with dates and times.

To the extent that your Request seeks "communications, emails or any other format" please be advised

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that your Request is invalid as overly broad pursuant to N.J.S.A. 47:1A-5(g) (providing that a records custodian shall not be required to search for responsive communications if the request fails to identify the specific accounts, a specific subject matter, and a reasonable time period for the search). Additionally, 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).

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.”). Here, your Request is invalid as the “board of education trustees” do not constitute valid senders/recipients, and your Request purports to require the records custodian to conduct research to determine the members of the Board of Trustees over a 4 ½ year time period. As such, this portion of your Request fails to comport with OPRA’s specificity requirements.

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To the extent that your Request seeks "all materials," please be advised that your Request is overly broad, as it fails to identify with reasonable clarity any particular records sought. OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. 47:1A-1. 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); 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 Cty. 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 requests may not be a broad generic description of documents that require the custodian to search the agency's files and "analyze, compile, and collate" the requested information. Id.; see also 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). Here, your Request is clearly deficient as it constitutes a blanket request for all documentation relating to Jorge Castro over a 4 ½ year time period, and purports to require the District's records custodian to conduct research in order to determine which materials may potentially be responsive. See Parreott v. Asbury Park School District, GRC Complaint Nos. 2016-20 & 2016-39 (Sept. 2017) (holding that the portion of the request seeking "all relevant documents" was invalid because it sought a class of various records and would have required the records custodian to conduct research in order to locate responsive records); see also Burke v. Ocean Cty., 2013 WL 6169154 (App. Div. 2013) (holding that an OPRA request is not the equivalent of lawsuit discovery). Accordingly, this portion of your Request is invalid as it fails to comport with OPRA's specificity requirements.

Notwithstanding the invalidity of your Request, in the interest of transparency the District conducted a good-faith search with respect to item 8 and determined that it is not in possession of any potentially responsive records.

To the extent that you are seeking access to the remainder of the records pursuant to the common law right of access, your Request is similarly deficient for the reasons stated above.

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