

**BERKELEY HEIGHTS BOARD OF EDUCATION
EXECUTIVE SESSION
MINUTES
JANUARY 20, 2022**

CALL TO ORDER

The Berkeley Heights Board of Education held a Meeting on Thursday, January 20, 2022, in the Columbia Middle School Multi-Purpose Room. The Meeting was called to order by the Board President, Mr. Michael D'Aquila, at 6:30pm.

BOARD MEMBERS PRESENT:

Mrs. Akiri
Mr. Cianciulli (*arrived 6:34pm*)
Mr. D'Aquila
Dr. Foregger
Mr. Hyman
Mrs. Penna

OTHERS PRESENT:

Dr. Varley, Superintendent of Schools
Mr. McKinney, Assistant Superintendent
Mrs. Kopacz, Assistant Superintendent
Ms. Kot, Business Administrator/Board Secretary

BOARD MEMBERS ABSENT:

Mrs. Stanley

- Executive Session began at 6:34 pm.

DISCUSSION

The Board discussed:

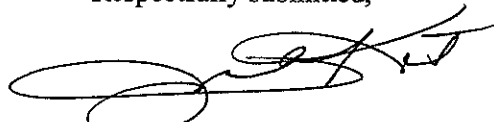
- Personnel items including substitute and seasonal staff hiring
- HIB cases
- Contract negotiations with the BHEA
- Legal matters

ADJOURNMENT TO PUBLIC SESSION

It was moved by Mrs. Young and seconded by Mrs. Penna that the meeting be adjourned. Motion carried.

- Executive Session adjourned at 7:30 pm.

Respectfully submitted,



Julie A. Kot
Business Administrator/Board Secretary

**BERKELEY HEIGHTS BOARD OF EDUCATION
EXECUTIVE SESSION
MINUTES
MARCH 10, 2022**

CALL TO ORDER

The Berkeley Heights Board of Education held a Meeting on Thursday, March 10, 2022, in the Columbia Middle School Multi-Purpose Room. The Meeting was called to order by the Board President, Mr. Michael D'Aquila, at 6:47 pm.

BOARD MEMBERS PRESENT:

Mrs. Akiri
Mr. D'Aquila
Dr. Foregger
Mr. Hyman
Mrs. Penna
Mrs. Stanley
Mrs. Young

OTHERS PRESENT:

Dr. Varley, Superintendent of Schools
Mr. McKinney, Assistant Superintendent
Mrs. Kopacz, Assistant Superintendent
Ms. Kot, Business Administrator/Board Secretary
Ms. Frances Febres, Attorney

BOARD MEMBERS ABSENT:

Mr. Cianciulli

- Executive Session began at approximately 6:50 pm.

DISCUSSION

The Board discussed:

- Personnel items including substitute and seasonal staff hiring, leaves of absences, and retirements
- HIB cases
- Contract negotiations with the BHEA
- Legal matters

ADJOURNMENT TO PUBLIC SESSION

It was moved by Mrs. Young and seconded by Mrs. Penna that the meeting be adjourned. Motion carried.

- Executive Session adjourned at 7:36 pm.

Respectfully submitted,



Julie A. Kot
Business Administrator/Board Secretary

**BERKELEY HEIGHTS BOARD OF EDUCATION
EXECUTIVE SESSION
MINUTES
MARCH 17, 2022**

CALL TO ORDER

The Berkeley Heights Board of Education held a Meeting on Thursday, March 17, 2022, in the Columbia Middle School Multi-Purpose Room. The Meeting was called to order by the Board President, Mr. Michael D'Aquila, at 6:49 pm.

BOARD MEMBERS PRESENT:

Mrs. Akiri
Mr. Cianciulli
Mr. D'Aquila
Dr. Foregger
Mr. Hyman
Mrs. Penna
Mrs. Stanley
Mrs. Young

OTHERS PRESENT:

Dr. Varley, Superintendent of School
Mr. McKinney, Assistant Superintendent (*left at 7:19 pm*)
Mrs. Kopacz, Assistant Superintendent
Ms. Kot, Business Administrator/Board Secretary
Mr. Nixon, GLHS Principal
Ms. Clifton, Athletic Director

- Executive Session began at 6:50 pm.

DISCUSSION

The Board discussed:

- Personnel items including retirements
- Student matters
- BHEA Grievance

Mr. McKinney left the meeting at 7:19 pm.

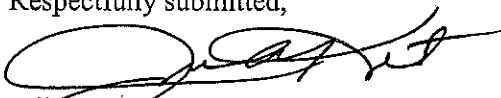
- Contract negotiations with the BHEA

ADJOURNMENT TO PUBLIC SESSION

It was moved by Mrs. Young and seconded by Mrs. Penna that the meeting be adjourned.
Motion carried.

- Executive Session adjourned at 7:25 pm.

Respectfully submitted,



Julie A. Kot
Business Administrator/Board Secretary

Anthony H. Ogozalek, Jr.
Law Office of Anthony H. Ogozalek, Jr.
1100 Taylor Lane, Unit 9
Cinnaminson, NJ 08077
Phone: (856) 316-4679
Fax: (856) 316-4679
E-mail: aogozalek@ogozaleklaw.com
New Jersey Attorney ID No. 037022006
Attorney for Plaintiff

FILED
SEP 15 2016
SUPERIOR COURT OF NJ
MERCER VICINAGE
CIVIL DIVISION

NEW JERSEY FOUNDATION FOR
OPEN GOVERNMENT, INC. and
HEATHER GRIECO
Plaintiffs,

vs.

LAWRENCE TOWNSHIP BOARD
OF EDUCATION and THOMAS
ELDRIDGE
Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, CIVIL PART

MERCER COUNTY

DOCKET NO. *L 1831-16*

Civil Action

ORDER TO SHOW CAUSE

THIS MATTER being brought before the Court by Anthony H. Ogozalek, Jr. of the Law Office of Anthony H. Ogozalek, Jr., Attorney for Plaintiffs, seeking relief by way of summary action pursuant to R.4:67-1(a), based on the facts set forth in the Verified Complaint and supporting papers filed herewith; and the Court having determined that this matter may be commenced by order to show cause as a summary proceeding pursuant to N.J.S.A. 47:1A-6 and for good cause shown,

IT IS on this *15th* day of *September*, 2016 ORDERED that Defendant Thomas Eldridge, the Lawrence Township Board of Education's records custodian, appear and show cause on the *29th* day of *November*, 2016 before the Honorable Mary C. Jacobson, A.J.S.C., Superior Court, County of Mercer, 400 South

Warren St Trenton, New Jersey at 10:00 AM o'clock in the fore noon or as soon thereafter as Plaintiff can be heard, why judgment should not be entered:

a. Declaring that Thomas Eldridge violated OPRA by redacting nonexempt matter from LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016 or, in the alternative, by failing to explain and justify those redactions in a manner required by law.

b. Compelling Custodian Thomas Eldridge to provide both the Court and Requestor with a better, more descriptive privilege log for pages LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016.

d. Compelling Custodian Thomas Eldridge to file unredacted copies of pages LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016 under seal with the Court for an *in camera* review.

e. Finding that Requestor Heather Grieco is the prevailing party and ordering the Lawrence Township Board of Education or Custodian Thomas Eldridge to pay Grieco's costs and a reasonable attorney fee in accordance with N.J.S.A. 47:1A-6.

f. Such other, further and different relief that the Court may deem equitable and just.

And it is further ORDERED that:

1. A copy of this order to show cause, verified complaint and all supporting certifications and briefs submitted in support of this application be served upon the Defendants personally or by certified mail, return receipt requested, within on or before September 23, days 2016,

of the date hereof, in accordance with R.4:4-3 and R.4:4-4, this being original process pursuant to R.4:52-1(b).

2. Plaintiffs must file with the Court their proofs of service of the pleadings on the Defendant no later than three (3) days before the return date.

3. Defendants shall file and serve a written answer and opposition papers to this order to show cause and the relief requested in the verified complaint and proof of service of the same by October 31, 2016. The answer and opposition papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the papers must be sent directly to the chambers of the Honorable Judge listed above.

4. Plaintiffs must file and serve any written reply to the Defendants' order to show cause opposition by November 10, 2016. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of the Honorable Judge listed above.

5. If the Defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the Plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

6. If the Plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.

7. Defendant take notice that the Plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or you attorney, must file a written answer and opposition papers and proof of service before the return date of the order to show cause. These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$175 filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your answer and opposition papers to the Plaintiffs' attorney whose name and address appear above, or to the Plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your answer and opposition papers (with the fee) or judgment may be entered against you by default.

8. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. If you do not have an attorney and are not eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. Legal Services and Lawyer Referral Services may be reached, respectively, at 609-585-6200 and 609-695-6249.

9. The Court will entertain argument, but not testimony, on the return date of the order to show cause, ~~unless the Court and parties are advised to the contrary no later than _____ days before the return date.~~

Mary C. Jacobson, A.J.S.C.
Mary C. Jacobson, A.J.S.C.

leaves public bodies and the public uncertain as to what the OPMA does and does not require. One of the Foundation's goals in bringing this and other similar lawsuits is to help build the body of OPMA case law to better clarify the contours of the OPMA's requirements. Accordingly, the Foundation seeks a court ruling on the OPMA counts of this lawsuit and will be reluctant to settle those counts even if the settlement terms offered by Defendants are favorable.

Parties

2. Plaintiff New Jersey Foundation for Open Government, Inc. ("the Foundation") is a non-profit, New Jersey corporation which has as its mission to increase transparency in New Jersey's state, county and local governments.

3. The Foundation is "any person" within the meaning of the Open Public Meetings Act, N.J.S.A. 10:4-16.

4. Plaintiff Heather Grieco¹ ("Requestor") is a "requestor" within the meaning of the Open Public Records Act, N.J.S.A. 47:1A-6.

5. Defendant Lawrence Township Board of Education ("the Board") is a public body as that term is defined by N.J.S.A. 10:4-8(a).

6. Defendant Thomas Eldridge ("Custodian") is the "custodian of a government record" for the Board as that term is defined by N.J.S.A. 47:1A-1.1.

COMMON ALLEGATIONS

7. On August 2, 2014, the Foundation, through John Schmidt², wrote to the Board concerning inadequacies of the Board's nonpublic (closed or executive) meeting

¹ Ms. Grieco is a member of the Foundation.

resolutions and minutes as well as deficiencies in Board's manner of explaining redactions that it applied to its nonpublic meeting minutes. (See, Exhibit 3, pp. 1 - 3³.)

8. The Board did not respond to the Foundation's August 2, 2014 correspondence nor did Board members correspond about it among themselves. (See, Exhibit 1, ¶¶ 2 and 3 and Exhibit 2, ¶¶ 2 and 3.)

9. On July 17, 2016, Requestor submitted a records request to Custodian seeking records under both the Open Public Records Act (OPRA) and the common law right of access. (Exhibit 1.) Apart from ¶¶ 1 - 3 of the request (which sought the Foundation's August 2, 2014 correspondence and correspondence that responded to it or concerned it), the request also sought: ¶ 4) the minutes of the Board's eight most recent nonpublic meetings and ¶5) the resolutions that, in accordance with N.J.S.A. 10:4-13, authorized each of those meetings. (¶6 of the request is not relevant because the record sought in the paragraph are duplicative of those furnished in response to ¶5.)

10. On July 27, 2016, after an agreed upon extension, Custodian sent Requestor an e-mailed response to her records request (Exhibit 2). Attached to that e-mailed response was a PDF file (Exhibit 3) containing:

- a. NJFOG's August 2, 2014 correspondence. (pp. 1 - 3)
- b. A privilege log (p. 4)
- c. Pages of minutes⁴ from the Board's public and nonpublic meetings (pp. 5 - 20).

² Mr. Schmidt presently serves as the Foundation's President.

³ The fact that the Board produced the August 2, 2014 correspondence in response to an OPRA request evidences that the correspondence was received by the Board.

⁴ Custodian assigned each page of minutes a number in the form of "LAW-nnn." Plaintiffs will use these numbers in this complaint.

FIRST COUNT
(Violation of OPRA)

11. Plaintiffs repeat and incorporate all preceding paragraphs as if fully set forth herein.

12. Each of the redactions Custodian applied to pp. LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016 violated OPRA either because it excised material that was not exempt from disclosure or because the justification for the redaction was not adequately explained or justified.

WHEREFORE, Plaintiff Requestor demands judgment:

A. Declaring that Custodian violated OPRA by redacting nonexempt matter from LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016 or, in the alternative, by failing to explain and justify those redactions in a manner required by law.

B. Compelling Custodian to provide both the Court and Requestor with a better, more descriptive privilege log for pages LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016.

C. Compelling Custodian to file unredacted copies of pages LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016 under seal with the Court for an *in camera* review.

D. After Court's review of the new privilege log and/or the Court's *in camera* review, compelling Custodian to disclose to Requestor unredacted (or more narrowly redaction versions, as the case may be) of LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016.

E. Declaring Requestor to be the prevailing party and awarding her costs of court and a reasonable attorney fee.

F. Such other relief as the Court deems equitable and just.

SECOND COUNT
(Common law right of access)

13. Plaintiffs repeat and incorporate all preceding paragraphs as if fully set forth herein.

14. Requestor has a common law right of access to the matter Custodian redacted from LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016.

WHEREFORE, Plaintiff Requestor demands judgment:

G. Declaring that Custodian violated her rights under the common law by redacting nonexempt matter from LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016 or, in the alternative, by failing to explain and justify those redactions in a manner required by law.

H. Declaring Requestor to be the prevailing party and awarding her costs of court and a reasonable attorney fee.

I. Such other relief as the Court deems equitable and just.

THIRD COUNT
(OPMA - Insufficient nonpublic meeting resolutions)

15. Plaintiffs repeat and incorporate all preceding paragraphs as if fully set forth herein.

16. Pages LAW-001, LAW-003, LAW-005, LAW-007, LAW-009 and LAW-013 contain motions or resolutions that define the topics that the Board privately discussed in nonpublic session as "concerning personnel, negotiations, H.I.B. and legal matters."

17. The Board continues to employ its practice of using vague, overly general and uninformative topic descriptions within its N.J.S.A. 10:4-13 resolutions and motions despite the Foundation's August 2, 2014 correspondence that advised the Board that its N.J.S.A. 10:4-13 resolutions and motions fell short of what OPMA required and gave "the public no sense at all what the Board is discussing." (See, Exhibit 3, pp. 1 - 3.)

WHEREFORE, Plaintiff Foundation demands judgment:

J. Declaring that the Board violated N.J.S.A. 10:4-13 by failing to pass sufficiently specific resolutions or motions prior to going into its nonpublic meetings;

K. Enjoining the Board, going forward, from holding a nonpublic meeting unless it first passes a sufficiently specific resolution, in a form prescribed by the court, that describes the topics to be privately discussed;

L. Awarding the Foundation its costs.

M. Such other relief as the Court deems equitable and just.

FOURTH COUNT

(OPMA - Meeting minutes which are not "reasonably comprehensible")

18. Plaintiff repeats and incorporates all preceding paragraphs as if fully set forth herein.

19. Despite having received the Foundation's August 2, 2014 correspondence which specifically referenced OPMA's requirement that "reasonably comprehensible"

minutes be kept of all meetings, the Board's nonpublic meeting minutes remain noncompliant with N.J.S.A. 10:4-14.

20. By way of example, the minutes at page LAW-004, which capture a nonpublic meeting of over a half hour in duration, give only a brief description of the topics of Mr. Eldridge's updates and provide the reader with no real sense of the content of those updates.

21. By way of further example, the minutes at page LAW-006, which capture a nonpublic meeting of over two hours in duration, provide no information regarding the HIB matters discussed or the identities of those interviewed for the open Board seat or any details or context regarding the interviews.

22. By way of further example, the minutes at page LAW-010, which capture a nonpublic meeting of nearly a half hour in duration, provide the reader with only a short (a few word) description of that which Mr. Van Hise discussed.

23. By way of further example, the minutes at page LAW-012, which capture a nonpublic meeting of nearly an hour in duration, provide the reader with only a short (a few word) description of the personnel matter discussed.

24. By way of further example, the minutes at page LAW-014 merely give the reader with a bulleted list of topics reported upon without providing any detail or context of the reports.

25. By way of further example, the minutes at page LAW-016, which capture a nonpublic meeting of over an hour in duration⁵, provide the reader with only short (one or two word) description of the evaluations discussed.

WHEREFORE, the Foundation demands judgment:

N. Declaring that the Board violated N.J.S.A. 10:4-14 by failing to keep "reasonably comprehensible" minutes of its nonpublic meetings held on March 23, 2016; April 13, 2016; May 11, 2016; May 25, 2016; June 22, 2016 (2 sessions) and June 8, 2016 (2 sessions).

O. Enjoining the Board, going forward, from recording meeting minutes that do not meet or exceed a comprehensibility standard developed by the Court;

P. Awarding the Foundation its costs.

Q. Such other relief as the Court deems equitable and just.

Designation of Trial Counsel

Plaintiffs designate Anthony H. Ogozalek, Jr. as trial counsel

Certification Pursuant to R.1:38-7(b)

I certify that confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future

Certification Of No Other Actions

Pursuant to R.4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding

⁵ Page LAW-015 show that the nonpublic meeting commenced at 7:45, not at 8:49 as reported in the minutes.

to the best of my knowledge and belief. Also, to the best of my belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in the facts stated in this original certification.

Dated: September 11, 2016

Anthony H. Ogozalek, Jr.

Law Office of Anthony H. Ogozalek, Jr.

Verification

John Paff, of full age, certifies as follows:

1. I am the Treasurer of the New Jersey Foundation for Open Government, Inc. and am fully familiar with the facts underlying this matter against the Lawrence Township Board of Education. All of the facts stated in this Verified Complaint to which this Verification is attached are true, and as to those facts that are alleged on information and belief, I believe them to be true.

2. 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.

Dated: September 11, 2016

John Paff

EXHIBIT 1

Tom Eldridge

From: Heather Grieco <heathergriecoopra@gmail.com>
Sent: Sunday, July 17, 2016 11:10 PM
To: Tom Eldridge
Subject: [SPAM] OPRA REQUEST 7/17/2016

Importance: Low

RE: Lawrence Township Board of Education

Requestor: Heather Grieco

Please accept this e-mail as my request under the Open Public Records Act (OPRA) and the common law right of access. Please send all responses and responsive records to me via e-mail to heathergriecoopra@gmail.com. Thank you.

Records requested:

1. Correspondence, e-mailed or otherwise, received from John Schmidt / The New Jersey Foundation for Open Government (NJFOG) on or about 8/2//2014 that pertained to the Board's compliance with the Open Public Meetings Act.
2. Any correspondence, e-mailed or otherwise, sent by or on behalf of the Board in response to the correspondence responsive to #1 above.
3. All correspondence, e-mailed or otherwise, sent to or from any Board member or the Board Secretary that referenced the correspondence responsive to #1 above.
4. The minutes of the eight most recently held nonpublic (i.e. closed or executive) Board meetings for which minutes are available in either full or redacted form. For each redaction, please explain the nature of the redacted material in sufficient detail to allow me to judge for myself whether the redactions were properly and lawfully applied.
5. For each nonpublic meeting for which minutes were disclosed in response to #4 above, please provide the motion or resolution that authorized the nonpublic meeting in accordance with N.J.S.A. 10:4-13. For each such motion or resolution that is spread out in full in the public meeting minutes, please provide only the pages that contain the motion or resolution.
6. To the extent that they do not duplicate the records responsive to #5 above, please provide the N.J.S.A. 10:4-13 motions or resolutions that authorized all of the Board's nonpublic meetings held during 2016.

EXHIBIT 2



John Paff <opengovtissues@gmail.com>

Fwd: OPRA Request 07-17-16

1 message

Heather Grieco <heathergriecoopra@gmail.com>

Wed, Aug 10, 2016 at 10:18 PM

To: John Paff <paff@pobox.com>

----- Forwarded message -----

From: Tom Eldridge <TEldridge@ltps.org>

Date: Wednesday, July 27, 2016

Subject: OPRA Request 07-17-16

To: "Heather Grieco (heathergriecoopra@gmail.com)" <heathergriecoopra@gmail.com>

Dear Ms. Grieco,

Attached please find the information you requested. Thank you for granting the time we needed so that we could perform the necessary redactions.

Your items:

1. Attached
2. There is no written correspondence
3. There is no written correspondence
4. Attached
5. Attached
6. Per your request

Please let me know if I may be of further assistance.

Thomas Eldridge

School Business Administrator/

Board Secretary

Lawrence Township Board of Education (21-2580)

Mercer County, New Jersey

[609-671-5420](tel:609-671-5420)

[609-649-9109](tel:609-649-9109) (Cell: Emergencies Only-please)

</mail/u/0/s/?view=att&th=1562d3421cb6ed57&attid=0.0.1&disp=emb&zw&atsh=1>


 **OPRA Request.pdf**
1077K

EXHIBIT 3

Tom Eldridge

From: NJFOGALCommittee <njfogalcommittee@googlegroups.com>
Sent: Saturday, August 02, 2014 2:46 AM
To: njfogalcommittee@googlegroups.com
Cc: Tom Eldridge
Subject: Lawrence Township BOE OPMA/OPRA Compliance



New Jersey Foundation for Open Government
Affirmative Litigation Committee
P.O. Box 271
Jamesburg, NJ 08831
(Please respond to njfogalcommittee@googlegroups.com)

August 2, 2014

Lawrence Township Board of Education

C/O Thomas Eldridge, Board Secretary/Business Administrator
(via e-mail only to TEldridge@ltps.org)

RE: Lawrence Township BOE OPMA and OPRA Compliance

Dear Custodian of Records Eldridge:

The New Jersey Foundation for Open Government (NJFOG) is dedicated to increasing transparency in all government agencies, including local school districts. As a means to that end, NJFOG has established an Affirmative Litigation Committee which seeks to encourage local agencies to strictly abide by the Open Public Records Act (OPRA) and the Open Public Meetings Act (OPMA).

We are in receipt of your e-mails which was in response to John Schmidt's OPRA request made on June 18, 2014. We have the following questions and concerns:

I. Non compliant executive session resolutions.

In response to the request for the resolutions, as required by N.J.S.A. 10:4-13, to be passed prior to non-public (closed or executive) meetings, the minutes reflect resolutions were passed that do not comply with statute. N.J.S.A. 10:4-13, states:

No public body shall exclude the public from any meeting to discuss any matter described in [N.J.S.A. 10:4-12b] until the public body shall first adopt a resolution, at a meeting to which the public shall be admitted:

a. Stating the general nature of the subject to be discussed; and

b. Stating as precisely as possible, the time when and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public.

In reviewing the resolutions the board does not list the exact reason for entering into closed session, rather the Board appears to merely state they are entering into closed session to discuss personnel matters, negotiations, legal matters etc. This gives the public no sense at all what the board is discussing.

II. Minutes of executive sessions not detailed enough.

As you may be aware meeting minutes including closed/executive session meeting minutes must be reasonably comprehensible in accordance with N.J.S.A. 10:4-14. From the September 11, 2013 minutes which was over an hour in length, the minutes read as follows "The Board discussed H.I.B. and other legal matters."

Does the board believe these minutes are reasonably comprehensible for a meeting which was an hour in length?

Suppose three new members of the Board of Education were elected in November and took office in January. Would they be able to know what was discussed by reading the minutes of meeting?

If you read the May 14, 2014 meeting minutes which was over half an hour in length, the minutes state only that the board discussed topics. We are confused as to how the board believes the current way of keeping minutes is legally appropriate.

V. OPRA violations

In the closed session minutes the board redacted various sets of meeting minutes without stating the reason for each redaction as is required under OPRA (i.e the minutes of 5/14/14). Could the board please review these redactions and send a reason for them, which should have been included in the response to the OPRA request.

Would you please discuss these issues among yourselves and your counsel and let us know your thoughts?

Thank you very much for your attention to this matter.

Very truly yours,

John P. Schmidt
for NJFOG's Affirmative Litigation Committee

PRIVILEGE LOG

Date	Document Type	Privilege/Exemption from Production
3/23/2016	Closed Session Minutes	<ul style="list-style-type: none">▪ Attorney-Client Privilege, LAW-002, ¶1▪ On-going Litigation, LAW-002, ¶2
4/13/2016	Closed Session Minutes	<ul style="list-style-type: none">▪ On-going Litigation, LAW-004, ¶1▪ Contract Negotiations, LAW-004, ¶2
5/25/2016	Closed Session Minutes	<ul style="list-style-type: none">▪ Personnel, LAW-008, ¶1▪ On-going Litigation, LAW-008, ¶2
6/22/2016, #1	Closed Session Minutes	<ul style="list-style-type: none">▪ On-going Litigation, LAW-010
6/22/2016, #2	Closed Session Minutes	<ul style="list-style-type: none">▪ Personnel, LAW-012
6/8/2016	Closed Session Minutes	<ul style="list-style-type: none">▪ On-going Litigation, LAW-014
6/8/2016	Closed Session Minutes	<ul style="list-style-type: none">▪ Contract Negotiations, LAW-0015, ¶1-2▪ Contract Negotiations, LAW-0015, ¶3▪ Investment of Public Funds, LAW-0015, ¶4
6/8/2016	Closed Session Minutes	<ul style="list-style-type: none">▪ Personnel, LAW-016, ¶1▪ Personnel, LAW-016, ¶2

A. OPENING OF MEETING/CALL TO ORDER

Time begin: 6:33 p.m.

Presiding: Mr. Van Hise

B. ROLL CALL

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Glenn Collins	X		
Dana Drake	X		
Pepper Evans	X		
Jo Ann Groeger	X		
Michael Horan	X		
Max Ramos	X		
Joyce Scott	X		
Laura Waters	X		
Kevin Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	
Guest:		

Also Present:

and approximately 5 members of the public.

C. EXECUTIVE SESSION-Time Begin: 6:34 P.M.

Whereas, The Board of Education must discuss subjects concerning personnel, negotiations, H.L. B. and legal matters; and
 Whereas, The aforesaid subjects are not appropriate subjects to be discussed in a public meeting; and
 Whereas, The aforesaid subjects to be discussed are within the exemptions which are permitted to be discussed and acted upon in closed executive session pursuant to P.L. 1975 Chapter 231, it is therefore
 Resolved, That the aforesaid subjects shall be discussed in closed executive session by this board and information pertaining thereto will be made available to the public as soon thereafter as possible and once the reasons for nondisclosure no longer exist.

Action, if necessary, will be taken in public session unless otherwise stated.

Members of the Board:	Made	Sec.	Yes	No	Present
Mr. Collins			X		
Ms. Drake		X	X		
Ms. Evans	X		X		
Mrs. Groeger			X		
Mr. Horan			X		
Mr. Ramos			X		
Ms. Scott			X		
Dr. Waters			X		
Mr. Van Hise			X		
Motion carried					

Time end: 7:32 p.m.

Time resume open session: 7:32 p.m.

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES
March 23, 2016

DO NOT DISTRIBUTE

Called to order: 6:33 p.m..

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Mr. Collins		X	
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan		X	
Ms. Scott		X	
Mr. Ramos		X	
Dr. Waters	X		
Mr. Van Hise		X	

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	



At 7:23p.m. all member rejoined.

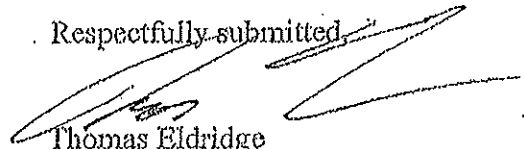
Members of the Board	Present	Absent	Time of arrival after meeting called to order
Mr. Collins	X		
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan	X		
Ms. Scott	X		
Mr. Ramos	X		
Dr. Waters	X		
Mr. Van Hise	X		



At 7:31 p.m., a motion was made by Ms. Drake, and seconded by Mrs. Groeger, to adjourn.

All members voted in favor.

Respectfully submitted,


Thomas Eldridge
Board Secretary

A. OPENING OF MEETING/CALL TO ORDER

Time begin: 6:30 p.m.

Presiding: Mr. Van Hise

B. ROLL CALL

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Dana Drake	X		6:34
Pepper Evans	X		
Jo Ann Groeger	X		
Michael Horan	X		
Max Ramos	X		
Joyce Scott	X		
Laura Waters	X		
Kevin Van Hise	X		
LHS Student Representatives	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	
Guest:		

Also Present:
and approximately 50 members of the public.

C. EXECUTIVE SESSION-Time Begin: 6:31 P.M.

Whereas, The Board of Education must discuss subjects concerning personnel, negotiations, H.I. B. and legal matters; and
Whereas, The aforesaid subjects are not appropriate subjects to be discussed in a public meeting; and
Whereas, The aforesaid subjects to be discussed are within the exemptions which are permitted to be discussed and acted upon in closed executive session pursuant to P.L. 1975 Chapter 231, it is therefore
Resolved, That the aforesaid subjects shall be discussed in closed executive session by this board and information pertaining thereto will be made available to the public as soon thereafter as possible and once the reasons for nondisclosure no longer exist.
Action, if necessary, will be taken in public session unless otherwise stated.

Members of the Board:	Made	Sec.	Yes	No	Present
Ms. Drake		X	X		
Ms. Evans			X		
Mrs. Groeger	X		X		
Mr. Horan			X		
Mr. Ramos			X		
Ms. Scott			X		
Dr. Waters			X		
Mr. Van Hise			X		
MOTION CARRIED					

Time end: 7:01 p.m.

Time resume open session: 7:01 p.m.

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES

April 13, 2016

DO NOT DISTRIBUTE

Called to order: 6:30p.m.

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan	X		
Ms. Scott	X		
Mr. Ramos	X		
Dr. Waters	X		
Mr. Van Elise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	

Dr. Edwards discussed H.I.B. cases with the Board of Education.

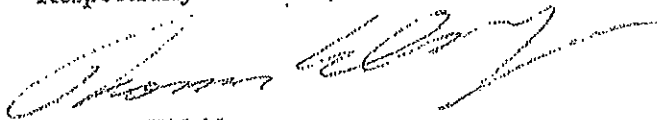
Mr. Eldridge updated the Board on the [REDACTED]

Mr. Eldridge updated the Board on [REDACTED]

At 7:01 p.m., a motion was made by Ms. Scott, and seconded by Mr. Ramos, to adjourn.

All members voted in favor.

Respectfully submitted,



Thomas Eldridge
Board Secretary

A. OPENING OF MEETING/CALL TO ORDER

Time begin: 5:30 p.m.

Presiding: Kevin Van Hise

B. ROLL CALL

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Dana Drake	X		
Pepper Evans	X		
Jo Ann Groeger	X		
Michael Horan	X		
Max Ramos	X		
Joyce Scott	X		
Laura Waters	X		
Kevin Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	
Guest:		

Also Present:

and approximately 15 members of the public.

C. EXECUTIVE SESSION-Time Begin: 5:32

Whereas, The Board of Education must discuss subjects concerning personnel, negotiations, H.I. B. and legal matters; and

Whereas, The aforesaid subjects are not appropriate subjects to be discussed in a public meeting; and

Whereas, The aforesaid subjects to be discussed are within the exemptions which are permitted to be discussed and acted upon in closed executive session pursuant to P.L. 1975 Chapter 231, it is therefore

Resolved, That the aforesaid subjects shall be discussed in closed executive session by this board and information pertaining thereto will be made available to the public as soon thereafter as possible and once the reasons for nondisclosure no longer exist.

Action, if necessary, will be taken in public session unless otherwise stated.

Members of the Board:	Made	Sec.	Yes	No	Present
Ms. Drake		X	X		
Ms. Evans			X		
Mrs. Groeger			X		
Mr. Horan			X		
Mr. Ramos			X		
Ms. Scott	X		X		
Dr. Waters			X		
Mr. Van Hise			X		
Motion carried					

Time end: 7:32 p.m.

Time resume open session: 7:32 p.m.

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES

May 11, 2016

DO NOT DISTRIBUTE

Called to order: 5:30 p.m.

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan	X		
Ms. Scott	X		
Mr. Ramos	X		
Dr. Waters	X		
Mr. Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	

Dr. Edwards discussed H.I.B. cases with the Board of Education.

The board held interviews to fill the open seat on the board caused by the resignation of Glen Collins.

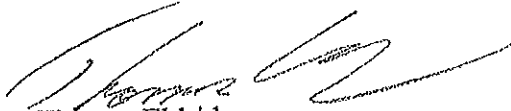
At 7:32 a motion was made by Mrs. Groeger and Seconded by Ms. Scott to adjourn. All voted in favor.

Resume Executive Session 8: 41 p.m.

The board resumed the discussion on filling the vacant seat on the board.

At 8:49 p.m. a motion was made by Mr. Horan, and seconded by Dr. Waters, to end executive session. All voted in favor.

Respectfully submitted,


 Thomas Eldridge
 Board Secretary

A. OPENING OF MEETING/CALL TO ORDER

Time begin: 6:30 p.m.

Presiding: Mr. Horan

B. ROLL CALL

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Michele Bowes	X		
Dana Drake	X		
Pepper Evans	X		
Jo Ann Groeger	X		
Michael Horan	X		
Max Ramos		X	
Joyce Scott	X		
Laura Waters		X	
Kevin Van Hise		X	

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	
Guest:		

Also Present:
approximately 3 members of the public.

C. EXECUTIVE SESSION-Time Begin: 6:31 P.M.

Whereas, The Board of Education must discuss subjects concerning personnel, negotiations, H.I. B. and legal matters; and

Whereas, The aforesaid subjects are not appropriate subjects to be discussed in a public meeting; and
Whereas, The aforesaid subjects to be discussed are within the exemptions which are permitted to be discussed and acted upon in closed executive session pursuant to P.L. 1975 Chapter 231, it is therefore

Resolved, That the aforesaid subjects shall be discussed in closed executive session by this board and information pertaining thereto will be made available to the public as soon thereafter as possible and once the reasons for nondisclosure no longer exist.

Action, if necessary, will be taken in public session unless otherwise stated.

Members of the Board:	Made	Sec.	Yes	No	Present
Ms. Bowes			X		
Ms. Drake	X		X		
Ms. Evans			X		
Mrs. Groeger			X		
Mr. Horan			X		
Mr. Ramos			--		
Ms. Scott		X	X		
Dr. Waters			--		
Mr. Van Hise			--		
Motion carried					

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES

May 25, 2016

DO NOT DISTRIBUTE

Called to order: 6:30 p.m.

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Ms. Bowes	X		
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan	X		
Ms. Scott	X		
Mr. Ramos	--	X	
Dr. Waters	--	X	
Mr. Van Hise	--	X	

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	

Dr. Edwards introduced [REDACTED] candidate for the position of Director of Student Services.



At 7:08 a motion was made by Mrs. Groeger and seconded by Ms. Drake to resume regular session. All voted in favor.

Respectfully submitted,

Thomas Eldridge
Board Secretary

A. OPENING OF MEETING/CALL TO ORDER

Time begin: 6:30 p.m.

Presiding: Mr. Van Hise

B. ROLL CALL

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Michele Bowes	X		
Dana Drake	X		
Pepper Evans	X		
Jo Ann Groeger	X		
Michael Horan		X	
Max Ramos	X		
Joyce Scott	X		
Laura Waters	X		
Kevin Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	
Guest:		

Also Present:
and approximately 0 members of the public.

C. EXECUTIVE SESSION-Time Begin: 6:32 p.m.

Whereas, The Board of Education must discuss subjects concerning personnel, negotiations, I.L. B. and legal matters; and

Whereas, The aforesaid subjects are not appropriate subjects to be discussed in a public meeting; and
Whereas, The aforesaid subjects to be discussed are within the exemptions which are permitted to be discussed and acted upon in closed executive session pursuant to P.L. 1975 Chapter 231, it is therefore

Resolved, That the aforesaid subjects shall be discussed in closed executive session by this board and information pertaining thereto will be made available to the public as soon thereafter as possible and once the reasons for nondisclosure no longer exist.

Action, if necessary, will be taken in public session unless otherwise stated. No action will be taken.

Members of the Board:	Made	Sec.	Yes	No	Present
Ms. Bowes			X		
Ms. Drake			X		
Ms. Evans	X		X		
Mrs. Groeger			X		
Mr. Horan					
Mr. Ramos			X		
Ms. Scott		X	X		
Dr. Waters			X		
Mr. Van Hise			X		
Motion carried					

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES #1

June 22, 2016

DO NOT DISTRIBUTE

Called to order: 6:32p.m.

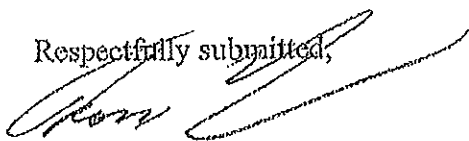
Members of the Board	Present	Absent	Time of arrival after meeting called to order
Ms. Bowes	X		
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan		X	
Ms. Scott	X		
Mr. Ramos	X		
Dr. Waters	X		
Mr. Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	

Mr. Van Hise discussed [REDACTED]

At 7:00 p.m. a motion was made by Ms. Groeger, and seconded by Dr. Waters, to end executive session. All voted in favor.

Respectfully submitted,



Thomas Eldridge
Board Secretary

Items NB-1							
Members of the Board	MADE	SEC.	YES	NO	ABSTAIN	PRESENT	PASS
Ms. Bowes			X				
Ms. Drake	X		X				
Ms. Evans		X	X				
Mrs. Groeger			X				
Mr. Horan			--				
Mr. Ramos			X				
Ms. Scott			X				
Dr. Waters			X				
Mr. Van Hise			X				
Motion carried							

Motion to move to executive session to discuss personnel, 7:20 p.m.							
Members of the Board	MADE	SEC.	YES	NO	ABSTAIN	PRESENT	PASS
Ms. Bowes			X				
Ms. Drake	X		X				
Ms. Evans		X	X				
Mrs. Groeger			X				
Mr. Horan							
Mr. Ramos			X				
Ms. Scott			X				
Dr. Waters			X				
Mr. Van Hise			X				
Motion carried							

Return to regular session

Q. **ADJOURNMENT;** Time: 8:13 p.m.

Motion to adjourn							
Members of the Board	MADE	SEC.	YES	NO	ABSTAIN	PRESENT	PASS
Ms. Bowes			X				
Ms. Drake			X				
Ms. Evans		X	X				
Mrs. Groeger	X		X				
Mr. Horan			--				
Mr. Ramos			X				
Ms. Scott			X				
Dr. Waters			X				
Mr. Van Hise			X				
Motion carried							

Respectfully submitted,

Thomas Eldridge
 Thomas Eldridge
 Board Secretary

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES #2

June 22, 2016

DO NOT DISTRIBUTE

Called to order: 7:20 p.m.

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Ms. Bowes	X		
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan		X	
Ms. Scott	X		
Mr. Ramos	X		
Dr. Waters	X		
Mr. Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent		X
Thomas Eldridge, Board Secretary/ Business Administrator		X

Topic was personnel matter - specifically, [REDACTED]

Motion to Return to Open Session was made by J. Scott, Seconded by M. Ramos - unanimous.

Motion to Adjourn was made by J. Groeger, Seconded by P. Evans - unanimous.

End 8:13 p.m.

Respectfully submitted,



Kevin Van Hise
Board President

A. OPENING OF MEETING/CALL TO ORDER

Time begin: 6:30 P.M.

Presiding: Kevin Van Hise

B. ROLL CALL

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Michelle Bowes	X		
Dana Drake	X		
Pepper Evans	X		
Jo Ann Groeger	X		
Michael Horan	X		
Max Ramos	X		
Joyce Scott	X		
Laura Waters	X		
Kevin Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	
Guest:		

Also Present:
and approximately 25 members of the public.

C. EXECUTIVE SESSION-Time Begin: 6:32 p.m.

Whereas, The Board of Education must discuss subjects concerning personnel, negotiations, H.I. B. and legal matters; and

Whereas, The aforesaid subjects are not appropriate subjects to be discussed in a public meeting; and

Whereas, The aforesaid subjects to be discussed are within the exemptions which are permitted to be discussed and acted upon in closed executive session pursuant to P.L. 1975 Chapter 231, it is therefore

Resolved, That the aforesaid subjects shall be discussed in closed executive session by this board and information pertaining thereto will be made available to the public as soon thereafter as possible and once the reasons for nondisclosure no longer exist.

Action, if necessary, will be taken in public session unless otherwise stated.

Members of the Board:	Made	Sec.	Yes	No	Present
Ms. Bowes			X		
Ms. Drake		X	X		
Ms. Evans			X		
Mrs. Groeger			X		
Mr. Horan			X		
Mr. Ramos			X		
Ms. Scott			X		
Dr. Waters	X		X		
Mr. Van Hise			X		
Motion Carried					

Time end: 7:00 P.M.

Time resume open session: 7:00 P.M.

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES

June 8, 2016

DO NOT DISTRIBUTE

Called to order: 6:31 p.m.

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Ms. Bowes	X		
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan	X		
Ms. Scott	X		
Mr. Ramos	X		
Dr. Waters	X		
Mr. Van Hise	X		

	Present	Absent
Crystal Edwards, Superintendent	X	
Thomas Eldridge, Board Secretary/ Business Administrator	X	

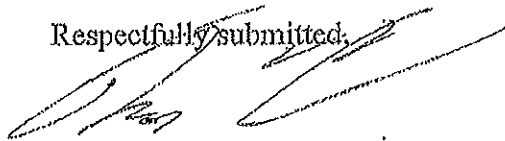
Dr. Edwards reported on :

- H.I.B.
- Increment Withholding
- Grievances (I.TEA)
- [REDACTED]
- Residency Case

Resume Executive Session 6:50 p.m.

At 6:50 p.m. a motion was made by Ms. Groeger, and seconded by Ms. Scott, to end executive session. All voted in favor.

Respectfully submitted,



Thomas Eldridge
Board Secretary

Items SBM 1-23							
Members of the Board	MADE	SEC.	YES	NO	ABSTAIN	PRESENT	PASS
Ms. Bowes			X				
Ms. Drake			X				
Ms. Evans			X				
Mrs. Groeger			X				
Mr. Horan	X		X				
Mr. Ramos		X	X				
Ms. Scott			X				
Dr. Waters			X				
Mr. Van Hise			X				
Motion Carried							

Dr. Waters left the meeting.

O. PUBLIC INPUT -NONE

P. NEW BUSINESS-NONE

At 7:45 p.m. a motion was made to go into executive session to discuss personnel evaluation. Action, if taken, will be done in public.							
Members of the Board	MADE	SEC.	YES	NO	ABSTAIN	PRESENT	PASS
Ms. Bowes			X				
Ms. Drake			X				
Ms. Evans			X				
Mrs. Groeger			X				
Mr. Horan	X		X				
Mr. Ramos			X				
Ms. Scott		X	X				
Dr. Waters			--				
Mr. Van Hise			X				
Motion carried							

BOARD OF EDUCATION MEETING
EXECUTIVE SESSION MINUTES

June 8, 2016

DO NOT DISTRIBUTE

Called to order: 8:49 p.m.

Members of the Board	Present	Absent	Time of arrival after meeting called to order
Ms. Bowes	X		
Ms. Drake	X		
Ms. Evans	X		
Mrs. Groeger	X		
Mr. Horan	X		
Ms. Scott	X		
Mr. Ramos	X		
Dr. Waters	--		
Mr. Van Hise	X		

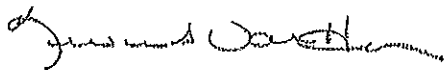
	Present	Absent
Crystal Edwards, Superintendent		X
Thomas Eldridge, Board Secretary/ Business Administrator		X

The Board discussed the evaluation of [REDACTED]

The Board discussed the evaluation of [REDACTED]

At 8:49 p.m. a motion was made by Ms. Drake, and seconded by Ms. Groeger, to end executive session. All voted in favor.

Respectfully submitted,



Kevin Van Hise
Board President

Anthony H. Ogozalek, Jr.
Law Office of Anthony H. Ogozalek, Jr.
1100 Taylor Lane, Unit 9
Cinnaminson, NJ 08077
Phone: (856) 316-4679
Fax: (856) 316-4679
E-mail: aogozalek@ogozaleklaw.com

September 11, 2016

Hon. Mary C. Jacobson, A.J.S.C.
Superior Court of New Jersey - Law Division
400 S. Warren Street
Trenton, NJ 08650-0068

RE: New Jersey Foundation for Open Government, Inc., et al v. Lawrence
Township Board of Education, et al.

Dear Judge Jacobson:

We are submitting this Letter Brief in lieu of a more formal brief in support of the First Count and Second Count of the Verified Complaint, which seek relief under the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1, et seq and the common law right of access, respectively. Since the other counts seek enforcement of the Open Public Meetings Act ("OPMA"), N.J.S.A. 10:4-6, et seq., they are not eligible for summary disposition and will be addressed in future proceedings.

First, we discuss the facts of this case. Second, we discuss legal arguments as to why this matter should proceed in a summary manner and why Plaintiff Heather Grieco ("Requestor") is entitled to the relief requested.

STATEMENT OF FACTS

The Court is respectfully referred to the Verified Complaint for a complete recitation of the facts. In summary, however, Heather Grieco ("Requestor") has,

through serving an OPRA request upon Defendant Thomas Eldridge ("Custodian"), the records custodian for Defendant Lawrence Township Board of Education ("Board"), uncovered violations of OPRA and patterns of the Board's noncompliance with the OPMA.

LEGAL ARGUMENT

POINT I

THE FIRST AND SECOND COUNTS SHOULD PROCEED IN A SUMMARY MANNER.

"A person who is denied access to a government record by the custodian of the record, . . . may institute a proceeding to challenge the custodian's decision by filing an action in Superior Court." N.J.S.A. 47:1A-6. Once instituted, "[a]ny such proceeding shall proceed in a summary or expedited manner." Id. "This statutory language requires a trial court to proceed under the procedures prescribed in R. 4:67." Courier News v. Hunterdon County Prosecutor's Office, 358 N.J. Super. 373, 378 (App. Div. 2003). Any such action must be initiated by Order to Show Cause, supported by a verified Complaint. Id. (citing R. 4:67-2(a)). Here, because OPRA authorizes actions under it to proceed in a summary manner, and Requestor's request for an order to show cause is supported by a verified complaint, the relevant documents have been provided and certified as exhibits to the Verified Complaint, and the relevant facts should not reasonably be disputed, the order to show cause should be granted so this matter may proceed in a summary manner. R. 4:67-2(a).

POINT II

DEFENDANT CUSTODIAN VIOLATED OPRA BY REDACTING FROM THE BOARD'S NONPUBLIC MEETING MINUTES THAT WHICH OUGHT TO HAVE BEEN DISCLOSED.

"The purpose of OPRA 'is to maximize public knowledge about public affairs in order to ensure an informed citizenry and to minimize the evils inherent in a secluded process.'" Times of Trenton Publ'g Corp. v. Lafayette Yard Cmty. Dev. Corp., 183 N.J. 519, 535 (2005) (quoting Asbury Park Press v. Ocean County Prosecutor's Office, 374 N.J. Super. 312, 329 (Law Div. 2004)). Our Supreme Court has stated that "Those who enacted OPRA understood that knowledge is power in a democracy, and that without access to information contained in records maintained by public agencies, citizens cannot monitor the operation of our government or hold public officials accountable for their actions." Fair Share Housing Center, Inc. v. New Jersey State League of Municipalities, 207 N.J. 489, 502 (2011).

The material Custodian redacted from page LAW-015 within Exhibit 3 is clearly not exempt and ought to have been disclosed. Since that page contains an entry stating "O. PUBLIC INPUT - NONE," it is clear that page LAW-015 is from the minutes of the Board's June 8, 2016 *public* meeting and not a nonpublic (closed or executive) meeting. Since public meeting minutes are quintessential public records, nothing within them can, by definition, be exempt from disclosure. Accordingly, Custodian violated OPRA by redacting this material.

POINT III

DEFENDANT CUSTODIAN VIOLATED OPRA BY EITHER IMPROPERLY REDACTING FROM THE BOARD'S NONPUBLIC MEETING MINUTES THAT WHICH OUGHT TO HAVE BEEN DISCLOSED OR BY FAILING TO EXPLAIN AND JUSTIFY HIS REDACTIONS IN A LAWFUL MANNER.

Most of the other redactions Custodian applied to the nonpublic meeting minutes contained within Exhibit 3 appear to be too brief to warrant suppression. For example, the two redactions on page LAW-004 which, according to the Board's privilege log, relate to "on-going litigation" and "contract negotiations," appear to suppress the titles of the litigation and contract under discussion, (e.g. the size of the redaction strongly suggest that sentences such as "Mr. Eldridge updated the Board on the *Smith v. Board litigation.*" and "Mr. Eldridge updated the Board on *teacher's union contract negotiations.*" were redacted.)

While the Board's litigation and contract negotiation strategy is exempt from disclosure (lest the Board's adversaries gain an unfair negotiating advantage), it is not at all clear why information that merely identifies the litigation or contract under discussion qualifies for suppression. The burden of proving the lawfulness of the redactions is on the Custodian. N.J.S.A. 47:1A-6.

The privilege log furnished by Custodian is unhelpful because it only asserts a privilege (e.g. "On-going Litigation) in the most general manner. But a general assertion of privilege is not sufficient. Burke v. Brandes, 429 N.J. Super. 169, 178 (App. Div. 2012) ("a mere assertion of privilege, as made in this case, simply does not

suffice.") Rather, Custodian needed to provide a "specific basis" for denial. In doing so, he "should be guided by the standard included in R. 4:10-2(e), which permits a party claiming privilege to 'describe the nature of the documents ... not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.'" Paff v. N.J. Dep't of Labor, 379 N.J. Super. 346, 354 (App. Div.2005).

Thus, if the three or four words excised from each of the two redacted sentences on page LAW-004 were truly exempt, Custodian was obligated to give Requestor a more detailed description so that the Requestor could herself appreciate exactly *why* the material could not be disclosed. As it is, Custodian simply tossed about terms such as "on-going litigation" and "contract negotiations," as if they were talismans that would magically shield him and the Board from OPRA litigation.

Requestor makes a similar argument regarding the brief, redacted text following "Mr. Van Hise discussed" on page LAW-010; following "Topic was personnel matter - specifically" on page LAW-012; the redacted bullet-list item on page LAW-014 and the subjects of the two evaluations noted on page LAW-2016.

Regarding the alleged "personnel" material redacted from pages LAW-012 and LAW-016, our Supreme Court has held that the fact that a personnel matter was lawfully discussed in nonpublic session does not force a conclusion that the minutes of

those personnel discussions are exempt from disclosure. South Jersey Publishing Company, Inc. v. New Jersey Expressway Authority, 124 N.J. 478 (1991). ("Contrary to respondent's contentions, we find no inconsistency between the exemption allowing personnel matters to be discussed and debated in executive session and the Act's mandate that adequate minutes of *all* meetings be available to the public." Id. at 493 (emphasis in original).) Nonpublic meetings minutes may be suppressed, but only "[t]o the extent a cognizable privacy interest may be compromised by the required disclosure." Id. at 494.

Custodian has offered nothing to satisfy his burden of proving that someone's privacy interest would be compromised if the sentence fragment following "specifically," on page LAW-012 and the identities of those evaluated on page LAW-016 were disclosed. Again, OPRA requires Custodian to prove that the redactions were justified.

Regarding the redactions not yet discussed (i.e. those on pages LAW-002 and LAW-008) Requestor has not been given sufficient information about the nature of the redacted material to allow her to make heads or tails of the redactions. For example, the privilege log states that the first redaction on page LAW-002 is justified by the "Attorney-Client Privilege." Yet, the minutes do not reflect that the Board's attorney (or any attorney) was in attendance.

How is the Court to determine whether Custodian's redactions to the nonpublic meeting minutes are truly justified? The best way is to initiate the "two-step process" recommended by the New Jersey Supreme Court in Loigman v. Kimmelman, 102 N.J. 98, 109 (1986).

That process is to first require Custodian to prepare a better and more useful privilege log and file it with the Court and serve it upon the Plaintiff. Then, if necessary, the Court should conduct an *in camera* review of the contested minutes but only if the first step of the process, *i.e.* production of a detailed privilege log, has failed to resolved the matter.

An "*in camera* examination is not a substitute for the government's obligation to provide detailed public indexes and justifications whenever possible." Lykins v. United States Dep't of Justice, 725 F.2d 1455, 1463 (D.C.Cir.1984). Requiring the privilege log to precede an *in camera* inspection will not only save the Court time and resources, but it will also protect any material in the minutes that is "so highly confidential that its disclosure to anyone, including a judge, will irreparably hamper an agency's procedures." Loigman, at 109.

Further, Requestor having access to the privilege log will enable "the adversary system to operate by giving the requester as much information as possible, on the basis of which he can present his case to the trial court." Lykins at 1463.

Accordingly, this Court should order Custodian, as requested in ¶ B of the Verified Complaint, "to provide both the Court and Requestor with a better, more descriptive privilege log for pages LAW-002; LAW-004, LAW-008, LAW-010, LAW-012, LAW-014, LAW-015 and LAW-016." To the extent that the new log does not resolve the issue, the Court should order the Custodian, as requested by ¶ C of the Verified Complaint, to file unredacted copies of those pages with the Court under seal for an *in camera* review. The Court may, of course, Order both forms of relief without waiting to determine if the privilege log will itself be sufficient.

POINT IV

REQUESTOR IS ENTITLED TO UNREDACTED OR MORE NARROWLY REDACTED VERSIONS OF THE BOARD'S NONPUBLIC MEETING MINUTES UNDER THE COMMON LAW RIGHT OF ACCESS.

At the common law, a citizen has an enforceable right to require custodians of public records to make records available for reasonable inspection and examination. Irval Realty v. Bd. of Pub. Util. Comm'rs, 61 N.J. 366, 372 (1972). Even where a plaintiff is denied access under OPRA, the documents may be available through the right to access under the common law. MAG Entertainment LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 534, 543 (App. Div. 2005). The common law right to access a public record is determined by balancing the requestor's need for the record against the government's need for secrecy. Shuttleworth v. City of Camden, 258 N.J. Super. 573, 583 (App. Div. 1992). A requestor need not establish a personal interest as a public interest is sufficient. Id.

Here, Requestor has a strong interest in the records sought so that she, and the public in general, can learn what the Board discussed during its nonpublic meetings. There is a "strong public policy requiring comprehensible disclosure of the actions taken by public bodies." South Jersey Publishing at 494.

POINT V
***DEFENDANT CUSTODIAN SHOULD BE LIABLE FOR ATTORNEY'S FEES
AND COSTS.***

By failing or refusing to disclose unredacted version of the Board's meeting minutes, or by failing to properly justify the redactions that are justified, Custodian has violated Requestor's rights under OPRA. This litigation is necessary to vindicate Requestor's OPRA rights as well as to compel disclosure of the relevant nonpublic meeting minutes.

The Court should find that Requestor is the prevailing party. "A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee." N.J.S.A. 47:1A-6.

Respectfully,

Anthony H. Ogozalek, Jr.

Office of the Hunterdon County Prosecutor

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July 11, 2012

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Re: Clinton Township School Board Sunshine Law Violations
February 27, 2012 and March 26 and 29, 2012

Dear Mr. Gagliardi:

This Office received a report that the Clinton Township School Board has violated the Open Public Meetings Act ("OPMA") on several occasions. My review of the evidence confirms that on three separate occasions, the Board violated OPMA by (1) going into closed/executive session without stating the general nature of the subject to be discussed and stating when the information discussed in the closed session can be expected to be disclosed to the public; and (2) failing to keep reasonably comprehensible minutes of actions taken because the minutes with respect to each of these meetings say that a resolution was passed at the meeting going into closed session and that the reasons for going into closed session were set forth, when in fact they were not. In addition, there is potential exposure under N.J.S.A. 2C:28-7 if this incorrect entry was knowingly made.

I have listened to a copy of the official recordings of the Board meetings of February 27, 2012, March 26, 2012, and March 29, 2012, and have reviewed the Board's written minutes from those meetings. In all three meetings, the chair announces that the board will be going into executive session, makes a motion, gets a first and second, and then the motion is approved. No mention is made of the general nature of the subject to be discussed. Nor is there any mention of the time when and the circumstances under which the discussion conducted in closed session can be disclosed to the public. The failure to state these items violates N.J.S.A. 10:4-13.

The minutes for all three dates contain nearly identical entries (the only differences relate to the subjects discussed at the closed session) regarding when the Board went into executive session:

Resolved by the Board of Education of Clinton Township as per Chapter 231, P.L. 1975

- a. That it is hereby determined that it is necessary to meet in Executive Session on Monday, February 27, 2012 to discuss matters rendered legally confidential and the Superintendent Search.
- b. The matter discussed will be made public if and when confidentiality is no longer required and action pursuant to said discussion shall take place only at a public meeting.
- c. The length of the meeting is thought to be approximately 30 minutes.
- d. Action will not be taken upon return.

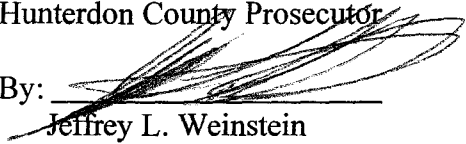
The language used in the minutes suggests that the drafter knew of the disclosure requirements of Section 13 and felt it was important to include them in the minutes. The problem is that these entries do not reflect what actually happened at the February 27, March 26, and March 29 meetings. The caption on the first page of the minutes says "Minutes Regular Meeting" and the respective date. These entries create the impression that all items above labeled "a" through "d" were discussed during the public portion of the meeting. A review of the audio recordings for each of these meetings proves that they were not. Rather, the chair announced a motion to go into executive session, and mentioned only the expected length of the meeting and that no action would be taken upon return. But at all three meetings neither the subject matter or the expected date that the topics would no longer be confidential are mentioned. N.J.S.A. 10:4-14 requires in part that a public body shall keep reasonably comprehensible minutes showing the subjects considered and the actions taken. The minutes violate this section because they reflect that public disclosures were made that were required by N.J.S.A. 10:4-13 when in fact these disclosures were not made. It is particularly troubling that this pattern of non-disclosure at the public meetings is followed by minutes that wrongly state that the disclosures were made. Three instances have been brought to our attention. This Office is concerned that the minutes demonstrate a pattern as to how the Board regularly conducts itself.

This Office has terminated the investigation at this time. As you may be aware, the County Prosecutor or the Attorney General may choose to bring an action for imposition of penalties for violations of the Sunshine Law against board members who participated in the unauthorized action N.J.S.A. 10:4-17. The enforcement action is separate and apart from a civil action that any person may bring for injunctive relief or overturning the agency action that was made in violation of the Sunshine Law N.J.S.A. 10:4-15 and 10:4-16. And if the Board knowingly included false information in the minutes, that could constitute a violation of N.J.S.A. 2C:28-7, a disorderly persons offense.

Since this matter represents the first time that we have been advised of a potential OPMA violation, our purpose at this point is simply to bring this matter to your attention so that you may properly advise your client of its obligations under the OPMA, its obligation to make truthful minutes of meetings under OPMA and other statutes, and that this Office takes such matters seriously.

Feel free to contact me if you have any questions regarding this matter.

Very truly yours,
Anthony P. Kearns, III
Hunterdon County Prosecutor

By: 
Jeffrey L. Weinstein
Assistant Prosecutor

c: Nick Corcodocolis