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July 9, 2024

Erin

opra+request-63086-044ea50d@requests.opramachine.com

Re: Open Public Records Act (OPRA) request – Resume of Assistant Prosecutor Alec T. DeBari

Dear Erin:

This Office is in receipt of your request dated June 26, 2024 made under the New Jersey Open Public Records Act (OPRA). Please be advised that N.J.S.A. 47:1A-10 provides:

Notwithstanding the provisions of *P.L. 1963, c. 73 (C. 47:1A-1 et seq.)* or any other law to the contrary, the personnel or pension records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a government record and shall not be made available for public access, except that:

an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefore, and the amount and type of any pension received shall be a government record;

personnel or pension records of any individual shall be accessible when required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the United States, or when authorized by an individual in interest; and

data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government

employment or for receipt of a public pension, but not including any detailed medical or psychological information, shall be a government record.

(Emphasis supplied.)

In *Kovalcik v. Somerset County Prosecutor's Office*, 206 N.J. 581 (2011), the Supreme Court of New Jersey narrowly construed the exception regarding records evidencing educational qualifications. As stated by the Court in *Kovalcik*, *supra* at 593:

In crafting the exception about records that evidence educational qualifications, the Legislature used two precise limiting terms that carefully circumscribe its application. *N.J.S.A. 47:1A-10*. That is, the exception does not authorize disclosure of any and all documents that evidence an employee's educational background or even that evidence an employee's participation in educational pursuits generally. *Ibid.*

Rather, the Legislature chose to use the words "specific" and "required" in a manner that sharply limits the exception's scope. *Ibid.* Those words effectively narrow the mandate of disclosure because they make it plain that only if there is a specific, or particular, educational qualification that is a prerequisite for the job and only if the record demonstrates compliance with that specific requirement is it subject to being disclosed pursuant to OPRA. That plain reading of the exception comports with the underlying intent of the Legislature to make available information that would demonstrate that a government employee lacked a required credential and therefore failed to meet the minimum qualifications for the position. *See, e.g., N. Jersey Media Group, Inc. v. State, Dep't of Pers.*, 389 N.J.Super. 527, 537, 913 A.2d 853 (Law Div.2006) (concluding that only information included in police officer's employment application that evidenced compliance with educational requirements was to be disclosed pursuant to OPRA).

Therefore, pursuant to *Kovalcik*, attached please find that portion of Mr. DeBari's resume that evidences compliance with the educational requirements for assistant prosecutors at this Office, specifically, graduation from an accredited law school and admission to the New Jersey Bar. Redactions of personal identifying information have been made pursuant to *N.J.S.A. 47:1A-1.1*, et seq.

Should you disagree with our decision, please contact us in writing with your concerns so that we may consider them. If you have any questions, please do not hesitate to contact me.

Yours very truly,

/s/Dina R. Khajezadeh
Dina R. Khajezadeh
Assistant Prosecutor

DRK/dk
Attachment

ALEC T. DEBARI

BAR

State of New Jersey, December 2021

EDUCATION

Rutgers Law School, Newark, NJ
Juris Doctor, May 2021