

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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August 8, 2024

VIA E-MAIL [opra+request-63961-ccaf574d@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 July 25, 2024. The seven business day deadline to respond to your Request is August 20, 2024. As such, the District is timely responding to your Request in accordance with New Jersey law.

Your Request seeks the following records:

Resolution authorizing the BOE to file a Suspension of the Teaching Certificates of Jorge Castro. Hired to be a science teacher and was switched to teach social studies. Resigned without providing 60 days notice. Who recommended and what BOE members approved the resolution to have his teaching certificate suspended? Provide all materials and emails with regard to Jorge Castro.

With respect to the portion of your Request seeking the resolution "authorizing the BOE to file a Suspension of the teaching Certificates of Jorge Castro," please be advised that the District conducted a good-faith search and determined that it is not in possession of any potentially responsive records.

With respect to the portion of your Request inquiring as to "[w]ho recommended and what BOE members approved the resolution," please be advised that your Request constitutes an invalid request for information. Please note that OPRA operates to make identifiable government records "readily accessible for inspection, copying, or examination." N.J.S.A. § 47:1A-1; MAG Entertainment, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005). MAG Entertainment, LLC held, "[w]hile OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, it is not intended as a research tool . . . to force government officials to identify and siphon useful information." Id. at 547. "Under 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." Id. at 549; see also Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005) (holding that OPRA only allows requests for records as contrasted from information, and to qualify under OPRA a request must reasonably identify a record and not generally data, information or statistics). The Appellate Division repeated these principles in holding:

[A]gencies are only obligated to disclose identifiable government records. The

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statute “only allows requests for records, not requests for information.” A proper request “must identify with reasonable clarity those documents that are desired.” “Wholesale requests for general information to be analyzed, collated and compiled” by the agency are outside OPRA’s scope.

Burke v. Brandes, 429 N.J. Super. 169, 174 (App. Div. 2012) (citations omitted); 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).

In light of the above, your inquiry who recommended and approved the resolution clearly constitutes a request for information that is outside of the scope of OPRA. You are purportedly asking the District to conduct research to analyze, compile, and collate information for you. Such an analysis clearly exceeds the obligations of a record custodian. Accordingly, the District is not legally obligated to respond to your inquiry.

With respect to the portion of your Request seeking “all materials and emails with regard to Jorge Castro,” 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 materials relating to Jorge Castro over an indefinite time period, and your Request 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). Moreover, your Request is invalid due to the lack of any date limitation. 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). Accordingly, your Request is invalid as it fails to comport with OPRA’s specificity requirements.

Lastly, to the extent that your Request purportedly seeks e-mail communications, please be advised that your Request is similarly 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

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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). Moreover, your Request is invalid due to the lack of any date limitation. 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). As such, your Request fails to comport with OPRA’s specificity requirements.

Please note that your Request is similarly deficient under the common law for the reasons described above.

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

Very truly yours,

A handwritten signature in blue ink, which appears to read "Emidio D'Andrea". The signature is fluid and cursive.

Emidio D'Andrea

Business Administrator/Board Secretary