

WALTER M. LUERS, ESQ. - 034041999
LAW OFFICE OF WALTER M. LUERS, LLC
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23 West Main Street
Clinton, New Jersey 08809
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Attorney for Plaintiff

Received and Filed
Superior Court of New Jersey

JAN 27 2014

Passaic County

JOHN PAFF, Plaintiff, v. CLIFTON BOARD OF EDUCATION and KAREN L. PERKINS in her official capacity as Business Administrator/Board Secretary and Records Custodian, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: PASSAIC COUNTY DOCKET NO. <u>L-349-14</u> CIVIL ACTION VERIFIED COMPLAINT
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Plaintiff John Paff through his undersigned counsel Law Offices of Walter M. Luers, LLC, by way of complaint against the Defendants Clifton Board of Education and Karen L. Perkins, alleges as follows:

PRELIMINARY STATEMENT

1. This is an action alleging violations of the Open Public Records Act, *N.J.S.A. 47:1A-1, et seq.* ("OPRA") and the common law right of access seeking to require disclosure of correspondence and executive session meeting minutes.

THE PARTIES

2. Plaintiff John Paff is a resident of Franklin Township, New Jersey. His address is P.O. Box 5424 Somerset, NJ 08875.

3. Defendant Clifton Board of Education's principal place of business is located at 745 Clifton Avenue, Clifton, New Jersey 07015. The Clifton Board of Education is a "public agency" as the term is defined by OPRA, *N.J.S.A. 47:1A-1.1*.

4. Defendant Karen K. Perkins is employed as the Business Administrator/Board Secretary of the Clifton Board of Education and is the person who denied access to the requested records. Perkins is a “custodian of a government record” within the meaning of *N.J.S.A. 47:1A-1.1*. Perkin’s principal place of business is 745 Clifton Avenue, Clifton, New Jersey 07015.

JURISDICTION AND VENUE

5. The Court has subject matter jurisdiction of this action pursuant to *N.J.S.A. 47:1A-6* and the common law.

6. Venue is proper in this court pursuant to *R. 4:3-2(a)(2)* because all of the relevant events occurred in this County, and the public agency, the Defendant, is located in Passaic County.

FACTUAL ALLEGATIONS

7. On November 18, 2013, Plaintiff submitted a written OPRA request to the Defendants requesting, in relevant part, copies of the minutes of the Board’s June 19, 2013 executive session and any correspondence that was presented at or entered into the record during that executive session.

8. On December 12, 2013, Defendants denied access to those records, stating that the minutes had not yet been “approved” “as of the date of your request” and that the correspondence was confidential pursuant to the Open Public Meetings Act. True and correct copies of Plaintiff’s OPRA request and Defendants’ denial of access are attached hereto.

9. The documents requested by Plaintiff are public records and subject to disclosure. Plaintiff submitted a valid written OPRA request.

10. Plaintiff has a strong public interest and legitimate private interest in obtaining the requested documents. Plaintiff submits hundreds of OPRA requests to public agencies at all levels of government. Sometimes he does so to ensure compliance with OPRA or the Open Public Meetings Act or financial disclosure laws. Other times he reads about matters in the press, especially those involving official misconduct or police misconduct, and he files OPRA requests for information. Often Mr. Paff will frequently follow-up such OPRA requests by filing internal affairs complaints, ethics grievances or complaints with the Division of Local Government Services or the Department of Education if warranted.

11. The documents requested are public records within the meaning of the common law right of access. Defendant's interest in non-disclosure does not outweigh Plaintiff's interest in disclosure.

COUNT I: VIOLATION OF OPRA

12. The Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-11 of the Plaintiff's complaint as though fully set forth at length herein.

13. The Defendant has violated OPRA by not providing copies of the documents requested by Plaintiff.

COUNT II: VIOLATION OF COMMON LAW RIGHT OF ACCESS

14. Plaintiff repeats and incorporates by reference each and every allegation contained in paragraphs 1-13 of the Plaintiff's complaint as though fully set forth at length herein.

15. Plaintiff has a common law right of access to receive copies of the documents requested by him.

16. Plaintiff has a legitimate private interest and wholesome public interest in the requested records.

17. Defendant has no legitimate interest in maintaining the secrecy of these documents. Therefore, the Defendant has violated Plaintiff's common law right of access.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against the Defendant:

A. Ordering Defendant to provide copies of the documents requested by him in his November 18, 2013 OPRA request, to wit the meeting minutes of the June 19, 2013 executive session meeting of the Board and the correspondence that was entered into the record during that meeting;

B. Awarding Plaintiff costs and reasonable attorneys' fees; and

C. For such other or further relief as this Court deems just and equitable.

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation 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.

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.

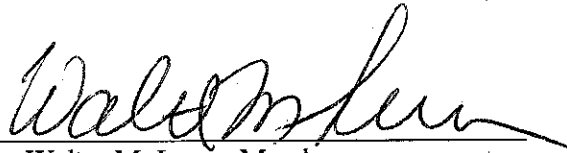
DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Walter M. Luers, Esq. is designated as trial counsel on behalf of Plaintiff.

Respectfully Submitted,

LAW OFFICES OF WALTER M. LUERS, LLC

By:

A handwritten signature in black ink, appearing to read "Walter M. Luers", written over a horizontal line.

DATED: January 25, 2014

Walter M. Luers, Member
Suite C202
23 West Main Street
Clinton, New Jersey 08809
Telephone: 908.894.5656

VERIFICATION

John Paff, of full age, certifies as follows:

1. I am the Plaintiff in the action captioned "John Paff v. Clifton Board of Education, *et al.*" All of the facts stated in the verified complaint to which this Verification is attached are true, and as to those facts that are alleged on information and belief, I believe those facts 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.



John Paff

Dated: January 24, 2014



John Paff <opengovtissues@gmail.com>

OPRA Request Clifton Board of Education1 message

John Paff <paff@pobox.com>

Mon, Nov 18, 2013 at 1:49 PM

To: kperkins@cliftonschoools.net, paff@pobox.com

Clifton Board of Education

Please accept this e-mail/fax as my request for government records in accordance with the Open Public Records Act (OPRA) and the common law right of access. Please respond and send all responsive documents to me via e-mail at paff@pobox.com. If e-mail is not possible, please fax responses and responsive records to me at [908-325-0129](tel:908-325-0129). Also, I would appreciate it if you would acknowledge your receipt of this e-mail.


Records requested:

1. Minutes of June 19, 2013 executive session.
2. Any correspondence that was presented at or entered into the record of that executive session.
3. The resolution which, in accordance with N.J.S.A. 10:4-13, authorized the June 19, 2013 executive session.

Thank you.

John Paff
(voice - [732-873-1251](tel:732-873-1251))

Attachment: This request as a text file.

 **20131118T134939R.txt**
1K

CLIFTON PUBLIC SCHOOLS
745 CLIFTON AVE., P.O. BOX 2209, CLIFTON, NJ 07015-2209
(973) 470-2288 • FAX (973) 773-8357

BUSINESS ADMINISTRATOR'S OFFICE

Karen L. Perkins
Business Administrator/Board Secretary

Carolina Rodriguez

Asst. Business Administrator/Board Secretary

December 12, 2013

Via Electronic Mail [paff@pobox.com]
Mr. John Paff

Re: Open Public Records Act (OPRA) Request Clifton Board of Education

Mr. Paff:

Please find attached the following documents in response to your Request for Public Records. Your request was received on November 18, 2013.

1. **Minutes of June 19, 2013 Executive Session**

The request for the above is denied pursuant to N.J.S.A. 47:1A-1.1 as advisory, consultative or deliberative materials. These minutes have not been approved by the Clifton Board of Education as of the date of your request. See also Parave-Fogg v. Lower Alloways Creek Township, GRC Complaint No. 2006-51 (Aug. 2006).

2. **Correspondence** – has not been produced pursuant to N.J.S.A. 10:4-12b(7) and (8) (employment of public officer and potential litigation) and for the reason outlined in #1 above.

3. **Resolution authorizing the June 19, 2013 Executive Session** – attached hereto as page _42_.

These documents are being provided to you via electronic mail only according to your OPRA request. Therefore, no fee associated with the production of these documents has been assessed.

Sincerely,



Karen Perkins

School Business Administrator/Board Secretary

Mr. Passenti – congratulated the athletes, coaches and the class of 2013. He spoke about Project Graduation and the National Honor Society at WWMS.

Mr. Tardalo – read a letter from a parent and commented that he will try to better communicate with Board members.

MOTION BY Mary Kowal SECOND BY Wayne Demikoff VOTE 9-0

ABSTAIN: Passenti (check #164300), Bassford (check #133021, #133669, #130205, #130260 only)

YES: Agresti, Anderson, Bassford, Daley, Danny, Demikoff, Houston, Kowal, Passenti

Approval to Amend the Vote on F-6/19/13-01-F-6/19/13-42

NEW BUSINESS: None

EXECUTIVE SESSION: 10:05 PM

MOTION FOR RESOLUTION to convene in Executive Session to discuss various Personnel, Student, and Contract matters. IT IS FURTHER RESOLVED, that the President will announce that following Executive Session, the public will be advised of the nature of the discussion and/or notified when formal action may be taken.

MOTION BY James Daley SECOND BY Tafari Anderson VOTE 9-0

YES: Agresti, Anderson, Bassford, Daley, Danny, Demikoff, Houston, Kowal, Passenti

RETURN FROM EXECUTIVE SESSION: 11:15 PM

Roll call upon return from executive session showed all present.

Item P-6/19/13-32

MOTION BY James Daley SECOND BY Arlene Agresti VOTE 9-0

YES: Agresti, Anderson, Bassford, Daley, Danny, Demikoff, Houston, Kowal, Passenti

ABSTAIN: Bassford (Employee ID 2312 only)

P-6/19/13-32 -- Withholding of Employment Increments

RESOLVED, that the Clifton Board of Education accepts the recommendation of the Superintendent of Schools to withhold the employment increments of the following individuals for the 2013-2014 school year.

Employee ID 64	WITHDRAWN	WITHDRAWN	Employee ID 3009	Employee ID 4016
Employee ID 2312	Employee ID 2846	Employee ID 5046	WITHDRAWN	

MOTION BY James Daley SECOND BY Wayne Demikoff VOTE 8-0-1

YES: Anderson, Bassford, Daley, Danny, Demikoff, Houston, Kowal, Passenti

ABSTAIN: Agresti

Approval to Move Board Meeting Schedule from July 24, 2013 to July 31, 2013

RESOLVED, that the Clifton Board of Education change its Board Meeting schedule from Wednesday, July 24, 2013 to Wednesday, July 31, 2013.

OTHER BOARD BUSINESS: None

ADJOURNED: 11:17 PM

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January 25, 2014

Walter M. Luers, Esq.*

*Also admitted in New York

Writer's Direct Email: wluers@luerslaw.com

Hon. Thomas F. Brogan, P.J.Civ.
Passaic County Courthouse
77 Paterson Street, 3rd Floor
Paterson, New Jersey 07505

Re: *Paff v. Clifton Board of Education, et al.*

Dear Judge Brogan:

We are submitting this Letter Brief in lieu of a more formal brief in support of this action under the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1, *et seq.*, and the common law right of access, which has been opened to the Court via Verified Complaint and Order to Show Cause. This action is being brought because Defendants have denied Plaintiff access to the following records: (1) the executive session meeting minutes of the Board of Education's June 19, 2013 meeting; and (2) correspondence reviewed or entered into the record of that meeting.

First, we discuss the facts of this case. Second, we discuss why this action should proceed in a summary manner. Third, we discuss legal arguments that support disclosure.

STATEMENT OF FACTS

For the facts, the Court is respectfully referred to Plaintiff's Verified Complaint. Plaintiff's OPRA request and Defendants' denial of access are attached to the Verified Complaint.

LEGAL ARGUMENT

POINT I

PLAINTIFF'S ACTION 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 Rule 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 Plaintiff's request for an order to show cause is supported by a verified complaint, the relevant documents have been provided via certification, 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

THE RECORDS SOUGHT BY PLAINTIFF SHOULD BE DISCLOSED

Plaintiff seeks records pursuant to OPRA and the common law right of access. As the Court knows, the Open Public Records Act ("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 [under OPRA] as amended and supplemented, shall be construed in favor of the public's right of access." *Libertarian Party of Cent. New Jersey v. Murphy*, 384 N.J. Super. 136, 139 (App. Div. 2006) (citing *N.J.S.A. 47:1A-1*). "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)).

These lofty descriptions of the purposes of OPRA are not mere bromides or empty statements of legislative intent. 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 burden of proof in showing that a denial of access was justified rests solely with the Records Custodian. *N.J.S.A. 47:1A-6*; *Asbury Park Press v. Monmouth County*, 406 N.J. Super. 1, 7 (App. Div. 2009). Here, the documents sought by Plaintiff are "government records" within the meaning of OPRA. Under OPRA, a "government record":

means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political subdivision

thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. *N.J.S.A. 47:1A-1.1.*

With respect to the executive session meeting minutes, we expect Defendants to argue that they had not been formally “approved” for public release, and thus they were draft documents at the time of Plaintiff’s OPRA request, relying on *Parave-Fogg v. Lower Alloways Creek Township*, GRC Complaint No. 2006-51 (Aug. 2006). As this Court knows, decisions of the Government Records Council are not binding on this Court and have no precedential weight. *N.J.S.A. 47:1A-7(e)* (“A decision of the council shall not have value as a precedent for any case initiated in Superior Court pursuant to [OPRA].”). Indeed, the only official advisory opinion that the GRC ever issued was reversed, and an informal advisory opinion issued by the GRC was disregarded by the New Jersey Supreme Court. *Fair Share Housing Center Inc. v. New Jersey State League of Municipalities*, 207 N.J. 489, 497 (2011) (rejecting the GRC’s advisory opinion that the League of Municipalities was not subject to OPRA); *Renna v. County of Union*, 407 N.J. Super. 230, 244-46 (App. Div. 2009) (rejecting the GRC’s opinion that OPRA request forms must be used when making an OPRA request).

More importantly, this Court should disregard the reasoning of *Parave-Fogg* and hold that the executive session meeting minutes, even if in draft form at the time of Plaintiff’s request, should have been produced to the Plaintiff (subject to any redactions for matters that are open) because of Defendants’ obligations under the Open Public Meetings Act. Unlike this Court, the GRC has no authority to enforce the Open Public Meetings Act (“OPMA”). (*Kohn v. Township of Livingston*, GRC Complaint No. 2011-362 at page 2 (Findings and Recommendations Feb. 2013)). Under the OPMA, all meeting minutes (the law does not

distinguish between open and closed session meetings) must be made available to the public

“promptly,” subject to appropriate redactions for open matters. *O’Shea v. West Milford Board of Education*, 391 N.J. Super. 534, 540 (App. Div. 2007) (“Under OPMA, the Board is required to keep minutes of its executive sessions, and must ‘promptly’ release the notes to the public ‘unless full disclosure would subvert the purpose of the particular exception’ that justified the closed session in the first place.”) (citation omitted). The amount of time that qualifies as “promptly” depends on the facts of each case. The factors are recited at page 333 of *Matawan Reg’l Teachers Ass’n v. Matawan-Aberdeen Reg’l Bd. of Educ.*, 212 N.J. Super. 328, 333, 514 (Ch. Div. 1986):

1. Prior experience in the publication of board minutes.
2. The subject matter of the minutes and its importance to the association and others directly affected by board action.
3. The subject matter of the minutes and its importance to the public, in general.
4. The intervals at which regular meetings were scheduled.
5. Whether meetings complained of were regularly scheduled or were, because of some exigency, held so close together that the board could not reasonably be expected to abide by the act's requirement.

The meeting at issue occurred on June 19, 2013. Plaintiff’s request was made on November 18, 2013, which is five months after the meeting. A quick review of the Board of Education’s website shows that in 2014, the Board has met or will meet three times per month in January and March; will meet two times per month in April, May, June, October and December; and once per month in February, July, August, September and November. This meeting schedule clearly supports a finding that the Board should approve its executive session meeting minutes monthly, if not more frequently. *Id.* (requiring disclosure of minutes within two weeks after a meeting).

The Board's failure to formally approve the meeting minutes should not be an impediment to the public's interest in disclosure, especially when five months have passed since the meeting. In *South Jersey Publishing Co., Inc. v. New Jersey Expressway Authority*, 124 N.J. 478, 494-95 (1991), the Supreme Court held that "Stated simply, that public interest is in access to sufficient information to enable the public to understand and evaluate the reasonableness of the public body's action." Thus, the Defendants should not be permitted to bar access to executive session meeting minutes under OPRA when they have failed to comply with their duty under OPMA to make those minutes available to the public "promptly."

With respect to the correspondence considered or entered into the record during that executive session meeting, Defendants have justified their denial of access on OPMA. But this defense is not available to them. OPMA does not protect documents; OPMA protects the public agency's interest in excluding the public from the public body's confidential deliberations when to do otherwise would harm the public interest. Documents cannot become retroactively confidential simply because they were considered at an executive session meeting. If the document was a public record before it was considered at the meeting, it remains a public record. Thus, whatever correspondence was considered should be produced to the Plaintiff.

POINT III

ACCESS SHOULD BE GRANTED UNDER THE COMMON LAW RIGHT OF ACCESS

If this Court should deny access to the records requested under OPRA, the Court should grant access under the common law right of access. The public's right of access to records is broader under the common law right of access than under OPRA. "Nothing contained in [OPRA] shall be construed as limiting the common law right of access to a government

record, including criminal investigatory records of a law enforcement agency.” *N.J.S.A.* 47:1A-8; *see also North Jersey Media Group Inc. v. State, Dep’t of Personnel*, 389 N.J. Super. 527, 536 (Law. Div. 2006); *Bergen County Improvement Auth. v. N. Jersey Media Group, Inc.*, 370 N.J. Super. 504, 516 (App. Div. 2004). Thus, the right of access to records under the common law is broader than under OPRA. *North Jersey Media Group*, 389 N.J. Super. at 537.

The common law right of access has three elements: (1) the records must be common law public documents; (2) the person who seeks access must “establish an interest in the subject matter of the material,” *South Jersey Publishing Co. v. New Jersey Expressway Auth.*, 124 N.J. 478, 487 (1991), and (3) the citizen’s right to access “must be balanced against the State’s interest in preventing disclosure.” *Higg-A-Rella, Inc.*, 141 N.J. at 46; *see also Keddie v. Rutgers, The State University*, 148 N.J. 36, 50 (1997) (discussing these three elements).

Common law public records “include almost every document recorded, generated, or produced by public officials whether or not ‘required by law to be made, maintained or kept on file.’” *Shuttleworth v. City of Camden*, 258 N.J. Super. 573, 582 (App. Div. 1992). Here, the records sought are public records because they are kept by the public agency. *Higg-A-Rella, Inc.*, 141 N.J. at 46 (defining a common-law record as one that is made by a public official in the exercise of their public function, either because the record was required or directed by law to be made or kept, or because it was filed in a public office). Plaintiff has a strong interest in these records because he is a civil rights activist working towards the public accountability of the police within his community. Thus, Plaintiff has standing to request these documents under the common law, a requirement that is easily met. “A citizen, and the press on its behalf, does not have to prove any personal interest in order to satisfy the common law standing requirement.” *Daily Journal v. Police Dep’t of City of Vineland*, 351 N.J. Super. 110, 122 (App. Div. 2002).

To determine whether the records should be disclosed to Plaintiff, this Court must balance Plaintiffs' interest in disclosure against Defendants' interest in confidentiality. In weighing whether disclosure outweighs confidentiality, New Jersey courts have weighed several factors, including

(1) the extent to which disclosure will impede agency functions by discouraging citizens from providing information to the government; (2) the effect disclosure may have upon persons who have given such information, and whether they did so in reliance that their identities would not be disclosed; (3) the extent to which agency self-evaluation, program improvement, or other decisionmaking will be chilled by disclosure; (4) the degree to which the information sought includes factual data as opposed to evaluative reports of policy-makers; (5) whether any findings of public misconduct have been insufficiently corrected by remedial measures instituted by the investigative agency; and (6) whether any agency disciplinary or investigatory proceedings have arisen that may circumscribe the individual's asserted need for the materials. *Loigman v. Kimmelman*, 102 N.J. 98, 113 (1986).

Defendants have submitted no reasons for why these factors weigh against disclosure of these documents here. We reserve the right to submit additional evidence on this point if Defendants should attempt to deny access under the common law right of access.

POINT IV

AWARD OF REASONABLE ATTORNEYS' FEES

If the Court orders Defendants to produce the documents at issue, the Court should find that Plaintiff is the prevailing party and, under OPRA's fee-shifting provision and the common-law right of access, award Plaintiff a reasonable attorneys' fee and costs. *N.J.S.A.*

Hon. Thomas F. Brogan, P.J.Civ.

January 25, 2014

Page 9 of 9

47:1A-6; *Mason v. Hoboken*, 196 N.J. 51, 79 (2008) (concluding that catalyst theory applies to fee awards under both OPRA and the common law right of access).

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Walter M. Luers". The signature is fluid and extends across the width of the text area.

Walter M. Luers

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Attorney for Plaintiff

JOHN PAFF, Plaintiff, v. CLIFTON BOARD OF EDUCATION and KAREN L. PERKINS in her official capacity as Business Administrator/Board Secretary and Records Custodian, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: PASSAIC COUNTY DOCKET NO. _____ CIVIL ACTION ORDER TO SHOW CAUSE
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THIS MATTER being brought before the Court by Law Offices of Walter M. Luers, LLC, attorney for Plaintiff John Paff, seeking relief by way of summary action pursuant to R. 4:67-1(a), based upon 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 _____ day of _____, 2014 *ORDERED* that the Defendants Clifton Board of Education and Karen L. Perkins appear and show cause on the _____ day of _____, 2014 before the Honorable Thomas F. Brogan, P.J.Civ., Superior Court, County of Passaic, Passaic County Courthouse, 77 Hamilton Street, 3rd Floor, Paterson, New Jersey, at ____ o'clock in the _____ noon or as soon thereafter as counsel can be heard, why judgment should not be entered:

A. Ordering disclosure of (1) the meeting minutes of the Board's June 19, 2013 executive session meeting; and (2) all correspondence entered into the record or presented at that meeting; and

B. An award of costs of this action and reasonable attorneys' fees; and

C. Such other, further and different relief as 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 affidavits or certifications submitted in support of this application be served upon the Defendants personally or by certified mail, return receipt requested, within ____ days of the date hereof, in accordance with *R. 4:4-3* and *R. 4:4-4*, this being original process.

2. The Plaintiff must file with the Court their proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

3. Defendant 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 _____, 2014. 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 Thomas F. Brogan, P.J.Civ.

4. The Plaintiff must file and serve any written reply to the Defendants' order to show cause opposition by _____, 2014. 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 Thomas F. Brogan, P.J.Civ.

5. If the Defendants do 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. Defendants 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 your 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 \$135 filing fee payable to the "Treasurer, State of New Jersey." You must also send a copy of your answer and opposition papers to the Plaintiff's 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. A list of these offices is provided. 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. A list of these numbers is also provided.

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.

HON. THOMAS F. BROGAN, P.J.Civ.

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Attorney for Plaintiff

JOHN PAFF, Plaintiff, v. CLIFTON BOARD OF EDUCATION and KAREN L. PERKINS in her official capacity as Business Administrator/Board Secretary and Records Custodian, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: PASSAIC COUNTY DOCKET NO. _____ CIVIL ACTION ORDER
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THIS MATTER having been brought before the Court pursuant to *R. 4:67-1(a)*
by Walter M. Luers, Esq., of the Law Offices of Walter M. Luers, LLC by Verified
Complaint and Order to Show Cause for and Order requiring Defendants Clifton Board
of Education and Karen L. Perkins to provide Plaintiff with copies of certain public
records, and the Court having considered the papers submitted by the parties, and heard
oral argument on _____, 2014; and for the reasons set forth
on the record on _____, 2014, and for good cause shown,

IT IS on this ____ day of _____, 2014

A. **ORDERED** that Defendants shall within 20 days after service of
this Order upon them provide Plaintiff with copies of the documents requested by him in
his November 18, 2013 OPRA request that were not previously provided, which are (1)
the meeting minutes of the Board's June 19, 2013 executive session meeting; and (2) all
correspondence entered into the record or presented at that meeting; and it is further

B. **ORDERED** that Plaintiff is the prevailing party in this matter and that counsel for Plaintiff shall serve and file their motion and fee certification for reasonable attorneys' fees and costs within 20 days after service of this order upon Plaintiff; and it is further

C. **ORDERED** that Plaintiff shall serve a copy of this Order upon Defendants within seven days of service of this order upon Plaintiff.

HON. THOMAS F. BROGAN, P.J.Civ.

This order was:

OPPOSED _____

UNOPPOSED _____