

Trenton, NJ 08625

# **A Public Guide to OPRA: The Open Public Records Act**

**(N.J.S.A. 47:1A-1 et seq.)**

## **What is OPRA?**

The Open Public Records Act (OPRA) is a State law to increase the public's accessibility to view and copy government records maintained by public agencies in the State. Additionally it provides the public a procedure to register a complaint when a request for access to government records is denied. A "government record" is defined as a physical record that has been generated, maintained, or received by a public agency in the course of official business.

## **Are all government records accessible to the public?**

While most government records are accessible to public access, some are not. Information received by a State Senator or General Assembly member, from, or concerning, a constituent is not considered a government record. The same is true for communication prepared for State Senators or Assemblymen. Other records that are not disclosed to the public include: information that would threaten homeland security; personal information; interfere with competitive business practices. Information on other exceptions to disclosure can be obtained from the Government Records Council.

## **Why are some records not disclosed?**

While OPRA mandates that limitations on the public's right of access should be decided in the public's favor, a public agency is required to keep a citizen's personal information from public access when disclosure would violate the citizen's reasonable expectation of privacy. Subsequently, it may be necessary for the public agencies to redact certain personal information (i.e. social security, credit card, drivers license or unlisted telephone numbers) from the record before releasing it to the public.

## **How do I obtain government records from public agencies?**

OPRA requires that all public agencies appoint a Records Custodian. It is the function of the Custodian to release government records to the public. People who want to obtain public records should contact the Custodian of the public agency that holds those records. In addition, OPRA requires that all public agencies adopt a Records Request Form. This form must be filled out and hand-delivered, mailed, or transmitted electronically, but cannot be transmitted verbally. Contact the agency that you are requesting document from for specific instruction on how to file the form.

**Do I have to have a formal Records Request form for all government records that I request?**

Many public agencies will continue to use non-OPRA forms for routine records requests that are usually filled promptly. In the event this type of informal request results in a denial, the Records Custodian is obligated to provide a formal denial that includes information about OPRA appeal rights.

**How long will it take the Custodian to respond to me?**

The Records Custodian must comply with the request “as soon as possible,” but no later than seven business days after the request is received. Requests for access to budgets, bills, vouchers, and contracts must be processed immediately. The seven-day “clock” starts the day after the request is received. If a record is in storage or archived, the Custodian will advise the requester within seven business days and tell the requester when the record will be available.

**Are there fees involved?**

The public agency can only charge the public for the cost of copies of printed government records. The fee structure will not exceed \$.75 per page for the first 10 pages, \$.50 per page for pages 11-20 and \$.25 per page for each page over 20. If the requester ask for a record to be copied in a particular format, and the public agency is able to honor that request, the agency may charge an addition charge to cover the cost for any extensive use of information technology or for the labor cost of personnel providing the service. In such cases the custodian may require a deposit when you submit your request.

**Can my request be legitimately denied?**

Yes, reasons for denial reside for the most part in OPRA’s exceptions. Additionally a request maybe denied if the requester fails to properly fill out the records request form or fails to provide proper identification.

**What happens if my request is denied?**

If your request for a government record is denied, there are two avenues of redress. You may file a suit in Superior Court, or you may apply to the Government Records Council for intervention.

**What is the Government Records Council?**

The Government Records Council (GRC), is part of the State’s Department of Community Affairs, is charged with providing assistance to the public and records custodians, and with hearing complaints about denial of access to records. The GRC is composed of the Commissioners of Community Affairs and Education (or their designees); and three members of the public. An Executive Director, assisted by professional and clerical staff administer the work of the GRC.

**What can the GRC do for me if access to records is denied?**

Prior to filing a complaint, you may want to contact the Council to ask for their assistance or inquire about the denial. You can contact the Council on their toll free help line, 866-850-0511, or by e-mail ([grc@dca.state.nj.us](mailto:grc@dca.state.nj.us)) or from their web site at [www.state.nj.us/grc](http://www.state.nj.us/grc). The GRC may be able to help resolve a records access dispute through informal intervention. To file an official complaint and make use of the formal mediation process (see below) the requester must to submit a written complaint, alleging that a custodian of a government record has improperly denied you access to that government record. Information on legal reasons for denial and the complaint form can be obtained from the GRC’s toll-free number or the web site.

#### What is mediation?

When the GRC receives a written complaint, the parties will be offered an opportunity to resolve the dispute through mediation, with an impartial mediator. Mediation is an informal, nonadversarial process, which aims to help the parties reach an acceptable, voluntary agreement. If mediation fails to resolve the matter to the mutual satisfaction of the parties, the council will launch the council decides in favor of the requester, and it finds that the custodian “willfully and knowingly” unreasonably denied access under the full circumstances, the Records Custodian can be fined. And the requester may be entitled to a reasonable attorney’s fee. The GRC’s decision may be appealed to the Appellate Division of Superior Court.

#### Do I have to use the Government Records Council?

If a requester is denied access to public records, he or she has the option of seeking relief from the Superior Court in the county where the denial occurred. These court actions usually require a \$200 filing fee.

#### How to get more information about the law?

If you are interested in more information about OPRA or the Council, you should review the free publication “A Citizens Guide to the Open Public Records Act” and visit the Council’s web site for more information about the law, exceptions to access, and the appeal process. The Council can be contacted at:

Mail: Government Records Council

PO Box 819

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