NOT TO BE PUBLISHED WITHOUT

THE APPROVAL OF THE COMMITTEE ON OPINIONS

JENNIFER COOMBS,

Plaintiff,

v.

BOROUGH OF WESTWOOD and KAREN HUGHES, in her official capacity of records custodian for the Borough of Westwood,

Defendants.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

BERGEN COUNTY

DOCKET NO. BER-L-447-18

CIVIL ACTION

OPINION

Argued: March 13, 2018
Decided: March 13, 2018

Honorable Bonnie J. Mizdol, A.J.S.C.

CJ Griffin, Esq., on behalf of the plaintiff, Jennifer Coombs, (Pashman, Stein, Walder & Hayden, P.C.)

Russell R. Huntington, Esq., on behalf of defendants, Borough of Westwood and Karen Hughes, in her official capacity of records custodian for the Borough of Westwood, (Huntington Bailey, L.L.P.)

Introduction

On January 19, 2018, Jennifer Coombs, ("plaintiff"), filed a verified complaint and order to show cause ("OTSC") against the Borough of Westwood and Karen Hughes, in her official capacity as records custodian for the Borough of Westwood (collectively, the "defendants"), alleging violations of N.J.S.A. 47:1A-1 et seq. ("OPRA") and the common law right of access to public records. Plaintiff seeks to compel production of a 2017 payroll record in non-redacted form, specifically seeking the names of 13 minor employees, an award of counsel fees and costs.

Facts and Procedural History

On December 7, 2017, under the moniker "NJ Ask Media Co.", plaintiff filed an OPRA request with Westwood seeking employee payroll records for all Borough employees for the year 2017. On December 15, 2017, the custodian responded to the request by attaching a 5-page payroll record listing each "of-age" employee's name, position, hire date, salary and overtime pay. The following explanation of redactions made was included:

> "Please be advised that while we have provided all the other information for the 47 Summer Recreation employees who are minors, we have withheld their names to maintain their reasonable expectation of privacy, in accordance with N.J.S.A. 47:1A-1 (Legislative Findings), commonly referred to as Exemption #24 in the Handbook for Records Custodians."

Plaintiff responded that same day, objecting to the redactions and requesting defendants comply with the OPRA request.

On December 20, 2017, the custodian notified the plaintiff that the Borough's attorney would review the matter. On January 9, 2018, the custodian produced a new version of the payroll report but still did not disclose the names of 13 minor employees, replacing the names with initials. The custodian explained the production as follows:

> "Thank you for your patience as we have reviewed your concern that the names of minors should be included in the payroll records. Our Borough Attorney has directed that minors may be identified by their initials and the words "a minor" but not by their full names. I have reviewed all birthdays to ensure that everyone over 18 is entered with their full names, and made a number of changes to that effect. The revised document is attached. There remains 13 minors who are identified as per the Borough Attorney's direction. As I indicated in my email with the original response, we are withholding the names because these individuals have a reasonable expectation of privacy in accordance with N.J.S.A. 47:1A-1, commonly referred to as exemption #24 in the Handbook for Records Custodians. We also believe this is in line with other instances where information regarding minors is redacted, such as Police reports."

On January 19, 2018, plaintiff filed a verified complaint, OTSC and a letter brief seeking to compel production of the un-redacted payroll record. Plaintiff asserts that defendants violated OPRA by refusing to disclose the names of all Borough employees for 2017 in contravention of N.J.S.A. 47:1A-10, which directs that "an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of pension received shall be a government record" and must be disclosed in spite of any other law to the contrary. Additionally, citing Executive Order No. 11[1], plaintiff argues that no reasonable expectation of privacy exists as such information has been available for public access for more than 40 years. In the alternative, plaintiff argues that should the Court find that these minors have a reasonable expectation of privacy, plaintiff's interest in disclosure outweighs any such privacy interest.

While defendants concede that N.J.S.A. 47:1A-10 provides that an employee's name is a "government record" which is generally subject to disclosure, defendants argue that this is a case of first impression and that it is reasonable that a custodian redact the names of, and identify by

[1] Signed into law by Gov. Brendan Thomas Byrne; November 15, 1974.

initials, minor children employed by the Borough. Defendants rely on OPRA's privacy interest exemption (N.J.S.A. 47:1A-1) as grounds for the redactions, and assert that the 2002 adoption of OPRA nullifies Executive Order No. 11. Defendants further invoke the doctrine of *parens patriae* in support of redaction. Lastly, defendants insist that plaintiff lacks standing as the request was submitted by "Ask NJ Media Co.", while the litigation was brought by Jennifer Coombs.

Plaintiff stands firm that the plain language of Section 10 prevails, citing a number of cases interpreting the "notwithstanding any other provision of law" language in support of their assertion. As to the standing challenge, plaintiff argues that she routinely uses the "Ask NJ Media Co." moniker to file OPRA requests and OPRA itself allows for the filing of requests anonymously.

Law

A. OPRA

a. Generally

The purpose of OPRA, N.J.S.A. 47:1A-1 to -13, is plainly set forth in the statute: "to insure that government records, unless exempted, are readily accessible to citizens of New Jersey for the protection of the public interest." Mason v. City of Hoboken, 196 N.J. 51, 57 (2008) (citing N.J.S.A. 47:1A-1). The Act replaced the former Right to Know Law, N.J.S.A. 47:1A-1 to -4 (repealed 2002), and perpetuates "the State's long-standing public policy favoring ready access to most public records." Bent v. Twp. of Stafford Police Dep't, 381 N.J. Super. 30, 36 (App. Div. 2005) (quoting Serrano v. S. Brunswick Twp., 358 N.J. Super. 352, 363 (App. Div. 2003)). To accomplish that objective, OPRA establishes a comprehensive framework for access to public records. Mason, supra, 196 N.J. at 57. Specifically, the statute requires, among other things, prompt

disclosure of records and provides different procedures to challenge a custodian's decision denying access. Id.

OPRA mandates "all government records shall be subject to public access unless exempt." N.J.S.A. 47:1A-1. Therefore, records must be covered by a specific exclusion to prevent disclosure. Id. The Act defines "government record" as follows:

> [A]ny 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. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material.
>
> [N.J.S.A. 47:1A-1.1.]

The OPRA framework contemplates a swift timeline for disclosure of government records. Mason, supra, 196 N.J. at 57. Unless a shorter time period is prescribed by statute, regulation or executive order, a records custodian must grant or deny access to a government record "as soon as possible, but not later than seven business days after receiving the request." N.J.S.A. 47:1A-5(i). Failure to respond within seven business days "shall be deemed a denial of the request." Id. If the record is in storage or archived, the custodian must report that information within seven business days and advise when the record will be made available. Id. Courts have repeatedly found providing redacted documents is also a denial and each redaction must have an exemption. See e.g., Newark Morning Ledger Co. v. N.J. Sports & Exposition Auth., 423 N.J. Super. 140, 148

(App. Div. 2011) (holding the redacted portions of the records must be disclosed as they did not meet the trade secret exemption).

If access to a government record is denied by the custodian, the requestor may challenge that decision by filing an action in Superior Court or a complaint with the Government Records Council ("GRC"). N.J.S.A. 47:1A-6. The right to institute any proceeding under this section, however, belongs solely to the requestor. Id. If the requestor elects to file an action in Superior Court, the application must be brought within forty-five days of the denial. See Mason, supra, 196 N.J. at 70 (holding, explicitly, a 45-day statute of limitations applies to OPRA actions). The Act, however, specifically provides "a decision of the [GRC] shall not have value as precedent for any case initiated in Superior Court," N.J.S.A. 47:1A-7, though such decisions are normally considered unless "arbitrary, capricious or unreasonable, or [violative of] legislative policies expressed or implied in the act governing the agency." Serrano, supra, 358 N.J. Super. at 362 (citing Campbell v. Dep't of Civil Service, 39 N.J. 556, 562 (1963)).

In OPRA actions, the public agency bears the burden of proving the denial of access is authorized by law. N.J.S.A. 47:1A-6. As such, an agency "seeking to restrict the public's right of access to government records must produce specific reliable evidence sufficient to meet a statutorily recognized basis for confidentiality." Courier News v. Hunterdon Cnty. Prosecutor's Office, 358 N.J. Super. 373, 382–83 (App. Div. 2003). Absent the necessary proofs, "a citizen's right of access is unfettered." Id. In assessing the sufficiency of the proofs submitted by the agency in support of its claim for nondisclosure, "a court must be guided by the overarching public policy in favor of a citizen's right of access." Id. If it is determined access has been improperly denied, such access shall be granted, and a prevailing party shall be entitled to a reasonable attorney's fee. N.J.S.A. 47:1A-6.

b. OPRA Exemptions

Although OPRA defines "government record" broadly, the public's right of access is not absolute. Educ. Law Ctr. v. N.J. Dep't of Educ., 198 N.J. 274, 284 (2009) (citing Mason, supra, 196 N.J. at 65). The statute excludes twenty-one categories of information, which are exempt from disclosure. Mason, supra, 196 N.J. at 65. Specifically, N.J.S.A. 47:1A-1 provides:

> [A]ll government records shall be subject to public access unless exempt from such access by: [other provisions of OPRA]; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law, federal regulation, or federal order.

The Supreme Court noted these protected categories include "criminal investigatory records, victims' records, trade secrets, various materials received or prepared by the Legislature, certain records relating to higher education, and other items." Mason, supra, 196 N.J. at 65. The Court also noted "records within the attorney-client privilege or any executive or legislative privilege, as well as items exempted from disclosure by any statute, legislative resolution, executive order, or court rule" are excluded. Id.

As such, a records custodian may rightfully deny a request if the record belongs to one of the enumerated categories of exemptions or was created by another statute or Executive Order, which significantly reduces the universe of publicly-accessible information. As the Legislature acknowledged in N.J.S.A. 47:1A-1 and N.J.S.A. 47:1A-8, the only countervailing relief mechanism for those seeking access to a statutorily excluded document is the common law right of access." Bergen Cnty. Imp. Auth. v. N. Jersey Media Grp., Inc., 370 N.J. Super. 504, 516–17 (App. Div. 2004), certif. denied, 182 N.J. 143 (2004).

i. The Privacy Interest Exemption

While OPRA favors the disclosure of government records, it also acknowledges "a public agency has a responsibility and an obligation to safeguard from public access a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy." N.J.S.A. 47:1A-1. The statute, however, does not define "personal information" or "reasonable expectation of privacy," nor does it contain a general privacy exemption. It does, though, specifically exempt certain types of personal information from disclosure, such as: social security numbers, credit card numbers, unlisted telephone numbers and driver's license numbers. N.J.S.A. 47:1A-1.1. This personal information is to be redacted from a government record before the custodian permits access to the remainder of the document. N.J.S.A. 47:1A-5(a).

OPRA also provides exemptions for personal identifying information received in connection with the issuance of any license authorizing hunting with a firearm as well as any application to purchase a firearm. N.J.S.A. 47:1A-1.1. This information includes, but is not limited to: identity, name, address, social security number, telephone number and driver's license number. Id.

In addition, OPRA provides an exemption for personal information that is protected from disclosure by any other state or federal statute, regulation or executive order. N.J.S.A. 47:1A-9. For example, OPRA may not be used to obtain the residential home address of a victim of domestic violence who is protected by the Address Confidentiality Program Act. N.J.S.A. 47:4-2.

To resolve the competing interests of privacy and access, our Supreme Court in Burnett v. Cnty. of Bergen, 198 N.J. 408, 427 (2009) adopted the multifactorial test of Doe v. Poritz, 142 N.J. 1 (1995). "Although Doe considered constitutional privacy interests implicated by Megan's

Law, it relied on case law concerning statutory privacy provisions under the Freedom of Information Act (FOIA)." Id. The balancing test articulated in Doe and adopted by Burnett identified the following factors for consideration:

> 1. the type of record requested;
> 2. the information it does or might contain;
> 3. the potential for harm in any subsequent nonconsensual disclosure;
> 4. the injury from disclosure to the relationship in which the record was generated;
> 5. the adequacy of safeguards to prevent unauthorized disclosure;
> 6. the degree of need for access; and
> 7. whether there is an express statutory mandate, articulated public policy, or other recognized public interest militating toward access. [Ibid. (quoting Doe, supra, 142 N.J. at 88).]

The Burnett Court stated OPRA's "privacy provision [was] directly implicated [as] the requested documents contained [social security numbers] along with names, addresses, signatures, and marital status of a substantial number of New Jersey residents." Burnett, supra, 198 N.J. at 428. The Court, therefore, turned to the balancing test outlined in Doe "to harmonize OPRA's competing concerns and evaluate whether disclosure without redacting [social security numbers was] proper." Id.

The Court found the following factors favored disclosure of the records without first redacting the social security numbers: (1) the records were public records, (2) the very purpose of the records was to place the world on notice of their contents, and (3) the realty records in question did not require inclusion of social security numbers. Id. at 429. Conversely, the Court considered the following in determining the social security numbers were to be redacted: (1) that a social security number being available at a clerk's office did not eliminate a person's expectation of privacy, (2) the social security numbers were paired with other personal information, elevating the

privacy concern at stake, (3) the bulk disclosure of realty records to a commercial entity to be included in a searchable electronic database would eliminate the practical obscurity that enveloped records held at the Bergen County Clerk's Office, and (4) the documents were composite documents, which "implicate privacy concerns more broadly than documents with one item alone." Id. at 430-31. The Court held, "on balancing the above factors,...the twin aims of public access and protection of personal information weigh in favor of redacting SSNs from the requested records before releasing them." Id. at 437.

Analysis

A. OPRA

Included within OPRA's definition of "government records", which are subject to public access unless exempt, are documents and information maintained in the course of official business by agencies of the state. See N.J.S.A. 47:1A-1.1. In pertinent part, N.J.S.A. 47:1A-10 provides:

> "Notwithstanding (N.J.S.A. 47:1A-1 et seq.) or any other law to the contrary, the personnel or pension records of any individual in the possession of a public agency...shall not be considered a government record and shall not be made available for public access, except that: an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of any pension received shall be a government record"

There is no dispute that payroll records and information contained within, specifically the employee names; positions; length of service; and salaries for 2017, are "government records" within this definition.

Plaintiff argues that there is no exception that permits the withholding of this information, as the Legislature required disclosure in Section 10, specifically citing the clause "*[n]otwithstanding* the provisions of [OPRA] or any other law to the contrary." (emphasis added). "We must presume that every word in a statute has meaning and is not mere surplusage, and

therefore we must give those words effect and not render them a nullity." In re Attorney General's "Directive on Exit Polling: Media & Non-Partisan Pub. Interest Grps.", 200 N.J. 283, 297-98 (2009) (internal citations omitted). The statutory definition of the word "notwithstanding" is: "[d]espite; in spite of." Black's Law Dictionary (10th ed.) Our Supreme Court and appellate division have interpreted the phrase "notwithstanding any other provision of law" language in accordance with this definition and rule of construction, holding this language as meaning that no other statute shall be applied to contradict the statute at issue. See New Jersey State Policemen's Benev. Ass'n of New Jersey, Inc. v. Town of Morristown, 65 N.J. 160 (1974); See also A.A. v. State, 384 N.J. Super. 481 (App. Div. 2006). It is "[a] court's responsibility is to give effect to the intent of the Legislature." State v. Harper, 229 N.J. 228, 237 (2017) (quoting State v. Morrison, 227 N.J. 295, 308 (2016)). "To do so, we start with the plain language of the statute. If it clearly reveals the Legislature's intent, the inquiry is over." Id. (citing DiProspero v. Penn, 183 N.J. 477, 492 (2005)). Reviewing courts "presume that the Legislature was aware of its own enactments and did not intend to create intentional conflict between...statutory schemes without expressly overriding provisions." Headen v. Jersey City Bd. of Educ., 212 N.J. 437, 449 (2012).

The language of Section 10 expresses the intent of the legislature with clarity; the names of public employees contained in personnel records possessed by a public agency are government records subject to disclosure.

While this court recognizes that the purpose of the privacy interest exemption is to protect citizen's personal information from being disclosed to the public where a reasonable expectation of privacy exists, what constitutes a reasonable expectation of privacy is left undefined by statute. When the court reviews multiple, related statutory provisions, "the goal is to harmonize the statutes in light of their purposes." American Fire & Cas. Co. v. N.J. Div. of Taxation, 189 N.J. 65, 79-80

(2006) (internal citations omitted). Presuming the Legislature was aware of both Section 1 and Section 10 when it enacted them and did not intend for them to conflict, harmonization of these provisions requires that public employees could not have a reasonable expectation of privacy regarding their names as contained within the Borough's payroll records. To find otherwise would expressly override the pertinent provision of Section 10 authorizing the release of this information.

As noted previously, plaintiff cites Executive Order No. 11 for the proposition that open access to public employee payroll records has been the policy of New Jersey for at least 40 years. In relevant part, Executive Order No. 11 states:

> "...an instrumentality of government shall not disclose...personnel...records of an individual, except that the following shall be public: (a)n individual's name, title, position, salary, payroll record, length of service in the instrumentality of government and in the government, date of separation from government service and the reason therefor..."

Defendants argue that Executive Order No. 11 predates the adoption of OPRA and its privacy interest exemption and, therefore, it has no bearing on this matter.

Neither party, however, references Executive Order No. 21, signed by Governor James Edward McGreevy on July 8, 2002; some six (6) months after and directly in response to the enactment of OPRA by the Legislature. Executive Order No. 21 explicitly continues Executive Order No. 11. Section 10 of OPRA virtually parrots the language of Executive Order No. 11, confirming to the court that Executive Orders No. 11 and 21 have significant bearing on this matter and support the proposition that open public access to employee payroll records has been and continues to be the policy of this State.

This court is not persuaded that plaintiff lacks standing to being this matter. OPRA itself permits anonymous requests to be made. See N.J.S.A. 47:1A-5. This court finds that plaintiff has standing regardless of the pseudonym used to bring the claim.

i. Privacy Interest Exemption Relating to Employees

Defendant cites Burnett for the general proposition that the privacy interest exemption imposes a duty on the courts to protect citizen's reasonable privacy interests. See, supra, 198 N.J. at 423. In Burnett, the court dealt with requests for land use records and the disclosure of millions of social security numbers linked to names and addresses pursuant to N.J.S.A. 47:1A-5(a). Our Supreme Court ordered the social security numbers redacted from the requested records relying upon federal and state statutes that generally prohibit the disclosure of social security numbers, in addition to the privacy interest exemption. The holding in Burnett is distinguishable from the instant matter. Section 5(a) exempts from disclosure social security numbers contained in "government records", "except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by law." Burnett, supra, 198 N.J. at 422.

The language of Section 5(a) provides for an exception to the exemption from disclosure unlike the language of Section 10. Section 10 directs disclosure of employee names despite the existence of any other laws to the contrary.

In North Jersey Media Group v. Bergen County Prosecutor's Office, the appellate division found that the only personnel information the defendant was authorized to disclose were the specific items listed in N.J.S.A. 47:1A-10, and that detectives' applications for outside employment were not included in that list and, therefore, need not be produced in response to an

OPRA request. See 405 N.J. Super. 386 (App. Div. 2009). The holding is clear that any of the specific items listed in Section 10 must be disclosed; public employees names are specified in Section 10 and the statute makes no distinction between "of age" or minor employees.

ii. Federal Case Law on the Privacy Interests of Employees

Defendants cite four (4) federal cases for the general proposition that disclosure of employee names serves little to advance transparency in government. Defendants' reliance on each case is misplaced.

Defendant misconstrues the findings of United States Dep't of Defense v. Federal Labor Relations Auth., 510 U.S. 487 (1994). The controversy underlying USDD arose when two local unions requested federal agencies to provide them with the names and home addresses of the agency employees in the bargaining units represented by the unions. "The agencies supplied the unions with the employees' names and workstations, but refused to release the home addresses." Id. at 490. The United States Supreme Court found that the Freedom of Information Act, U.S.C. Sec. 552(b)(6) ("FOIA Exemption 6") did not require agencies to divulge addresses and that such a disclosure would constitute an unwarranted invasion of privacy. FOIA Exemption 6, required a balancing of "whether disclosure of (personnel, medical, and similar files and information contained therein) would constitute a clearly unwarranted invasion of personal privacy" Id. at 495 (internal quotations omitted). USDD dealt exclusively with FOIA Exemption 6, not OPRA Section 10 which does not require a balancing test regarding the names contained in payroll records. Further, defendants fail to acknowledge that the disclosure of agency employee names was never a contested issue in USDD. The names of the agency employees were disclosed long before suit was instituted.

Defendant next argues that at least one New Jersey federal court has found that OPRA's privacy exemption precludes the production of the names of municipal employees. In John Does v. City of Trenton Dep't of Pub. Works, plaintiff John Does were employees of PKF, a general contractor engaged in the business of construction on public works projects in the City of Trenton. See F. Supp.2d 560 (D. N.J. 2008) In response to an OPRA request, Trenton provided copies of PKR's weekly certified payroll reports containing the names and addresses, but redacting the social security numbers of PKF employees. Plaintiff filed a complaint and motion for injunctive relief seeking to enjoin the City from disseminating the names, addresses, social security numbers and other personally identifying information of any person employed on the project, asserting that the disclosure of this personal information violated the employees' rights of privacy. The district court, in its analysis, was focused on the release of personal identifiers, including addresses, social security numbers and telephone numbers finding that the dissemination of such personal information would amount to an unreasonable invasion of an individual's privacy. Id. at 571. The information sought far exceeded the employees' names.

Two cases defendants cite from the United States Court of Appeals for the Third Circuit deal with interpretation of FOIA Section 552(b)(6) and the release of names, home addresses, social security numbers, telephone numbers and similar personal information of employees of private contractors working on public projects. See Sheet Metal Workers International Assoc. v. U.S. Dep't of Veterans Affairs, 135 F.3d. 891, 902 (3d. Cir. 1998); see also Int'l Brotherhood of Electrical Workers Union No. 5 v. U.S. Dep't of Housing and Urban Development, 852 F.2d 87 (3d. Cir. 1988). While both courts were reluctant to disparage the privacy of the home, each came to an opposite conclusion.

The Sheet Metal Workers opinion concluded that dissemination of names, addresses and social security numbers of the private contractor employees was an unwarranted invasion of personal privacy under FOIA, not under OPRA.

The court in Int'l Brotherhood concluded that release of the names and addresses of employees of a private contractor hired by the government to a union for purpose of enforcement of the Davis-Bacon Act, 40 U.S.C.S. Sec. 276(a) et seq. was proper, finding that "[o]n balance, we conclude that in light of the presumption in favor of disclosure, the release of the names and addresses of M&K's employees is not barred by Exemption 6 (of FOIA, 5 U.S.C. § 552(b)(6))."

Both Int'l Brotherhood and Sheet Metal Workers dealt exclusively with FOIA Exemption 6, not OPRA. Where both FOIA Exemption 6 and OPRA Section 10 contain exemptions from access for personnel files, only OPRA Section 10 contains an exception to the exemption which mandates public access to payroll records and employee names. As such, any analysis of the privacy interests relating to matters brought exclusively under FOIA is inapplicable to matters brought under OPRA Section 10.

iii. The Privacy Rights of Minors

Defendant cites case law and a decision of the GRC to support the contention that there exists a privacy interest in the personal information of minor employees of the Borough regardless of whether such right exists for adults. Defendant petitions the Court to read such a right into Section 10. The Court addresses these arguments in turn.

In Wolosky v. Sparta Bd. Of Educ., A-4536-14T2, Unpub. LEXIS 79 (App. Div. 2017), the appellate division affirmed the trial judge's decision that the Board had properly "redacted...the student's initials from the attorney records." Id. at 1, 6. The duty imposed upon school boards to protect the private information of students is different from the duty of a Borough to protect public

employees; certain information may not be available from one source despite the same information being available through another. See Id. at 5 (quoting C.G. v. Winslow Twp. Bd. Of Educ., 443 N.J. Super. 415, 423-24 (Law. Div. 2015). School boards are required to withhold student's sensitive information pursuant to federal and state law, see L.R. v. Camden City Pub. Sch. Dist., 452 N.J. Super 56 (2017), a requirement not imposed on a Borough regarding minor employees' information.

Defendant next relies upon Michael Lakavitch v.Township of Toms River, GRC Complaint No. 2010-230 (Feb. 28, 2012), which found that pursuant to N.J.S.A. 47:1A-5(e), the responsive records were contracts for participation in a youth hockey program, and were subject to disclosure with redaction of the names of the minor participants pursuant to the privacy interest exemption . See Id. at 9-10. Defendants' reliance is again misplaced. The GRC concluded that "OPRA will protect the names of minors...where no other law exists to the contrary." Id. at 10. In the instant matter, there is statutory law to the contrary which requires the release of the names of all employees regardless of age.

Plaintiff next invokes the doctrine of *parens patriae*, "parent of the country", to argue that the State has a duty to protect those who cannot protect themselves, such as minors, infants and the disabled. What defendant asks the court to do is read a meaning into Section 10 that is simply missing from the text. As plaintiff urges, should defendants believe strongly enough that the names of minor employees should be protected from disclosure, they are free to lobby the Legislature. Until and unless the Legislature amends Section 10, this court shall abide by its self-evident text.

The court need not engage in a common law Doe analysis as the information is readily available through OPRA.

Conclusion

For the reasons set forth above and pursuant to N.J.S.A. 47:1A-1 ET. Seq. and N.J.S.A. 47:1A-10, this court finds the plaintiff's request for records is hereby granted. Defendants shall produce the records no later than March 20, 2018. Likewise, plaintiff's request for reasonable attorney fees under N.J.S.A. 47:1A-6 is granted. Counsel shall attempt to agree upon a reasonable quantum of fees. Failing to accomplish same, counsel for plaintiff shall submit a certification of services to the Court within fourteen (14) days of the date hereof.

An appropriate order shall be executed.

Hon. Bonnie J. Mizdol, A.J.S.C.