



**State of New Jersey**  
DEPARTMENT OF COMMUNITY AFFAIRS  
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PHILIP D. MURPHY  
*Governor*

LT. GOVERNOR SHEILA Y. OLIVER  
*Commissioner*

**FINAL DECISION**

**May 31, 2022 Government Records Council Meeting**

Linda Evans  
Complainant

Complaint No. 2020-189

v.

Monmouth County Division of Social Services  
Custodian of Record

At the May 31, 2022 public meeting, the Government Records Council (“Council”) considered the May 24, 2022 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that the evidence of record supports that the Custodian never received the Complainant’s OPRA request and there is no credible evidence in the record to contradict the Custodian’s Statement of Information and additional information certification. Thus, the Custodian did not unlawfully deny access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. See *Valdes v. N.J. Dep’t of Educ.*, GRC Complaint No. 2012-19 (April 2013); *Bey v. State of N.J., Office of Homeland Security & Preparedness*, GRC Complainant No. 2013-237 (February 2014).

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the  
Government Records Council  
On The 31<sup>st</sup> Day of May 2022

Robin Berg Tabakin, Esq., Chair  
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary  
Government Records Council



**Decision Distribution Date: June 2, 2022**

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**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
May 31, 2022 Council Meeting**

**Linda Ann Evans<sup>1</sup>  
Complainant**

**GRC Complaint No. 2020-189**

**v.**

**Monmouth County Division of Social Services<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of “case records utilized to support eligibility, ineligibility, and benefit level determination of \$16.00/month in SNAP benefits per N.J.A.C. 10:87, 1.10, 1.11, 1.12(d), 1.13, 1.14(b)4.7, 1.15, 1.16, 2.18(c)(d), 2.23, 2.24, 4.8 – detailed and itemized financial worksheet requested.”

**Custodian of Record:** Lorraine Scheibener

**Request Received by Custodian:** N/A

**Response Made by Custodian:** October 7, 2020

**GRC Complaint Received:** September 23, 2020

**Background<sup>3</sup>**

**Request and Response:**

On April 9, 2020, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records.

**Denial of Access Complaint:**

On September 23, 2020, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that after submitting her request, she received mail from someone at Monmouth County Division of Social Services (“MCDSS”) stating to call the agency regarding her options for a hearing on her SNAP benefits. The Complainant stated that she received additional phone calls and mail from MCDSS regarding a fair hearing on her benefits but did not receive a response to her OPRA request. The Custodian stated that her last contact with MCDSS was on August 24, 2020, where she left a voicemail requesting a return call and that she would file a complaint with the GRC if she did not receive the

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<sup>1</sup> No legal representation listed on record.

<sup>2</sup> Represented by Patrick Boyle, Esq., of Monmouth County Division of Social Services (Freehold, NJ).

<sup>3</sup> The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

requested records. As part of the complaint, the Complainant included photocopies of a certified return receipt signed by Joanne Strain on April 11, 2020.

#### Statement of Information:

On October 15, 2020, the Custodian filed a Statement of Information (“SOI”). The Custodian certified that she never received the Complainant’s OPRA request dated April 9, 2020. The Custodian certified that she instead received phone calls and e-mails from the Complainant regarding her SNAP application case record and argued that same did not equate to an OPRA request.

The Custodian argued that even if she received the OPRA request at issue, the Complainant’s SNAP case record was exempt from disclosure under N.J.S.A. 47:1A-9. The Custodian asserted that federal law and regulations, as well as state regulations, restrict the disclosure of such records except for the applicant/recipient. 7 U.S.C. 2020 (8); 7 C.F.R. 272.1(c); N.J.A.C. 10:87-1.14. The Custodian asserted that MCDSS provided the Complainant with access to the records as was her right as the applicant/recipient.

#### Additional Submissions:

On October 20, 2020, the Complainant responded to the Custodian’s SOI via e-mail. The Complainant asserted that MCDSS received her OPRA request as noted in the signed certified return receipt. The Complainant asserted that the Custodian’s statements were therefore false and fraudulent. The Complainant further argued that the Custodian did not mail her the requested benefits information. The Complainant re-attached the photocopy of the signed certified return receipt.

On May 11, 2022, the GRC requested additional information from the Custodian in the form of a certification. Specifically, the GRC asked the Custodian whether she or MCDSS received the OPRA request at any point prior to receiving the instant Denial of Access Complaint. The GRC also requested a certification from Ms. Strain, asking whether she received the OPRA request and if so, what was done with said request.

On May 16, 2022, the Custodian submitted a certification in response to the GRC’s request. The Custodian certified that neither she nor any employee at MCDSS received the Complainant’s OPRA request at any point prior to receiving the instant complaint. The Custodian further certified that Ms. Strain was not an employee with MCDSS but instead worked in the centralized mailroom for Monmouth County (“County”). The Custodian certified that the mailroom was not located at the MCDSS office building. The Custodian further certified that because Ms. Strain was not an employee with MCDSS, she did not have the authority to compel a certification.

### Analysis

#### Unlawful Denial of Access

OPRA provides that government records made, maintained, kept on file, or received by a

public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all records responsive to an OPRA request “with certain exceptions.” N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

In Valdes v. N.J. Dep’t of Educ., GRC Complaint No. 2012-19 (April 2013), the complainant filed a complaint after not receiving a response to his OPRA request. As part of his Denial of Access Complaint, the complainant included a certified mail return receipt stamped “State of NJ – Capital Post Office.” The Council determined that the custodian did not unlawfully deny access to the complainant’s OPRA request because same was never received. The Council reasoned that “the Custodian did not sign the receipt and there is no indication that DOE received the request, only that the State received it . . . it is entirely possible that the Custodian never received the OPRA request.” Id. at 4. See also Bey v. State of N.J., Office of Homeland Security & Preparedness, GRC Complainant No. 2013-237 (February 2014) (complainant’s certified mail return receipt sufficient only to show that the State received the request, not the custodian); Martinez v. Morris Cnty. Prosecutor’s Office, 2014-2 (September 2014).

In the instant matter, the Complainant argued in the Denial of Access Complaint that the Custodian failed to respond, and included a photocopy of a certified return receipt signed by Ms. Strain. However, the Custodian certified in the SOI that she never received same, and in response to the GRC’s request for additional information, the Custodian certified that Ms. Strain was a County employee working at the centralized mailroom. Further, the Complainant failed to provide additional evidence beyond the signed return receipt. Therefore, as in Valdes and Bey, the existence of the signed return receipt from the County’s mailroom does not represent competent and credible proof that the Custodian in fact received the OPRA request.

Accordingly, the evidence of record supports that the Custodian never received the Complainant’s OPRA request and there is no credible evidence in the record to contradict the Custodian’s SOI and additional information certification. Thus, the Custodian did not unlawfully deny access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. See Valdes, GRC 2012-19; Bey, GRC 2013-237.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the evidence of record supports that the Custodian never received the Complainant’s OPRA request and there is no credible evidence in the record to contradict the Custodian’s Statement of Information and additional information certification. Thus, the Custodian did not unlawfully deny access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. See Valdes v. N.J. Dep’t of Educ., GRC Complaint No. 2012-19 (April 2013); Bey v. State of N.J., Office of Homeland Security & Preparedness, GRC Complainant No. 2013-237 (February 2014).

Prepared By: Samuel A. Rosado  
Staff Attorney

May 24, 2022