

A brief overview of OPRA: The Open Public Records Act

Excerpted from a presentation of the
New Jersey Government Records Council

Legal stuff: The presenter is not a lawyer and the info contained in this presentation is intended as general guidance only and does not constitute formal legal advice or a final decision of the Government Records Council concerning any specific request for records, or alter any legal right or liability already existing in New Jersey or federal law. Your own legal counsel should be consulted as appropriate. All Rights Reserved.

Tags, Tax and Title extra (just kidding)



The Overseer of OPRA

New Jersey Government Records Council

101 S. Broad Street, P.O. Box 819

Trenton, NJ 08625-0819

Office: (609) 292-6830 (use this number!)

Fax: (609) 633-6337

Inquiry Hotline: (866) 850-0511 (not so hot)

E-Mail: grc@dca.state.nj.us

Website: www.nj.gov/grc

What Is OPRA?

State Law N.J.S.A. 47:1A-1 et seq. requires timely access to government records when public requests

- Replaced “Right to Know Law” which forced requester to know exactly what they wanted
- Broadly defines “government record” increasing public’s access (forcing bureaucratic cultural change)
- Provides compliance process via the GRC with penalties for officials willfully violating OPRA
- Must write denial reason i.e. privacy regulation

What Is The General Records Council?

- Empowered to oversee OPRA law
- Provide friendly assistance to requestors and records custodians
- Mediate and adjudicate public's appeals of denial for records

What Public Agencies Are Covered Under OPRA?

➤ Executive Branch

- State Authorities
- State Commissions
- State Colleges and Universities

➤ Counties

➤ Municipalities

- Fire Districts
- School Boards
- Planning and Zoning Boards
- Business Improvement Districts
- ??? (“Others”)

Are All Government Records Accessible To The Public?

- Yes...Government records shall be readily accessible with certain exceptions.
- All limitations on access shall be construed in favor of the public.
- Public agencies must safeguard a citizen's personal information.





More...Are All Government Records Accessible To The Public?

- Requestors need for access is irrelevant. Public does not have to justify why it wants a record.
- If it can be inspected, it can be copied.
- Copyright is not an issue under OPRA.
- Record series lists requiring retention found at www.state.nj.us/state/darm/links/retention.html

Can A Public Agency Deny A Request?

- Yes...if public agency can demonstrate that denial is authorized by law. (burden of proof on custodian)
- If the request is not on the agency's official OPRA records request form (so ask for the OPRA form!)





Why Are Some Records Not Disclosed?

➤ Exemptions (see handouts)

- 24 OPRA Exemptions
- One OPRA exemption is catch-all:
 - State and federal statutory exemptions
 - State regulation exemptions
 - Governors' Executive Order exemptions
- Citizen's reasonable expectation of privacy

Who Is The Records Custodian?

- Towns & Townships = Municipal Clerks.
- All other public agencies State and below = the officer officially designated by an agency's director or governing body.



Request Response - Timeliness

- Custodian shall grant or deny access **ASAP**, but **never later than 7 business days** after request is received..
 - may request clarification of broad or unclear request, or request time extension to respond for legitimate reason
 - If record in deep storage, written notice to requester necessary if record not available within 7 business days.
- **Immediate access** to budgets, bills, vouchers and contracts. Immediate means “immediate”



Copying Costs

- Copy costs have been court challenged so contact GRC to prevent being overcharged.
- Special “extraordinary effort” charges must be analyzed on case-by-case basis.
- Custodian must provide records in medium requested charging only a reasonable fee.
- Databases/GIS are records may have research cost
- Tax and land records access being litigated now.

What Happens If Request Is Denied?

- Requestors may file complaint in :
 - Superior Court (filing fee) or
 - Government Records Council
(big hint: free)
 - **NOT BOTH!**



Finally...

- Additional OPRA info in your packets.
- I hope all your record searches are successful
- The End. Questions?

