



**State of New Jersey**  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO BOX 819  
TRENTON, NJ 08625-0819

**PHILIP D. MURPHY**  
*Governor*

**LT. GOVERNOR SHEILA Y. OLIVER**  
*Commissioner*

**FINAL DECISION**

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

Joseph Maddaloni, Jr., Esq.  
(o/b/o Renaissance School Services, LLC)  
Complainant

Complaint No. 2020-66

v.  
The Kingdom Charter School of Leadership (Camden)  
Custodian of Record

At the May 31, 2022 public meeting, the Government Records Council (“Council”) considered the May 24, 2022 Supplemental 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 Council adopt the May 10, 2022 Initial Decision of the Honorable David M. Fritch, Administrative Law Judge, in which the Judge approved the “Consent Order” signed by the parties or their representatives ordering the parties to comply with the settlement terms and further determining that these proceedings be concluded.

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**



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

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

**Joseph Maddaloni, Jr., Esq.<sup>1</sup>  
(On Behalf of Renaissance School Services, LLC)  
Complainant**

**GRC Complaint No. 2020-66**

v.

**The Kingdom Charter School of Leadership (Camden)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of:

1. “Any and all documents and records evidencing” revenue received by the Custodian on before of Kingdom Charter School of Leadership (“Kingdom”), including ledgers, spreadsheets, compilations or statements, from June 1, 2019 to present.
2. “Any and all documents and records evidencing” disbursements made by the Custodian on behalf of Kingdom, including ledgers, spreadsheets, compilations, statements, or cancelled checks, from June 1, 2019 to present.
3. Any and all bank statements for Kingdom from June 1, 2019 to present.

**Custodian of Record:** Philip T. Meshinksky  
**Request Received by Custodian:** February 4, 2020  
**Response Made by Custodian:** February 20, 2020  
**GRC Complaint Received:** March 18, 2020

**Background**

June 29, 2021 Council Meeting:

At its June 29, 2021 public meeting, the Council considered the June 22, 2021 Supplemental 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, found that:

[T]he Custodian has failed to establish in his request for reconsideration of the Council’s December 15, 2020 Interim Order that either 1) the Council’s decision is based upon a “palpably incorrect or irrational basis;” or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. The

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<sup>1</sup> The Complainant represents Renaissance School Services, LLC.

<sup>2</sup> Represented by Eric L. Harrison, Esq., of Methfessel & Werbel, P.C. (Edison, NJ). Previously represented by Paul N. Barger, Esq., of Barger & Gaines (Irvington, NY).

Custodian failed to establish that the complaint should be reconsidered based on mistake. The Custodian has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. Specifically, the Custodian failed to provide any arguments proving that the Council made a mistake. Thus, the Custodian’s request for reconsideration should be denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D’Atria v. D’Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003). As such, the Council’s December 15, 2020 Interim Order remains in effect.

#### Procedural History:

On June 30, 2021, the Council distributed its Interim Order to all parties. On September 8, 2021, the complaint was transmitted to the Office of Administrative Law (“OAL”). On April 12, 2022, the parties fully executed a “Consent Order” that “resolves all issues as to all parties . . . in the above-captioned . . .” complaint. On May 10, 2022, the Honorable David M. Fritch, Administrative Law Judge (“ALJ”) issued an Initial Decision (attached as Exhibit A) as follows:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives’ signatures.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

Therefore, the ALJ in his decision “**CONCLUDE[D]** that this matter is no longer a contested case before the [OAL]. It is **ORDERED** that the parties comply with the settlement terms and that these proceedings be concluded.”

#### Analysis

No analysis required.

#### Conclusions and Recommendations

The Executive Director respectfully recommends that the Council adopt the May 10, 2022 Initial Decision of the Honorable David M. Fritch, Administrative Law Judge, in which the Judge approved the “Consent Order” signed by the parties or their representatives ordering the parties to comply with the settlement terms and further determining that these proceedings be concluded.

Prepared By: Frank F. Caruso  
Executive Director

May 24, 2022



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SETTLEMENT**

OAL DKT. NO. GRC 07628-21

AGENCY DKT. NO. 2020-66

**JOSEPH MADDALONI, JR., ESQ.**  
**(ON BEHALF OF RENAISSANCE**  
**SCHOOL SERVICES, LLC),**

Complainant,

v.

**THE KINDGOM CHARTER SCHOOL**  
**OF LEADERSHIP (CAMDEN),**

Respondent.

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**Joseph Maddaloni, Jr., Esq.**, on behalf of complainant (Schenck, Price, Smith & King, LLP, attorneys)

**Eric L. Harrison, Esq.**, for respondent (Methfessel & Werbel, PA, attorneys)

Record Closed: April 12, 2022

Decided: May 10, 2022

BEFORE **DAVID M. FRITCH, ALJ**:

**STATEMENT OF THE CASE**

This matter was transmitted to the Office of Administrative Law (OAL) on September 10, 2021, for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On April 12, 2022, the parties submitted an executed Consent Order in this matter. The Order is attached as J-1 and fully incorporated herein.

I have reviewed the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

I **CONCLUDE** that this matter is no longer a contested case before the Office of Administrative Law. It is **ORDERED** that the parties comply with the settlement terms and that these proceedings be concluded.

I hereby **FILE** my initial decision with the **GOVERNMENT RECORDS COUNCIL** for consideration.

This recommended decision may be adopted, modified or rejected by the **GOVERNMENT RECORDS COUNCIL**, who by law is authorized to make a final decision in this matter. If the Government Records Council does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **EXECUTIVE DIRECTOR OF THE GOVERNMENT RECORDS COUNCIL, 101 South Broad Street, PO Box 819, Trenton, New Jersey 08625-0819**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 10, 2022  
DATE

  
\_\_\_\_\_  
DAVID M. FRITCH, ALJ

Date Received at Agency:

5/12/2022

Date Mailed to Parties:

5/12/2022

/dw

Attachment

J-1

Steven K. Parness - ID #027111993  
METHFESSEL & WERBEL, ESQS.  
2025 Lincoln Highway, Suite 200  
PO Box 3012  
Edison, New Jersey 08818  
(732) 248-4200  
1(732) 248-2355  
parness@methwerb.com  
Attorneys for Defendant  
Our File No. 91644a ELH

MADDALONI, JOSPEH, JR., ESQ.  
(O.B.O. Renaissance School  
Services, LLC),  
Complainant,

V.

THE KINGDOM CHARTER  
SCHOOL OF LEADERSHIP  
(Camden),

Respondent.

STATE OF NEW JERSEY:  
OFFICE OF ADMINISTRATIVE LAW

OAL DOCKET. NO.: GRC 07628-  
2021 S

AGENCY REF. NO.: 2020-66

TRANSMITTING AGENCY:  
GOVERNMENT RECORDS  
COUNCIL

**CONSENT ORDER**

WHEREAS, the Complainant filed a Denial of Access Complaint (“Complaint”) with the Government Records Council (“GRC”) alleging failure on the part of the Respondent to provide certain documents and records to the Complainant as requested under the Open Public Records Act, N.J.S.A. 47:1A-1, et. seq., (“OPRA”); and,

WHEREAS, the Respondent contested the Complaint through Phillip T. Meshinsky, CPA, of Meshinsky & Associates LLC, Trustee and Custodian for the Respondent; and,

WHEREAS, the GRC, through its July 28, 2020 Interim Order, determined Complainant is a prevailing party entitled to an award of a reasonable attorney's fee; and,

WHEREAS, the GRC referred this matter to the Office of Administrative Law for a determination of the total amount of the award of reasonable attorney's fees to the Complainant; and,

WHEREAS, the Complainant and the Respondent have agreed to a voluntary resolution of this matter in an effort to avoid further litigation costs and expenses;

NOW, THEREFORE, upon the joint submission of the Complainant and Respondent it is hereby Ordered as follows:

1. The Respondent agrees to pay the Complainant the sum of Five Thousand Dollars (\$5,000.00) as reimbursement for the reasonable attorney's fees incurred by the Complainant;

2. A check in the amount of Five Thousand Dollars (\$5,000.00) made payable to "Schenk Price Smith & King LLP i/t/f Renaissance School Services LLC" shall be issued by Respondent and sent to counsel for Complainant via Federal Express within forty-eight hours of Counsel for Complainant's execution and return to Counsel for Respondent of the herein Consent Order.

3. Upon notification by Counsel for Complainant to Counsel for Respondent that the check proceeds have been cleared and paid, Counsel for Respondent shall file the herein fully executed Consent Order with the Court. Counsel for Respondent agrees that he shall not file the herein Consent Order prior to such notification.

4. The Complainant and Respondent acknowledge and agree that this Consent Order does not otherwise establish individual or personal liability on the part of Phillip T. Meshinsky, CPA, or be deemed as an admission or evidence that Mr. Meshinsky individually served as Trustee for the Respondent in the matter currently



pending in the Superior Court of New Jersey, Chancery Division, General Equity Part, Docket No.: HNT-C-14021-21; it being understood and acknowledged that the Trustee denies any such personal or individual liability in that matter; nor shall the existence of this Consent Order be used by either the Complainant or the Respondent to support their respective positions in that matter regarding the Trustee's personal or individual liability.

5. This Consent Order resolves all issues as to all parties solely with respect to the Open Public Records Act dispute at issue in the above-captioned administrative litigation.

6. The Government Records Council retains jurisdiction over this matter until the provisions of this Consent Order are satisfied as set forth herein, or until this matter is otherwise summarily returned to the GRC if the Respondent fails to make the required payments.

7. It is agreed that a copy of this Order shall be deemed served by the unloading of this Order on ecourts.

**SO ORDERED:**

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Honorable David M. Fritch, A.L.J.

Dated: \_\_\_\_\_, 2022

The undersigned hereby consent to the terms and entry of this Consent Order:

*Joseph Maddaloni, Jr.*

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Joseph Maddaloni, Jr., Esq.  
Schenck, Price, Smith & King, LLP  
220 Park Avenue  
Florham Park, NJ 07932  
Attorneys for Complainant

DATED: 03/28/2022

*Steven K. Parness*

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Steven K. Parness, Esq.  
Methfessel & Werbel, P.C.  
2025 Lincoln Highway, Suite 200  
Edison, NJ 08818  
Attorneys for Respondent

DATED:



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO BOX 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**INTERIM ORDER**

**June 29, 2021 Government Records Council Meeting**

Joseph Maddaloni, Jr., Esq.  
(o/b/o Renaissance School Services, LLC)  
Complainant

Complaint No. 2020-66

v.

The Kingdom Charter School of Leadership (Camden)  
Custodian of Record

At the June 29, 2021 public meeting, the Government Records Council (“Council”) considered the June 22, 2021 Supplemental 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 Custodian has failed to establish in his request for reconsideration of the Council’s December 15, 2020 Interim Order that either 1) the Council’s decision is based upon a “palpably incorrect or irrational basis;” or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. The Custodian failed to establish that the complaint should be reconsidered based on mistake. The Custodian has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. Specifically, the Custodian failed to provide any arguments proving that the Council made a mistake. Thus, the Custodian’s request for reconsideration should be denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D’Atria v. D’Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003). As such, the Council’s December 15, 2020 Interim Order remains in effect.

Interim Order Rendered by the  
Government Records Council  
On The 29<sup>th</sup> Day of June 2021

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 30, 2021**



**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

*Reconsideration*  
**Supplemental Findings and Recommendations of the Executive Director  
June 29, 2021 Council Meeting**

**Joseph Maddaloni, Jr., Esq.<sup>1</sup>  
(On Behalf of Renaissance School Services, LLC)  
Complainant**

**GRC Complaint No. 2020-66**

**v.**

**The Kingdom Charter School of Leadership (Camden)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of:

1. “Any and all documents and records evidencing” revenue received by the Custodian on before of Kingdom Charter School of Leadership (“Kingdom”), including ledgers, spreadsheets, compilations or statements, from June 1, 2019 to present.
2. “Any and all documents and records evidencing” disbursements made by the Custodian on behalf of Kingdom, including ledgers, spreadsheets, compilations, statements, or cancelled checks, from June 1, 2019 to present.
3. Any and all bank statements for Kingdom from June 1, 2019 to present.

**Custodian of Record:** Philip T. Meshinsky  
**Request Received by Custodian:** February 4, 2020  
**Response Made by Custodian:** February 20, 2020  
**GRC Complaint Received:** March 18, 2020

**Background**

December 15, 2020 Council Meeting:

At its December 15, 2020 public meeting, the Council considered the December 8, 2020 Supplemental 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, found that:

1. The Custodian failed to comply with the Council’s July 28, 2020 Interim Order because he failed to respond at all.

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<sup>1</sup> The Complainant represents Renaissance School Services, LLC.

<sup>2</sup> Represented by Paul N. Barger, Esq., of Barger & Gaines (Irvington, NY). Mr. Barger notified the GRC of his representation on December 1, 2020.

2. “The Council shall, pursuant to New Jersey Rules Governing the Courts, R. 4:67-6, have the authority to enforce compliance with the orders and decisions issued by the Council.” N.J.A.C. 5:105-2.9(c). The Council’s July 28, 2020 Interim Order to disclose the relevant records is enforceable in the Superior Court if the Complainant decides to exercise that option. R. 4:67-6.
3. The Custodian’s failure to timely respond to the request resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Further, although a portion of the Complainant’s OPRA request item Nos. 1 and 2 were invalid, the Custodian unlawfully denied access to any remaining records responsive to OPRA request. N.J.S.A. 47:1A-6. Also, the Custodian failed to file a Statement of Information and failed to comply with the Council’s July 28, 2020 Interim Order. Thus, it is possible that the Custodian’s actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law for a determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.
4. Pursuant to the Council’s July 28, 2020 Interim Order, the Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008). Specifically, the Council ordered disclosure of those records sought in the valid portions of the Complainant’s OPRA request. Notwithstanding that the Custodian failed to respond to the Council’s Order, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51. For administrative ease, the Office of Administrative Law should determine the total amount of the award of reasonable attorney’s fees.

#### Procedural History:

On December 16, 2020, the Council distributed its Interim Order to all parties. On December 31, 2020, the Custodian filed a request for reconsideration of the Council’s Interim Order based on a mistake. The Custodian contended that Kingdom “ceased to exist in June 2019” and he was appointed to an independent trustee by New Jersey Department of Education (“DOE”). The Custodian argued that he was never designated as “custodian of record” for Kingdom, nor did he ever serve in such a capacity. The Custodian alleged that he previously advised the GRC of the forgoing and added that his contract with DOE did not designate him as the “custodian of record.”

The Custodian further argued that the OPRA request at issue sought records that post-dated Kingdom’s existence. The Custodian noted that he turned all records over to an independent auditor to prepare a final report for DOE; the Complainant can request that report from DOE directly. The Custodian argued that the Complainant represented a creditor whose sole reason for

obtaining the records sought was to advance personal interest. The Custodian asserted that he was willing to assist the Complainant with access to any records that pre-date Kingdom's end date; however, the GRC is not the proper forum within which to address creditor issues.

On January 14, 2021, Custodian's Counsel submitted objections to the request for reconsideration. Counsel argued that the Custodian's request for reconsideration should be denied because he failed to prove that the Council made a mistake in its December 15, 2020 Interim Order. Counsel argued that it also appears that the Custodian actually attempted to submit "new evidence" to overturn the Council's Order. Counsel argued that the GRC should not accept any of the arguments presented in the Custodian's request for reconsideration because he had ample opportunity to do so well prior to the Council's decision.

Counsel argued that to the extent that the GRC accepts the Custodian's request for reconsideration as proper, it should be denied on merit. Counsel argued that the Custodian erroneously attempted to distinguish his role as trustee from Kingdom itself. Counsel argued that this distinction is impossible because DOE appointed the Custodian per N.J.A.C. 6A:11-2.4(c)(2)(i)(1)-(2) and he stands in Kingdom's shoes during its winddown. Counsel argued that the Custodian could not now claim that Kingdom was not subject to OPRA or that the records sought were not "government records" simply because the school was no longer operational. Counsel contended that the Custodian offered no lawful basis to deny access to Kingdom's records or legal precedent determining that publicly appointed trustees (like the Custodian) are "immune from the broad and wide-ranging scope of OPRA." Counsel finally asserted that the Custodian remains the only representative for Kingdom and the only person in possession of their "books and records;" thus, he must comply with OPRA.

### Analysis

#### Reconsideration

Pursuant to N.J.A.C. 5:105-2.10, parties may file a request for a reconsideration of any decision rendered by the Council within ten (10) business days following receipt of a Council decision. Requests must be in writing, delivered to the Council and served on all parties. Parties must file any objection to the request for reconsideration within ten (10) business days following receipt of the request. The Council will provide all parties with written notification of its determination regarding the request for reconsideration. N.J.A.C. 5:105-2.10(a) – (e).

In the matter before the Council, the Custodian filed the request for reconsideration of the Council's Order on December 31, 2020, eight (8) business from the issuance of the Council's Order.

Applicable case law holds that:

"A party should not seek reconsideration merely based upon dissatisfaction with a decision." D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Rather, reconsideration is reserved for those cases where (1) the decision is based upon a "palpably incorrect or irrational basis;" or (2) it is obvious that the finder of fact did

not consider, or failed to appreciate, the significance of probative, competent evidence. *E.g.*, Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). The moving party must show that the court acted in an arbitrary, capricious or unreasonable manner. D'Atria, . . . 242 N.J. Super. at 401. “Although it is an overstatement to say that a decision is not arbitrary, capricious, or unreasonable whenever a court can review the reasons stated for the decision without a loud guffaw or involuntary gasp, it is not much of an overstatement.” Ibid.

[In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003).]

Upon review of the parties’ submissions, the GRC finds no colorable claim necessitating reconsideration of the Council’s Interim Order based on a mistake. As addressed therein, the Custodian was afforded significant time to argue his position and failed to do so. Instead, after nine (9) months of failing to assert any position in writing, failing to submit an SOI, and failing to respond to the Council’s July 28, 2020 Interim Order, the Custodian now attempts to argue that the Council made a mistake in its Interim Order. Such a mistake did not occur: the Council’s decision was based on the evidence of record submitted and without active participation from the Custodian. N.J.A.C. 5:105-2.4(g).

As the moving party, the Custodian was required to establish either of the necessary criteria set forth above: either 1) the Council's decision is based upon a "palpably incorrect or irrational basis;" or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. See Cummings, 295 N.J. Super. at 384. The Custodian failed to establish that the complaint should be reconsidered based on a mistake. The Custodian has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. See D’Atria, 242 N.J. Super. at 401. Specifically, the Custodian failed to provide any arguments proving that the Council made a mistake. Thus, the Custodian’s request for reconsideration should be denied. Cummings, 295 N.J. Super. at 384; D’Atria, 242 N.J. Super. at 401; Comcast, 2003 N.J. PUC at 5-6. As such, the Council’s December 15, 2020 Interim Order remains in effect.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that the Custodian has failed to establish in his request for reconsideration of the Council’s December 15, 2020 Interim Order that either 1) the Council's decision is based upon a “palpably incorrect or irrational basis;” or 2) it is obvious that the Council did not consider the significance of probative, competent evidence. The Custodian failed to establish that the complaint should be reconsidered based on mistake. The Custodian has also failed to show that the Council acted arbitrarily, capriciously or unreasonably. Specifically, the Custodian failed to provide any arguments proving that the Council made a mistake. Thus, the Custodian’s request for reconsideration should be denied. Cummings v. Bahr, 295 N.J. Super. 374 (App. Div. 1996); D’Atria v. D’Atria, 242 N.J. Super. 392 (Ch. Div. 1990); In The Matter Of The Petition Of Comcast Cablevision Of S. Jersey, Inc. For A Renewal Certificate Of Approval To Continue To Construct, Operate And Maintain A Cable Tel. Sys. In

The City Of Atl. City, Cnty. Of Atl., State Of N.J., 2003 N.J. PUC LEXIS 438, 5-6 (N.J. PUC 2003). As such, the Council's December 15, 2020 Interim Order remains in effect.

Prepared By: Frank F. Caruso  
Executive Director

June 22, 2021





State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**INTERIM ORDER**

**December 15, 2020 Government Records Council Meeting**

Joseph Maddaloni, Jr., Esq.  
(o/b/o Renaissance School Services, LLC)  
Complainant

Complaint No. 2020-66

v.  
The Kingdom Charter School of Leadership (Camden)  
Custodian of Record

At the December 15, 2020 public meeting, the Government Records Council (“Council”) considered the December 8, 2020 Supplemental 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:

1. The Custodian failed to comply with the Council’s July 28, 2020 Interim Order because he failed to respond at all.
2. “The Council shall, pursuant to New Jersey Rules Governing the Courts, R. 4:67-6, have the authority to enforce compliance with the orders and decisions issued by the Council.” N.J.A.C. 5:105-2.9(c). The Council’s July 28, 2020 Interim Order to disclose the relevant records is enforceable in the Superior Court if the Complainant decides to exercise that option. R. 4:67-6.
3. The Custodian’s failure to timely respond to the request resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Further, although a portion of the Complainant’s OPRA request item Nos. 1 and 2 were invalid, the Custodian unlawfully denied access to any remaining records responsive to OPRA request. N.J.S.A. 47:1A-6. Also, the Custodian failed to file a Statement of Information and failed to comply with the Council’s July 28, 2020 Interim Order. Thus, it is possible that the Custodian’s actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law for a determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.
4. Pursuant to the Council’s July 28, 2020 Interim Order, the Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008).

Specifically, the Council ordered disclosure of those records sought in the valid portions of the Complainant's OPRA request. Notwithstanding that the Custodian failed to respond to the Council's Order, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51. For administrative ease, the Office of Administrative Law should determine the total amount of the award of reasonable attorney's fees.

Interim Order Rendered by the  
Government Records Council  
On The 15<sup>th</sup> Day of December 2020

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: December 16, 2020**

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director  
December 15, 2020 Council Meeting**

**Joseph Maddaloni, Jr., Esq.<sup>1</sup>  
(On Behalf of Renaissance School Services, LLC)  
Complainant**

**GRC Complaint No. 2020-66**

v.

**The Kingdom Charter School of Leadership (Camden)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of:

1. “Any and all documents and records evidencing” revenue received by the Custodian on before of Kingdom Charter School of Leadership (“Kingdom”), including ledgers, spreadsheets, compilations or statements, from June 1, 2019 to present.
2. “Any and all documents and records evidencing” disbursements made by the Custodian on behalf of Kingdom, including ledgers, spreadsheets, compilations, statements, or cancelled checks, from June 1, 2019 to present.
3. Any and all bank statements for Kingdom from June 1, 2019 to present.

**Custodian of Record:** Philip T. Meshinsky  
**Request Received by Custodian:** February 4, 2020  
**Response Made by Custodian:** February 20, 2020  
**GRC Complaint Received:** March 18, 2020

**Background**

July 28, 2020 Council Meeting:

At its July 28, 2020 public meeting,<sup>3</sup> the Council considered the July 21, 2020 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, found that:

1. The Custodian’s failure to provide a completed Statement of Information to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(a).

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<sup>1</sup> The Complainant represents Renaissance School Services, LLC.

<sup>2</sup> Represented by Paul N. Barger, Esq., of Barger & Gaines (Irvington, NY). Mr. Barger notified the GRC of his representation on December 1, 2020.

<sup>3</sup> The GRC notes that the Custodian was present at the Council’s meeting and gave public comment. At that time, he was advised to contact the GRC with any questions about the Council’s decision.

Moreover, the Custodian's failure to respond additionally obstructed the GRC in its efforts to "receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . ." N.J.S.A. 47:1A-7(b).

2. The Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
3. The portion of the Complainant's request item Nos. 1 and 2 seeking access to "any and all documents and records evidencing" revenue and disbursements on behalf of Kingdom is invalid because it was a blanket request that failed to identify the specific records sought. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 171 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these portions of the Complainant's request. N.J.S.A. 47:1A-6.
4. The Custodian may have unlawfully denied access to the responsive records at issue in this complaint. N.J.S.A. 47:1A-6. Thus, the Custodian must locate and disclose those records requested by the Complainant. If the Custodian already disclosed certain responsive records during the pendency of this complaint, he must certify to that fact. Further, should the Custodian determine that no records exist, or that certain records came into existence after receiving the Complainant's OPRA request, he must certify to this fact.
5. **The Custodian shall comply with conclusion No. 4 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>4</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>5</sup> to the Executive Director.<sup>6</sup>**

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<sup>4</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>5</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>6</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.
7. The Council defers analysis of whether the Complainant is a prevailing party pending the Custodian's compliance with the Council's Interim Order.

Procedural History:

On July 29, 2020, the Council distributed its Interim Order to all parties. On October 5, and 30, 2020, the Complainant e-mailed the GRC stating that the Custodian failed to comply with the Council's Order and asking about the next course of action. On November 12, 2020, the GRC confirmed that it would likely be proceeding through to adjudication.

On December 1, 2020, Custodian's Counsel sent a letter to the GRC noting that he represented the Custodian, "who is the independent trustee retained to wind down the affairs" of Kingdom. Counsel noted that Kingdom surrendered its charter to the New Jersey Department of Education ("DOE") on June 30, 2019. Counsel asserted that at no point prior to Kingdom's dissolution did either it or DOE appoint the Custodian as the official "custodian or record." Counsel further contended that Kingdom is no longer a public entity and that the records at issue here "apply to the time period after June 30, 2019 . . ."

Counsel stated that the Complainant may access at least one document, the audited report, by submitting an OPRA request to DOE. Counsel noted however that DOE generally makes those reports available through its website. Counsel further noted that the Custodian has requested a copy of the audit from DOE and will make it available to the Complainant once he receives it.

Counsel also contended that while the Custodian is willing to work with the Complainant, he is not a public entity or "custodian of record" for Kingdom, which ceased to exist on June 30, 2019. Counsel stated that the Custodian is also amicable to working on a reasonable resolution of this complaint so that he may focus on completing the "winddown" of Kingdom. Counsel noted that it is anticipated that the winddown will be complete in February 2021.

On December 7, 2020, the Complainant sent a letter to the GRC. Therein, the Complainant contended that this complaint was filed in March 2020 and the Custodian ignored every deadline set by the GRC. The Complainant further contended that contrary to the assertion that the Custodian is willing to work with the parties, he has failed or refused to disclose even the most basic responsive records. The Complainant thus requested that the GRC reject Custodian Counsel's submission for the reasons set forth above.

The Complainant also disputed that the Custodian was, as suggested by Custodian's Counsel, "immune from OPRA's" provisions. The Complainant asserted that there is no doubt that Kingdom was a charter school subject to OPRA. N.J.S.A. 18A:36A-11(a); N.J.S.A. 47:1A-1.1. The Complainant asserted that per Custodian Counsel's letter, the Custodian was appointed as trustee for Kingdom by DOE and stands in for that agency. N.J.S.A. 6A:11-2.4(c)(2)(i). The Complainant further asserted that the Custodian was required by law to maintain Kingdom's

“books and records.” See N.J.S.A. 6A:11-2.4(c)(2)(i)(2). The Complainant thus contended that it is “absurd” to argue that the Custodian is somehow not functioning as the “custodian of record” for Kingdom. The Complainant argued that the Custodian is tasked by law with maintaining those records comprising Kingdom’s existence and that any attempts to prove otherwise are “feeble” and “specious.”

### **Analysis**

#### **Compliance**

At its July 28, 2020 meeting, the Council ordered the Custodian to locate and disclose those records responsive to the valid portions of the Complainant’s OPRA request, provide a certification if said records were already disclosed, or certify if no records exist for certain portions of the request. The Council further ordered the Custodian to submit certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4, to the Executive Director. On July 29, 2020, the Council distributed its Interim Order to all parties, providing the Custodian five (5) business days to comply with the terms of said Order. Thus, the Custodian’s response was due by close of business on August 5, 2020.

Notwithstanding the GRC’s notification to the parties of the scheduling of this complaint and the fact that the Custodian attended the Council’s meeting via telephone (and gave public comment), he did not submit any response to the July 28, 2020 Order. As of this date, the Custodian has not responded to the Interim Order.

Instead, over four (4) months following the Order, Custodian’s Counsel submitted a letter asserting that the Custodian was not a “custodian of record” for Kingdom and that no public entity existed after Kingdom’s dissolution in June 2019. Interestingly, this submission avoids any direct explanation as to why the Custodian failed to submit an SOI in April and June 2020. The submission also does not contain a definitive explanation as to why the Custodian provided no response to the Council Order until four (4) months after issuance. Ultimately, a custodian must bear their burden of proof for denying access to a “government record” under OPRA. N.J.S.A. 47:1A-6. No such colorable defense has been offered here by way of timely SOI or compliance submission.

Therefore, the Custodian failed to comply with the Council’s July 28, 2020 Interim Order because he failed to respond at all.

#### **Council’s June 30, 2020 Interim Order is Enforceable**

“The Council shall, pursuant to New Jersey Rules Governing the Courts, R. 4:67-6, have the authority to enforce compliance with the orders and decisions issued by the Council.” N.J.A.C. 5:105-2.9(c). The Council’s July 28, 2020 Interim Order to disclose the relevant records is enforceable in the Superior Court if the Complainant decides to exercise that option. R. 4:67-6.

## **Knowing & Willful**

OPRA states that “[a] public official, officer, employee or custodian who knowingly or willfully violates [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, shall be subject to a civil penalty . . .” N.J.S.A. 47:1A-11(a). OPRA allows the Council to determine a knowing and willful violation of the law and unreasonable denial of access under the totality of the circumstances. Specifically OPRA states “. . . [i]f the council determines, by a majority vote of its members, that a custodian has knowingly and willfully violated [OPRA], and is found to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in [OPRA] . . .” N.J.S.A. 47:1A-7(e).

Certain legal standards must be considered when making the determination of whether the Custodian’s actions rise to the level of a “knowing and willful” violation of OPRA. The following statements must be true for a determination that the Custodian “knowingly and willfully” violated OPRA: the Custodian’s actions must have been much more than negligent conduct (Alston v. City of Camden, 168 N.J. 170, 185 (2001)); the Custodian must have had some knowledge that his actions were wrongful (Fielder v. Stonack, 141 N.J. 101, 124 (1995)); the Custodian’s actions must have had a positive element of conscious wrongdoing (Berg v. Reaction Motors Div., 37 N.J. 396, 414 (1962)); the Custodian’s actions must have been forbidden with actual, not imputed, knowledge that the actions were forbidden (*id.*; Marley v. Borough of Palmyra, 193 N.J. Super. 271, 294-95 (Law Div. 1993)); the Custodian’s actions must have been intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional (ECES v. Salmon, 295 N.J. Super. 86, 107 (App. Div. 1996)).

Here, the Custodian’s failure to timely respond to the request resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Further, although a portion of the Complainant’s OPRA request item Nos. 1 and 2 were invalid, the Custodian unlawfully denied access to any remaining records responsive to OPRA request. N.J.S.A. 47:1A-6. Also, the Custodian failed to file an SOI and failed to comply with the Council’s July 28, 2020 Interim Order. Thus, it is possible that the Custodian’s actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law (“OAL”) for a determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.

## **Prevailing Party Attorney’s Fees**

OPRA provides that:

A person who is denied access to a government record by the custodian of the record, at the option of the requestor, may: institute a proceeding to challenge the custodian's decision by filing an action in Superior Court . . .; or in lieu of filing an action in Superior Court, file a complaint with the Government Records Council . . . . A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.

[N.J.S.A. 47:1A-6.]

In Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006), the Court held that a complainant is a “prevailing party” if he achieves the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct. Id. at 432. Additionally, the Court held that attorney’s fees may be awarded when the requestor is successful (or partially successful) via a judicial decree, a quasi-judicial determination, or a settlement of the parties that indicates access was improperly denied and the requested records are disclosed. Id.

Additionally, the New Jersey Supreme Court has ruled on the issue of “prevailing party” attorney’s fees. In Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008), the Supreme Court discussed the catalyst theory, “which posits that a plaintiff is a ‘prevailing party’ if it achieves the desired result because the lawsuit brought about a voluntary change in the defendant’s conduct.” Mason, 196 N.J. at 71, (quoting Buckhannon Bd. & Care Home v. West Virginia Dep’t of Health & Human Res., 532 U.S. 598, 131 S. Ct. 1835, 149 L. Ed. 2d 855 (2001)). In Buckhannon, the Supreme Court stated that the phrase “prevailing party” is a legal term of art that refers to a “party in whose favor a judgment is rendered.” (quoting Black’s Law Dictionary 1145 (7<sup>th</sup> ed. 1999)). The Supreme Court rejected the catalyst theory as a basis for prevailing party attorney fees, in part because “[i]t allows an award where there is no judicially sanctioned change in the legal relationship of the parties . . .” Id. at 605, 121 S. Ct. at 1840, 149 L. Ed. 2d at 863. Further, the Supreme Court expressed concern that the catalyst theory would spawn extra litigation over attorney's fees. Id. at 609, 121 S. Ct. at 1843, 149 L. Ed. 2d at 866.

However, the Court noted in Mason, that Buckhannon is binding only when counsel fee provisions under federal statutes are at issue. 196 N.J. at 72, citing Teeters, 387 N.J. Super. at 429; see, e.g., Baer v. Klagholz, 346 N.J. Super. 79 (App. Div. 2001) (applying Buckhannon to the federal Individuals with Disabilities Education Act), certif. denied, 174 N.J. 193 (2002). “But in interpreting New Jersey law, we look to state law precedent and the specific state statute before us. When appropriate, we depart from the reasoning of federal cases that interpret comparable federal statutes.” 196 N.J. at 73 (citations omitted).

The Mason Court accepted the application of the catalyst theory within the context of OPRA, stating that:

OPRA itself contains broader language on attorney's fees than the former RTKL did. OPRA provides that “[a] requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee.” N.J.S.A. 47:1A-6. Under the prior RTKL, “[a] plaintiff in whose favor such an order [requiring access to public records] issues . . . may be awarded a reasonable attorney's fee not to exceed \$500.00.” N.J.S.A. 47:1A-4 (repealed 2002). The Legislature's revisions therefore: (1) mandate, rather than permit, an award of attorney's fees to a prevailing party; and (2) eliminate the \$500 cap on fees and permit a reasonable, and quite likely higher, fee award. Those changes expand counsel fee awards under OPRA.

[Mason at 73-76 (2008).]



The Court in Mason, further held that:

[R]equestors are entitled to attorney’s fees under OPRA, absent a judgment or an enforceable consent decree, when they can demonstrate (1) “a factual causal nexus between plaintiff’s litigation and the relief ultimately achieved”; and (2) “that the relief ultimately secured by plaintiffs had a basis in law.” Singer v. State, 95 N.J. 487, 495, *cert denied* (1984).

[Id. at 76.]

In the matter before the Council, the Complainant alleged that the Custodian failed to respond to his OPRA request. The Custodian initially responded through legal representation but failed to file an SOI. Thereafter, the Council determined that a portion of the OPRA request was invalid. However, the Council also ordered the Custodian to disclose all records responsive to the valid portions of the OPRA request. The Custodian did not respond to the Interim Order.

In determining whether the Complainant is a prevailing party, the evidence of record must establish a causal nexus existed between the filing of this complaint and disclosure of the responsive records. Having reviewed the evidence of record here, the GRC finds that a causal nexus exists between this complaint and the relief achieved by the Complainant. Specifically, the Council ordered disclosure of records responsive to the valid portions of the subject OPRA request. Notwithstanding this Order and the Custodian’s failure to respond, the Complainant is a prevailing party by virtue of the outstanding disclosure order.

Accordingly, pursuant to the Council’s July 28, 2020 Interim Order, the Complainant has achieved “the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian’s conduct.” Teeters, 387 N.J. Super. 432. Additionally, a factual causal nexus exists between the Complainant’s filing of a Denial of Access Complaint and the relief ultimately achieved. Mason, 196 N.J. 51. Specifically, the Council ordered disclosure of those records sought in the valid portions of the Complainant’s OPRA request. Notwithstanding that the Custodian failed to respond to the Council’s Order, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney’s fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51. For administrative ease, the OAL should determine the total amount of the award of reasonable attorney’s fees.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian failed to comply with the Council’s July 28, 2020 Interim Order because he failed to respond at all.
2. “The Council shall, pursuant to New Jersey Rules Governing the Courts, R. 4:67-6, have the authority to enforce compliance with the orders and decisions issued by the Council.” N.J.A.C. 5:105-2.9(c). The Council’s July 28, 2020 Interim Order to disclose

the relevant records is enforceable in the Superior Court if the Complainant decides to exercise that option. R. 4:67-6.

3. The Custodian's failure to timely respond to the request resulted in "deemed" denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i). Further, although a portion of the Complainant's OPRA request item Nos. 1 and 2 were invalid, the Custodian unlawfully denied access to any remaining records responsive to OPRA request. N.J.S.A. 47:1A-6. Also, the Custodian failed to file a Statement of Information and failed to comply with the Council's July 28, 2020 Interim Order. Thus, it is possible that the Custodian's actions were intentional and deliberate, with knowledge of their wrongfulness, and not merely negligent, heedless or unintentional. As such, the complaint should be referred to the Office of Administrative Law for a determination of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances.
4. Pursuant to the Council's July 28, 2020 Interim Order, the Complainant has achieved "the desired result because the complaint brought about a change (voluntary or otherwise) in the custodian's conduct." Teeters v. DYFS, 387 N.J. Super. 423 (App. Div. 2006). Additionally, a factual causal nexus exists between the Complainant's filing of a Denial of Access Complaint and the relief ultimately achieved. Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008). Specifically, the Council ordered disclosure of those records sought in the valid portions of the Complainant's OPRA request. Notwithstanding that the Custodian failed to respond to the Council's Order, the relief ultimately achieved had a basis in law. Therefore, the Complainant is a prevailing party entitled to an award of a reasonable attorney's fee. See N.J.S.A. 47:1A-6, Teeters, 387 N.J. Super. 432, and Mason, 196 N.J. 51. For administrative ease, the Office of Administrative Law should determine the total amount of the award of reasonable attorney's fees.

Prepared By: Frank F. Caruso  
Executive Director

December 8, 2020



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**INTERIM ORDER**

**July 28, 2020 Government Records Council Meeting**

Joseph Maddaloni, Jr., Esq. (o/b/o Renaissance  
School Service LLC)  
Complainant

Complaint No. 2020-66

v.

The Kingdom Charter School of Leadership (Camden)  
Custodian of Record

At the July 28, 2020 public meeting, the Government Records Council (“Council”) considered the July 21, 2020 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:

1. The Custodian’s failure to provide a completed Statement of Information to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(a). Moreover, the Custodian’s failure to respond additionally obstructed the GRC in its efforts to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . .” N.J.S.A. 47:1A-7(b).
2. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
3. The portion of the Complainant’s request item Nos. 1 and 2 seeking access to “any and all documents and records evidencing” revenue and disbursements on behalf of Kingdom is invalid because it was a blanket request that failed to identify the specific records sought. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 171 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these portions of the Complainant’s request. N.J.S.A. 47:1A-6.
4. The Custodian may have unlawfully denied access to the responsive records at issue in this complaint. N.J.S.A. 47:1A-6. Thus, the Custodian must locate and disclose those

records requested by the Complainant. If the Custodian already disclosed certain responsive records during the pendency of this complaint, he must certify to that fact. Further, should the Custodian determine that no records exist, or that certain records came into existence after receiving the Complainant's OPRA request, he must certify to this fact.

5. **The Custodian shall comply with conclusion No. 4 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>1</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>2</sup> to the Executive Director.**<sup>3</sup>
6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.
7. The Council defers analysis of whether the Complainant is a prevailing party pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the  
Government Records Council  
On The 28<sup>th</sup> Day of July 2020

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: July 29, 2020**

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<sup>1</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>2</sup> "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

<sup>3</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

**STATE OF NEW JERSEY  
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director  
July 28, 2020 Council Meeting**

**Joseph Maddaloni, Jr., Esq.<sup>1</sup>  
(On Behalf of Renaissance School Services, LLC)  
Complainant**

**GRC Complaint No. 2020-66**

v.

**The Kingdom Charter School of Leadership (Camden)<sup>2</sup>  
Custodial Agency**

**Records Relevant to Complaint:** Electronic copies via e-mail of:

1. “Any and all documents and records evidencing” revenue received by the Custodian on before of Kingdom Charter School of Leadership (“Kingdom”), including ledgers, spreadsheets, compilations or statements, from June 1, 2019 to present.
2. “Any and all documents and records evidencing” disbursements made by the Custodian on behalf of Kingdom, including ledgers, spreadsheets, compilations, statements, or cancelled checks, from June 1, 2019 to present.
3. Any and all bank statements for Kingdom from June 1, 2019 to present.

**Custodian of Record:** Philip T. Meshinsky  
**Request Received by Custodian:** February 4, 2020  
**Response Made by Custodian:** February 20, 2020  
**GRC Complaint Received:** March 18, 2020

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

**Request and Response:**

On February 4, 2020, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On February 20, 2020, the twelfth (12<sup>th</sup>) business day after receipt of the OPRA request, Paul N. Barger, Esq. responded in writing on behalf of the Custodian stating that there is a question as to whether the Custodian is subject to OPRA. Mr. Barger noted that the Custodian was amicable to disclosing the records sought but that it would take at least five (5) months, and likely longer, to close Kingdom’s financial affairs. Mr. Barger noted that he had already provided some records to Renaissance School Services, LLC

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<sup>1</sup> The Complainant represents Renaissance School Services, LLC.

<sup>2</sup> No legal representation listed on record.

<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.

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“RSS”) and would continue to provide records as they became available. Mr. Barger noted that for example, the Custodian just received Kingdom’s computer records on this day but did not have “the opportunity to review the documents and determine what is available.”

#### Denial of Access Complaint:

On March 18, 2020, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that the Custodian was appointed as Trustee for Kingdom after it surrendered its charter to the New Jersey Department of Education in June 2019. The Complainant stated that the Custodian was responsible for “wind[ing] down” Kingdom’s financial affairs, of which RSS is the sole judgement creditor. The Complainant stated that as part of that process, RSS sought certain documents on several occasions without success notwithstanding the Custodian’s verbal promise to provide them to RSS. The Complainant stated that because of this, he submitted an OPRA request to the Custodian on February 4, 2020. The Complainant stated that Mr. Barger denied access on February 20, 2020.

The Complainant contended that Kingdom is a “public agency” for purposes of OPRA. N.J.S.A. 47:1A-1.1; N.J.A.C. 6A:11-4.1. The Complainant argued that he sought records that were disclosable under OPRA and that no statutory exemptions applied. The Complainant asserted that not only did the Custodian fail to timely respond to the subject OPRA request, he also unlawfully denied access to the requested records. N.J.S.A. 47:1A-5.

#### Statement of Information:

On April 29, 2020, the GRC requested a completed Statement of Information (“SOI”) from the Custodian. On May 4, 2020, the GRC resent the request for the SOI to the Custodian, noting that a typographical error resulted in an “undeliverable” notice.

On June 1, 2020, the Complainant e-mailed the GRC asking for a status update. On June 4, 2020, the GRC responded (copying the Custodian) advising that it would be sending a “No Defense” letter to the Custodian. On the same day, the GRC sent a “No Defense” letter to the Custodian, requesting a completed SOI within three (3) business days of receipt. The GRC noted that the Custodian’s failure to submit an SOI could lead to an adjudication based solely on the Complainant’s submission. N.J.A.C. 5:105-2.4(f).<sup>4</sup> The GRC did not receive any response from the Custodian thereafter.

### Analysis

#### Failure to Submit SOI

OPRA also provides that “Custodians shall submit a completed and signed statement of information (SOI) form to the Council and the complainant simultaneously that details the custodians' position for each complaint filed with the Council[.]” N.J.A.C. 5:105-2.4(a).

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<sup>4</sup> The GRC notes that the Custodian contacted the GRC via telephone on a few occasions during this time to ask questions about the GRC’s process, wherein the GRC stressed that its regulations require the filing of an SOI in response to a Denial of Access Complaint. N.J.A.C. 5:105-2.4(a).  
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OPRA further provides that:

Custodians shall submit a completed and signed SOI for each complaint to the Council's staff and the complainant not later than five business days from the date of receipt of the SOI form from the Council's staff . . . Failure to comply with this time period may result in the complaint being adjudicated based solely on the submissions of the complainant.

[N.J.A.C. 5:105-2.4(f).]

Finally, OPRA provides that “[a] custodian’s failure to submit a completed and signed SOI . . . may result in the Council’s issuing a decision in favor of the complainant.” N.J.A.C. 5:105-2.4(g). In Alterman, Esq. v. Sussex Cnty. Sheriff’s Office, GRC Complaint No. 2013-353 (September 2014), the custodian failed to provide a completed SOI to the GRC within the allotted deadline. Thus, the Council noted the custodian’s failure to adhere to N.J.A.C. 5:1052.4(a). See also Kovacs v. Irvington Police Dep’t (Essex), GRC Complaint No. 2014-196 (January 2015); Howell v. Twp. of Greenwich (Warren), GRC Complaint No. 2015-249 (November 2016).

In the instant matter, the Custodian did not comply with the GRC’s initial request for an SOI. After the expiration of the five (5)-business-day deadline, the GRC again attempted to obtain a completed SOI from the Custodian by sending a “No Defense” letter and requesting a completed SOI within three (3) business days of receipt. This transmission also included a copy of the original SOI letter providing detailed instructions on how to properly submit an SOI. The GRC received no response thereafter.

Accordingly, the Custodian’s failure to provide a completed SOI to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(a). Moreover, the Custodian’s failure to respond additionally obstructed the GRC in its efforts to “receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian . . .” N.J.S.A. 47:1A-7(b).

### **Timeliness**

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian’s failure to respond within the required seven (7) business days results in a “deemed” denial. Id. Further, a custodian’s response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).<sup>5</sup> Thus, a custodian’s failure to respond in writing to a complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).

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<sup>5</sup> A custodian’s written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency’s official OPRA request form, is a valid response pursuant to OPRA.  
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In the matter before the Council, the Complainant submitted his OPRA request to the Custodian via facsimile and “first-class mail” on February 4, 2020. Mr. Barger responded on the Custodian’s behalf on February 20, 2020, or twelve (12) business days after receipt of the request. Thus, the evidence supports that a “deemed” denial occurred here.

Therefore, the Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11.

### **Validity of Request**

The New Jersey Appellate Division has held that:

While OPRA provides an alternative means of access to government documents not otherwise exempted from its reach, *it is not intended as a research tool litigants may use to force government officials to identify and siphon useful information. Rather, OPRA simply operates to make identifiable government records “readily accessible for inspection, copying, or examination.”* N.J.S.A. 47:1A-1.

[MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005) (emphasis added).]

The Court reasoned that:

Most significantly, the request failed to identify with any specificity or particularity the governmental records sought. *MAG provided neither names nor any identifiers other than a broad generic description of a brand or type of case prosecuted by the agency in the past.* Such an open-ended demand required the Division’s records custodian to manually search through all of the agency’s files, analyze, compile and collate the information contained therein, and identify for MAG the cases relative to its selective enforcement defense in the OAL litigation. Further, once the cases were identified, the records custodian would then be required to evaluate, sort out, and determine the documents to be produced and those otherwise exempted.

[Id. at 549 (emphasis added).]

The Court further held that “[u]nder OPRA, *agencies are required to disclose only ‘identifiable’ government records* not otherwise exempt . . . In short, OPRA does not countenance open-ended searches of an agency’s files.” Id. (emphasis added). Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005);<sup>6</sup> N.J. Builders Ass’n v. N.J. Council on Affordable Hous.,

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<sup>6</sup> Affirmed on appeal regarding Bent v. Stafford Police Department, GRC Case No. 2004-78 (October 2004). Joseph Maddaloni, Jr., Esq. (On Behalf of Renaissance School Services, LLC.) v. The Kingdom Charter School of Leadership (Camden), 2020-66 – Findings and Recommendations of the Executive Director



390 N.J. Super. 166, 171 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009).

The validity of an OPRA request typically falls into three (3) categories. The first is a request that is overly broad (“any and all” requests seeking “records” generically, *etc.*) and requires a custodian to conduct research. MAG, 375 N.J. Super. 534; Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007). The second is those requests seeking information or asking questions. *See e.g.* Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012). The final category is a request that is either not on an official OPRA request form or does not invoke OPRA. *See e.g.* Naples v. N.J. Motor Vehicle Comm’n, GRC Complaint No. 2008-97 (December 2008).

Regarding generic requests for “records,” the request at issue in MAG sought “all documents or records evidencing that the ABC sought, obtained or ordered revocation of a liquor license for the charge of selling alcoholic beverages to an intoxicated person in which such person, after leaving the licensed premises, was involved in a fatal auto accident” and “all documents or records evidencing that the ABC sought, obtained or ordered suspension of a liquor license exceeding 45 days for charges of lewd or immoral activity.” Id. at 539-540. The court noted that plaintiffs failed to include additional identifiers such as a case name or docket number. *See also* Steinhauer-Kula v. Twp. of Downe (Cumberland), GRC Complaint No. 2010-198 (March 2012) (holding that the complainant’s request item No. 2 seeking “[p]roof of submission” was invalid); Edwards v. Hous. Auth. of Plainfield (Union), GRC Complaint No. 2008-183 *et seq.* (Final Decision dated April 25, 2012) (accepting the Administrative Law Judge’s finding that a newspaper article attached to a subject OPRA request that was related to the records sought did not cure the deficiencies present in the request) Id. at 12-13.

Here, the Complainant’s request item Nos. 1 and 2 sought, in part, “any and all documents and records evidencing” revenue and disbursements on behalf of Kingdom. These request portions are on point with those the MAG court determined were invalid. Thus, although the Custodian did not assert that these request portions were invalid, the GRC nonetheless must follow precedential case law on the issue. For this reason, these portions of request item Nos. 1 and 2 were invalid.

Accordingly, the portion of the Complainant’s request item Nos. 1 and 2 seeking access to “any and all documents and records evidencing” revenue and disbursements on behalf of Kingdom is invalid because it was a blanket request that failed to identify the specific records sought. MAG, 375 N.J. Super. at 549; Bent, 381 N.J. Super. at 37; N.J. Builders Ass’n, 390 N.J. Super. at 180; Schuler, GRC 2007-151. Thus, the Custodian lawfully denied access to these portions of the Complainant’s request. N.J.S.A. 47:1A-6.

### **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 the matter before the Council, the Complainant sought a series of financial documents related to Kingdom's revenue and disbursements from June 1, 2019 through February 4, 2020. Those records included ledgers, spreadsheets, compilations, statements (including those from Kingdom's bank accounts), and cancelled checks. Mr. Barger's response indicated that the Custodian previously disclosed some records to RSS as part of the relationship between RSS and Kingdom and that others may not be available for some time as the Custodian continued to "wind down" Kingdom's financial affairs.

Unfortunately, the record does not contain enough evidence to determine: 1) whether responsive records existed; 2) whether responsive records that existed were already in RSS' possession; 3) whether the Custodian maintained additional records that he had not provided to the Complainant; and 4) whether other records potentially responsive to the subject OPRA request did not exist at the time that the Complainant same. At the core of this evidence deficiency is the Custodian's failure to submit a completed SOI. Further, in large part, the Complainant's OPRA request on its face seeks records that do not appear *per se* exempt from disclosure under OPRA. Because of this, the GRC must find in favor of the Complainant and hold that the Custodian may have unlawfully denied access to responsive records that existed at the time of the OPRA request. N.J.S.A. 47:1A-6; N.J.A.C. 5:105-2.4(g).

Accordingly, the Custodian may have unlawfully denied access to the responsive records at issue in this complaint. N.J.S.A. 47:1A-6. Thus, the Custodian must locate and disclose those records requested by the Complainant. If the Custodian already disclosed certain responsive records during the pendency of this complaint, he must certify to that fact. Further, should the Custodian determine that no records exist, or that certain records came into existence after receiving the Complainant's OPRA request, he must certify to this fact.

### **Knowing & Willful**

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

### **Prevailing Party Attorney's Fees**

The Council defers analysis of whether the Complainant is a prevailing party pending the Custodian's compliance with the Council's Interim Order.

### **Conclusions and Recommendations**

The Executive Director respectfully recommends the Council find that:

1. The Custodian's failure to provide a completed Statement of Information to the GRC, despite more than one request, results in a violation of N.J.A.C. 5:105-2.4(a). Moreover, the Custodian's failure to respond additionally obstructed the GRC in its efforts to "receive, hear, review and adjudicate a complaint filed by any person

concerning a denial of access to a government record by a records custodian . . .”  
N.J.S.A. 47:1A-7(b).

2. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
3. The portion of the Complainant’s request item Nos. 1 and 2 seeking access to “any and all documents and records evidencing” revenue and disbursements on behalf of Kingdom is invalid because it was a blanket request that failed to identify the specific records sought. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Bent v. Stafford Police Dep’t, 381 N.J. Super. 30, 37 (App. Div. 2005); N.J. Builders Ass’n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 171 (App. Div. 2007); Schuler v. Borough of Bloomsbury, GRC Complaint No. 2007-151 (February 2009). Thus, the Custodian lawfully denied access to these portions of the Complainant’s request. N.J.S.A. 47:1A-6.
4. The Custodian may have unlawfully denied access to the responsive records at issue in this complaint. N.J.S.A. 47:1A-6. Thus, the Custodian must locate and disclose those records requested by the Complainant. If the Custodian already disclosed certain responsive records during the pendency of this complaint, he must certify to that fact. Further, should the Custodian determine that no records exist, or that certain records came into existence after receiving the Complainant’s OPRA request, he must certify to this fact.
5. **The Custodian shall comply with conclusion No. 4 above within five (5) business days from receipt of the Council’s Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver<sup>7</sup> certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,<sup>8</sup> to the Executive Director.<sup>9</sup>**

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<sup>7</sup> The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

<sup>8</sup> “I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.”

<sup>9</sup> Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

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6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.
7. The Council defers analysis of whether the Complainant is a prevailing party pending the Custodian's compliance with the Council's Interim Order.

Prepared By: Frank F. Caruso  
Executive Director

July 21, 2020