



State of New Jersey  
GOVERNMENT RECORDS COUNCIL  
101 SOUTH BROAD STREET  
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CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

LORI GRIFA  
Commissioner

July 12, 2011

**VIA E-MAIL**

Ms. Margaret McDonnell  
Gloucester City Board of Education  
520 Cumberland Street  
Gloucester City, NJ 08030

RE: Letter from Mr. John Schmidt to the GRC dated June 2, 2011

Ms. McDonnell,

The GRC received a letter from Mr. John Schmidt (“Mr. Schmidt”) on June 2, 2011 regarding a new policy put in place by the Gloucester City Board of Education (“BOE”) that Mr. Schmidt believes will adversely affect persons making requests for government records pursuant to OPRA. *See* Letter from Mr. Schmidt to the GRC dated June 2, 2011. According to Mr. Schmidt, he attempted to submit an OPRA request to the BOE on June 1, 2011 and was advised that he needed to schedule an appointment to go to the BOE’s offices. Mr. Schmidt expressed concern with this policy, especially within the scope of a requestor attempting to submit an OPRA request for “immediate access” records. N.J.S.A. 47:1A-5.e. Mr. Schmidt requested that the GRC contact you regarding this policy pursuant to our obligation to educate custodians about OPRA. N.J.S.A. 47:1A-7.b.

OPRA mandates that “government records shall be readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public interest, and any limitations on the right of access accorded by [OPRA], shall be construed in favor of the public’s right of access.” N.J.S.A. 47:1A-1. Additionally, OPRA provides that “[t]he custodian of a government record shall permit the record to be inspected, examined, and copied by any person during regular business hours...” N.J.S.A. 47:1A-5.a. OPRA allows for a custodian of record to set limited OPRA hours if the custodian’s public agency meets one of the following requirements:

- in the case of a municipality having a population of 5,000 or fewer according to the most recent federal decennial census,
- a board of education having a total district enrollment of 500 or fewer,
- or a public authority having less than \$10 million in assets. *Id.*

If a public agency meets one of the above criteria, the custodian of that agency may limit OPRA hours to “not less than six regular business hours over not less than three business days per week or the entity’s regularly-scheduled business hours, whichever is less.” *Id.*



However, if a public agency does meet the criteria set forth in N.J.S.A. 47:1A-5.a., or in the BOE's case having a total district enrollment of 500 or fewer, said public agency is not permitted to have limited OPRA hours. Thus, a requestor can make OPRA requests and receive records under OPRA during a board of education's regular business hours without limitation if the total district enrollment exceeds 500.

If you have any questions or additional concerns regarding this matter, please feel free to contact me at your convenience.

Sincerely yours,

A handwritten signature in black ink that reads "Catherine Starghill". The signature is written in a cursive style with a large initial "C".

Catherine Starghill, Esq.  
Executive Director  
609-292-6830  
[gre@dca.state.nj.us](mailto:gre@dca.state.nj.us)

Enclosures

cc: Mr. John Schmidt (VIA E-MAIL)  
Government Records Council (VIA E-MAIL)

Catherine Starghill, Esq. ([cstarghill@dca.state.nj.us](mailto:cstarghill@dca.state.nj.us))  
Executive Director of the Government Records Council  
PO Box 819  
Trenton, NJ 08625

June 2, 2011

**VIA EMAIL ONLY**

**Subject: Gloucester City Board of Education OPRA Policy**

Dear Ms. Starghill,

I am writing this letter concerning the Gloucester City School District/Board of Education Custodian of Records Margaret McDonnell's new OPRA policy. I am a resident of Gloucester City and an Open Public Government Activist. On June 1, 2011 I went to the building where the Custodian of Records Office is located to submit an OPRA request. Upon arrival I was told that I need to schedule an appointment to go to the Board Office (Custodian of Records Office). I am writing to express my concern with this new policy the Board of Education and Custodian of Records have developed. If any individual wanted to submit a request to view the School District's budget, which under OPRA is something that should be "immediately available" or other documents which under OPRA should be "immediately available" they would have to schedule an appointment at the Custodian of Records convenience which she can determine to view the document(s). This policy is ignoring OPRA rules and is and will prevent records that should be "immediately available" from being "immediately available"

It is my concern that if this policy stands other governmental agencies would adopt a similar policy which could lead to a raft of lawsuits in Superior Court and/or GRC complaints. I would ask that GRC pursuant to its statutory duty to educate Records Custodians found in N.J.S.A. 47:1A-7(b) inform the Custodian that she cannot make her own laws and rules on OPRA and that this policy contradicts rulings by the GRC and OPRA laws

Please feel free to contact me if you wish to discuss this matter.

Respectfully,

John P. Schmidt