

Important Notice

The last page of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information – Please Print

First Name _____ MI _____ Last Name _____
 E-mail Address _____
 Mailing Address _____
 City _____ State _____ Zip _____
 Telephone _____ FAX _____
 Preferred Delivery: Pick Up _____ US Mail _____ On-Site Inspect _____ Fax _____ E-mail _____

Under penalty of N.J.S.A. 2C:28-3, I certify that

1. I **HAVE** / **HAVE NOT** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States;
2. I, or another person, **WILL** / **WILL NOT** use the requested government records for a commercial purpose;
3. I **AM** / **AM NOT** seeking records in connection with a legal proceeding.

Signature _____ Date _____

Payment Information

Maximum Authorization Cost \$ _____
 Select Payment Method
 Cash _____ Check _____ Money Order _____
 Fees: Letter size pages - \$0.05 per page
 Legal size pages - \$0.07 per page
 Other materials (CD, DVD, etc) – actual cost of material
 Delivery: Delivery / postage fees additional depending upon delivery type.
 Extras: Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

Note: If you confirmed above that the records sought are in connection with a legal proceeding, identification of that proceeding is required below.

AGENCY USE ONLY

Est. Document Cost _____
 Est. Delivery Cost _____
 Est. Extras Cost _____
 Total Est. Cost _____
 Deposit Amount _____
 Estimated Balance _____
 Deposit Date _____

AGENCY USE ONLY

Disposition Notes
 Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.

In Progress - Open _____
 Denied - Closed _____
 Filled - Closed _____
 Partial - Closed _____

AGENCY USE ONLY

Tracking Information		Final Cost	
Tracking #	_____	Total	_____
Rec'd Date	_____	Deposit	_____
Ready Date	_____	Balance Due	_____
Total Pages	_____	Balance Paid	_____
Records Provided			
Custodian Signature _____		Date _____	

DEPOSITS

The custodian may require a deposit against costs for reproducing documents whenever the custodian anticipates that the documents requested will cost in excess of \$5 to reproduce. N.J.S.A. 47:1A-5(f).

Where a special service charge is warranted under OPRA, that amount will be communicated to you as required under the statute. You have the opportunity to review and object to the charge prior to it being incurred. If, however, you approve of the fact and amount of the special service charge, you may be required to pay a deposit or pay in full prior to reproduction of the documents.

YOUR REQUEST FOR RECORDS IS DENIED FOR THE FOLLOWING REASON(S):

(To be completed by the Custodian of Records – check the box of the numbered exemption(s) as they apply to the records requested. If multiple records are requested, be specific as to which exemption(s) apply to each record. **Response is due to requestor as soon as possible, but no later than seven (7) or fourteen (14) business days. See page 5 for additional response details**)

N.J.S.A. 47:1A-1.1

- Inter-agency or intra-agency advisory, consultative or deliberative material
- Legislative records
- Law enforcement records:
 - Medical examiner photos
 - Criminal investigatory records (however, N.J.S.A. 47:1A-3(b) lists specific criminal investigatory information which must be disclosed)
 - Victims' records and/or OPRA requests submitted by victims seeking their own records
- Personal firearms records or personal identifying information connected to any license authorizing hunting with a firearm.
- Trade secrets and proprietary commercial or financial information
- Any record within the attorney-client privilege
- Administrative or technical information regarding computer hardware, tablets, telephones, electronic computing devices, software applications, and networks or devices operation them which, if disclosed would jeopardize computer security
- Emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein
- Security measures and surveillance techniques which, if disclosed, would create a risk to the safety or persons, property, electronic data or software
- Security alarm system activity and access reports, including video footage the disclosure of which does not compromise the integrity of the security system
- Information which, if disclosed, would give an advantage to competitors or bidders including detailed or itemized cost estimates prior to bid opening
- Information generated by or on behalf of public employers or public employees in connection with:
 - Any sexual harassment complaint filed with a public employer
 - Any grievance filed by or against an employee
 - Collective negotiations documents and statements of strategy or negotiating
- Information that is a communication between a public agency and its insurance carrier, administrative service organization or risk management office
- Information that is to be kept confidential pursuant to court order
- Certificate of honorable discharge issued by the United States government (commonly Form DD-214 or NGB-22) filed with a public agency
- Oath of allegiance, oath of office, or other affirmation; except that full name, title, and oath date.
- Privacy Information:
 - Social security numbers
 - Credit card or debit card numbers
 - Bank account information
 - Month and day of birth
 - Personal e-mail address required by a public agency for government applications, services, or programs
 - Telephone numbers
 - Drivers' license numbers
 - Primary or secondary addresses for covered persons or immediate family members per N.J.S.A. 47:1B-1 (Daniel's Law)
- Portion of any document disclosing personal information of any person provided to a public agency for sole purpose of receiving official notifications
- Lists (including personal information) of persons identifying as in need of special assistance in the event of an emergency maintained by a municipality or county
- Portion of any record disclosing the personal identifying information of a person under 18 years old
- Personal identifying information contained on domestic animal permits, license, and registrations.
- Metadata
- New Jersey Firemen's Association financial relief applications
- Owner and maintenance manuals
- HIPAA information and indecent or graphic images of a person's intimate parts as defined in N.J.S.A. 47:1A-5.2
- Certain records of higher education institutions:
 - Research records
 - Questions or scores for exam for employment or academics
 - Charitable contribution information
 - Rare book collections gifted for limited access
 - Admission applications

- Student records, grievances or disciplinary proceedings revealing a students' identification
- Biotechnology trade secrets **N.J.S.A. 47:1A-1.2**
- Convicts requesting their victims' records **N.J.S.A. 47:1A-2.2**
- Ongoing investigations of non-law enforcement agencies (must prove disclosure is inimical to the public interest) **N.J.S.A. 47:1A-3(a)**
- Public defender records **N.J.S.A. 47:1A-5(k)**
- Upholds exemptions contained in other State or federal statutes and regulations, Executive Orders, Rules of Court, and privileges created by State Constitution, statute, court rule or judicial case law **N.J.S.A. 47:1A-9**
- Personnel and pension records (however, the following information must be disclosed:
 - An individual's name, title, position, salary, payroll record, length of service, date of separation and the reason for such separation, and the amount and type of any pension received
 - When required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the US, or when authorized by an individual in interest
 - Data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information **N.J.S.A. 47:1A-10**

N.J.S.A. 47:1A-1

- "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."

Burnett v. County of Bergen, 198 N.J. 408 (2009). Without ambiguity, the court held that the privacy provision "is neither a preface nor a preamble." Rather, "the very language expressed in the privacy clause reveals its substantive nature; it does not offer reasons why OPRA was adopted, as preambles typically do; instead, it focuses on the law's implementation." "Specifically, it imposes an obligation on public agencies to protect against disclosure of personal information which would run contrary to reasonable privacy interests."

Executive Order No. 21 (McGreevey 2002)

- Records where inspection, examination or copying would substantially interfere with the State's ability to protect and defend the State and its citizens against acts of sabotage or terrorism, or which, if disclosed, would materially increase the risk or consequences of potential acts of sabotage or terrorism.
- Records exempted from disclosure by State agencies' proposed rules.

Executive Order No. 26 (McGreevey 2002)

- Certain records maintained by the Office of the Governor
- Resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing
- Records of complaints and investigations undertaken pursuant to the Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environments
- Information relating to medical, psychiatric or psychological history, diagnosis, treatment or evaluation
- Information in a personal income or other tax return
- Information describing a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness, except as otherwise required by law to be disclosed
- Test questions, scoring keys and other examination data pertaining to the administration of an examination for public employment or licensing
- Records in the possession of another department (including NJ Office of Information Technology or State Archives) when those records are made confidential by regulation or EO 9.

Other Exemption(s) contained in a State statute, resolution of either or both House of the Legislature, regulation, Executive Order, Rules of Court, any federal law, federal regulation or federal order pursuant to N.J.S.A. 47:1A-9(a).

(Please provide detailed information regarding the exemption from disclosure for which you are relying to deny access to government records. If multiple records are requested, be specific as to which exemption(s) apply to each record.)

REQUEST FOR RECORDS UNDER THE COMMON LAW

If, in addition to requesting records under OPRA, you are also requesting the government records under the common law, please check the box below.

A public record under the common law is one required by law to be kept, or necessary to be kept in the discharge of a duty imposed by law, or directed by law to serve as a memorial and evidence of something written, said, or done, or a written memorial made by a public officer authorized to perform that function, or a writing filed in a public office. The elements essential to constitute a public record are that it be a written memorial, that it be made by a public officer, and that the officer be authorized by law to make it.

Yes, I am also requesting the documents under common law.

If the information requested is a "public record" under common law and the requestor has a legally recognized interest in the subject matter contained in the material, then the material must be disclosed if the individual's right of access outweighs the State's interest in preventing disclosure.

Please set forth your interest in the subject matter contained in the requested material:

Note that any challenge to a denial of a request for records under the common law cannot be made to the Government Records Council, as the Government Records Council only has jurisdiction to adjudicate challenges to denials of OPRA requests. A challenge to the denial of access under the common law can be made by filing an action in Superior Court.

1. All "government records" as defined in N.J.S.A. 47:1A-1.1 are subject to public access under the Open Public Records Act ("OPRA"), unless specifically exempt.
2. A request for access to a government record under OPRA must be in writing, hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. N.J.S.A. 47:1A-5(g). In accordance with OPRA, custodians will generally have seven (7) business days to respond, unless:
 - The requestor seeks "immediate access" records as outlined in N.J.S.A. 47:1A-5(e); where the custodian must respond "immediately" disclosing responsive records not to exceed twenty-four (24) months old.
 - The requestor seeks information required to be disclosed by N.J.S.A. 47:1A-3(b), where the custodian must respond disclosing the information within twenty-four (24) hours or as soon as practical;
 - The requestor is seeking records for a "commercial purpose" as defined in N.J.S.A. 47:1A-1.1, where the response time frame is fourteen (14) business days, but the custodian shall notify the requestor of the additional time within seven (7) business days. N.J.S.A. 47:1A-5(i). However, the response time frame can be reduced to seven (7) business days upon payment of no more than two times the cost to produce the responsive records.
 - The requestor is seeking records requiring review for compliance with "Daniel's Law" (N.J.S.A. 47:1B-1, et seq.), where the response time frame is fourteen (14) business days, but the custodian shall notify the requestor of the additional time within seven (7) business days. N.J.S.A. 47:1A-5(i).
 - Fire district employing one or fewer full-time employees serving as custodians may add seven (7) business days to the seven (7) or fourteen (14) business day response time frames.

The applicable response time does not commence until the custodian receives the request form. N.J.S.A. 47:1A-5(h). If you submit the request form to any other officer or employee, the recipient must either forward the request to the appropriate custodian or direct you to the appropriate custodian. Id.
3. Requestors are not required to use this OPRA request form; however, a written equivalent not containing the form requirements of N.J.S.A. 47:1A-5(f) and N.J.S.A. 47:1A-5(g) may be denied by a custodian.
4. Requestors may submit requests anonymously. A request submitted anonymously shall not be considered incomplete. N.J.S.A. 47:1A-5(f). If you elect not to identify yourself accurately or provide an accurate address, e-mail address, or telephone number, the custodian is not required to respond until you reappear before the custodian seeking a response to the original request. Further, anonymous requestors are prohibited from filing a complaint with either the GRC or the Courts. N.J.S.A. 47:1A-6.
5. The fees for duplication of a "government record" in printed form are listed on page 1 of this form. The custodian will notify you of any special service charges or other additional charges authorized by State law or regulation before processing your request. Payment shall be made by cash, check or money order payable to the responding agency.
6. You may be charged a prepayment or deposit when a request for copies exceeds \$5.00. The custodian will contact you and advise you of any deposit requirements. You agree to pay the balance due upon delivery of the records.
7. Under OPRA, a custodian must deny access to a person who has been convicted of an indictable offense in New Jersey, any other state, or the United States, and who is seeking government records containing personal information pertaining to the person's victim or the victim's family. N.J.S.A. 47:1A-2.2. This includes anonymous requests for said information.
8. By law, the responding agency must notify you that it grants or denies a request for access to government records within applicable response time frame after the custodian receives the request. If the record requested is in storage, the custodian will advise you within seven (7) or fourteen (14) business days after receipt of the request when the record can be made available and the estimated cost for reproduction within no more than twenty-one (21) business days from date of notification. N.J.S.A. 47:1A-5(i).
9. You may be denied access to a government record if your request would substantially disrupt agency operations and the custodian is unable to reach a reasonable solution with you. N.J.S.A. 47:1A-5(g).
10. If the custodian is unable to comply with your request for access to a government record, they will indicate the specific bases for denial on the request form or other written correspondence and send it to you.
11. Except as otherwise provided by law or by agreement with the requester, if the custodian fails to respond to you in writing within seven (7) or fourteen (14) business days of receiving a request, the failure to respond is a deemed denial of your request. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
12. If your request for access to a government record has been denied or unfilled within the seven (7) or fourteen (14) business days required by law, you have a right to challenge the decision by the responding agency to deny access. At your option, you may either: 1) institute a proceeding in the Superior Court of New Jersey; or 2) file a complaint with the Government Records Council ("GRC") by completing the Denial of Access Complaint Form. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County. Questions regarding the GRC's Denial of Access Complaint process can be directed to the GRC toll-free telephone at 866-850-0511, by mail at PO Box 819, Trenton, NJ, 08625, by e-mail at Government.Records@dca.nj.gov, or at their web site at www.state.nj.us/grc. The Council can answer general inquiries about OPRA.
13. Information provided on this form may be subject to disclosure under the Open Public Records Act.

The Future of OPRA

Frank F. Caruso, Executive Director
New Jersey Government Records Council



Disclaimer!

The Government Records Council ("GRC"), has prepared the information contained herein for educational and informational purposes only. The information is not intended, and should not be construed, as legal advice.

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The Most Important Number Today!

New Jersey Government Records Council

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WHAT IS OPRA?

- The New Jersey Open Public Records Act. N.J.S.A. 47:1A-1 et. seq. ("OPRA").
- Effective July 2002, OPRA replaced the former Right to Know Law and broadly expanded the definition of a public record. Over 22 Years!!!
- OPRA created the Government Records Council ("GRC"). N.J.S.A. 47:1A-7.
- OPRA authorizes a complaint process via either the GRC or Superior Court. N.J.S.A. 47:1A-6.

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The Government Records Council

Among other duties, the GRC:

- Adjudicates denials of access.
- Administers a mediation program.
- Prepares informational materials.
- Provides OPRA training.
- Operates an OPRA hotline (1-866-850-0511).

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OPRA Did Not Become the Only Record Request Process in 2002

- OPRA applies to those requests where the requestor chooses to invoke the statute.
- A request *should be* on an official OPRA request form. However, use of the form is not mandatory. See *Renna v. Cnty. of Union*, 407 N.J. Super. 230 (App. Div. 2009): "the form should be used but no request . . . should be rejected if such form is not used."

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Are there other ways to request records?

- Common law requests.
- Discovery requests, which is not the same as OPRA. See Bart v. City of Passaic (Passaic), GRC 2007-162.
- Administrative/Informal requests (example: requestor comes to Clerk's counter and orally asks to review minutes book).
- Other court processes (*i.e.* subpoenas, court orders)
 - GRC has not adjudicatory authority

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Times They Are A-Changin

- P.L. 2024, c. 16
 - On June 5, 2024, Governor Murphy signed into law significant OPRA reform legislation.
 - Changes range from new exemptions to new processes for requestor and custodians.
- Effective Date: September 3, 2024

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Highlighted Changes For the GRC

- Council comprised of nine (9) members N.J.S.A. 47:1A-7:
 - DCA Commissioner or Designee will serve as Chair.
 - Four (4) members directly appointed by the Governor.
 - Two (2) members appointed from recommendations made by the Senate President.
 - Two (2) members appointed from recommendations made by the Assembly Speaker.
 - Initially three (3) years, then regular appointment process applies, and terms extend to five (5) years.
- Complaint Process N.J.S.A. 47:1A-5(f); N.J.S.A. 47:1A-6:
 - Statute of Limitation will decrease from 60 calendar days to 45 calendar days.
 - Court actions or GRC complaints may be dismissed without prejudice if agency discloses records sought, but attorney's fees may be awarded.
 - Anonymous requestors will not be permitted to file complaints either with the GRC or courts.
- Adjudications N.J.S.A. 47:1A-7(e):
 - Beginning eighteen (18) months after enactment – adjudication within 90 days of receipt (not including time in mediation).
 - Staff may request a 45-day extension for good cause.

Highlighted Changes For the GRC

- OPRA Model Request Form N.J.S.A. 47:1A-5(f); N.J.S.A. 47:1A-7:
 - As noted, agencies will be required to adopt the GRC's model request form.
 - Updates to the form for new questions required by P.L. 2024, c.16.
 - Requirement to promulgate regulations to establish a uniform form that complies with the requirements of OPRA.
 - Make the form available to incarcerated individuals.
- Data Compilation N.J.S.A. 47:1A-7(h):
 - The Superior Court shall provide the GRC with a listing of all actions settled thereby.
 - The GRC is required to compile a database of that data.
 - The Administrative Office of the Courts is also required to submit to the GRC specific data regarding OPRA cases at the end of each court year.
- GRC Website N.J.S.A. 47:1A-7(b):
 - The GRC will be statutorily tasked with periodically reviewing its website for updates as needed.

Who Can Request Records?

- Anyone!
- OPRA continues to allow for anonymous requests
- “Commercial purpose” – Still allowed.
- Out-of-State Requestors: See Scheeler v. Atl. Cnty. Mun. Joint Ins. Fund, 454 N.J. Super. 621 (App. Div. 2018)
- The identity of the requestor may affect their right of access in limited circumstances

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“Commercial Purpose”

- N.J.S.A. 47:1A-1.1
 - Outlines those uses which would be considered a “commercial purpose.”
 - **Exceptions**
 - News media, including parent companies, subsidiaries, affiliates;
 - Use for news, journalistic, educational, scientific, scholarly, or governmental organization.
 - Use by an election candidate, campaigns, and committees.
 - Labor organizations
 - Use by contract signatory to a collective bargaining agreement “material” to enforcement of State and federal employee/employer statutes and regulations.
 - Non-profits, as long as they do not “sell, resell, solicit, rent, or lease a record to an unaffiliated third party” expecting a fee.

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What is a “Public Agency” Under OPRA?

- Every municipality within the State of New Jersey is considered a “public agency.” N.J.S.A. 47:1A-1.1.
- Also includes State departments and commissions, school districts, fire districts, the Port Authority of New York/New Jersey, the League of Municipalities, and the Legislature (although most of their records are per say exempt).
- Additional “quasi-governmental” agencies could be considered a “public agency.” See Paff v. N.J. State Firemen's Ass'n, 431 N.J. Super. 278, 289-90 (App. Div. 2013)

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What is a “government record” under OPRA?

- The default answer will not change:
 - All records that are made, maintained, kept on file, or received in the course of official business. N.J.S.A. 47:1A-1.1.
- However, exemptions within OPRA, other statutes, regulations, executive orders, *etc.* may effectively exempt access to records in part of whole.

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Highlighted Exemption Changes

- New Exemptions/Exceptions in N.J.S.A. 47:1A-1.1:
 - Expansion of the “administrative or technical information” exemption to include peripheral device information operating on a network.
 - Security alarm activity, access reports, and footage, except where a limited incident request is submitted, and disclosure would not jeopardize the overall system.
 - Detailed itemized cost estimates prior to bid openings.
 - Expansion of personal information exemptions, including juvenile information, and on certain types of records.
 - Metadata except for “authorship, identity of editor, and time of change.”
 - Owner and maintenance manuals.
 - HIPAA data.
 - Indecent graphic images contained in photographs or video as defined by N.J.S.A. 47:1A-5.2.
 - Exemptions and exceptions to election records contained within a new section.

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Who is the official records custodian?

- Municipality - the municipal clerk. N.J.S.A. 47:1A-1.1
 - Municipalities may officially designate custodians in sub-departments “by formal action.” The GRC will recognize separate custodians by division/department when that custodian has been adequately publicized to the public. See Paff v. Twp. of Berkeley Heights (Union), GRC 2007-271.
- Non-municipal agencies designate their custodian “by formal action.”
- Best practices dictate that an agency should designate a substitute custodian to receive/fulfill requests in the custodian’s absence. See Verry v. Franklin Fire Dist. No. 1 (Somerset), GRC 2014-325.

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OPRA Forms

- OPRA will **require** every public agency to adopt the OPRA request form "established by the [GRC]." N.J.S.A. 47:1A-5(f).
 - The GRC is required to promulgate regulations to establish form. N.J.S.A. 47:1A-7(b).
- Major Changes from the old Model Request Form:
 - Addition of question regarding commercial purpose. N.J.S.A. 47:1A-5(f).
 - Addition of question regarding whether the requested records are sought in connection with litigation (must identify proceeding). N.J.S.A. 47:1A-5(g).
 - Addition of new exemptions in the Exemptions Checklist section.

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OPRA Forms (cont'd)

- If the agency maintains an electronic request form, it is required to provide directions on how to submit requests to the agency.
- Note:
 - Acceptable for agencies to place their own logos over the placeholder logos at the top of the established OPRA request form (where able).
 - Agencies that have already adopted the old Model OPRA request form should consider readopting the established form to ensure full compliance.
 - Agencies operating with online platforms should update those platform forms to comply with new form elements in N.J.S.A. 47:1A-5(f), (g).

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How Does a Requestor Submit an OPRA Request?

- Hand delivery, mail, electronic transmission, or otherwise conveyed to the appropriate custodian. N.J.S.A. 47:1A-5(g).
 - Will now include submission through portals, online forms, and software utilized to submit OPRA requests.
- Agencies may likely still limit submission options based on technological capabilities. See Paff v. City of East Orange, 407 N.J. Super. 221 (App. Div. 2009).
- Written equivalents still allowed:
 - Must include all components required by N.J.S.A. 47:1A-5(f), (g).
 - May not include substantially more info than required by the form that "requires more than reasonable effort to clarify the information . . ."

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Limitations on Request Submissions

N.J.S.A. 47:1A-5(g):

- Requestors cannot utilize OPRA to seek records that are already the subject of a court order or pending discovery request. Requestors must certify!
 - Does not apply to labor unions.
- Requestors can only submit a request to a single custodian within one public agency.
 - Does this prohibit requestors from sending similar requests simultaneously to other agencies?
- Identical requests?

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Not the Custodian?

- If an employee other than the custodian receives an OPRA request, ensure they know their obligation under N.J.S.A. 47:1A-5(h).
 - It is important to ensure that agency officials and employees have the ability to identify an OPRA request to ensure the 5(h) obligation is met.
- The request will not be considered received until the custodian receives it.

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How must a custodian respond to an OPRA request?

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- A response must be IN WRITING! No oral responses. No telephonic responses.
- Within required response time.
 - Several changes to the response time frame.
- By addressing each item requested, either:
 - Granting access;
 - Denying access;
 - Seeking clarification; or
 - Requesting an extension of time.

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Response Time Frames

- N.J.S.A. 47:1A-5(i) “As soon as possible, but not later than seven business days after receiving the request.”
 - Exceptions include “immediate access” records, that information contained in N.J.S.A. 47:1A-3(b), commercial/Daniel’s Law requests, certain Elections records, and during a State of Emergency.
- Fire Districts with one or fewer full-time employees serving as custodians – add seven (7) business days.

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OPRA "Hours"

- Under N.J.S.A. 47:1A-5(a), agencies meeting the following criteria can set limited OPRA hours to 2 hours a day for 3 days a week, minimum, unless the agency's regularly scheduled business hours are less:

1. Municipalities with a population of 5,000 residents or less.
2. Boards of Education with total enrollment of 500 or fewer.
3. Public authorities with less than \$10 million in assets.

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Immediate Access

N.J.S.A. 47:1A-5(e): Immediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.

- Does not apply to records over 24 months old.
- See Renna v. Cnty. of Union, GRC 2008-110.
- The response itself must be immediate. Herron v. Twp. of Montclair, GRC 2006-178.
- Part of a larger request? Kohn v. Twp. of Livingston (Essex), GRC 2011-330.

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Information Concerning a Criminal Investigation

N.J.S.A. 47:1A-3(b): Certain information regarding a criminal investigation must be disclosed within 24 hours or as soon as practicable.

- 2 Categories
 - when crime is reported but no arrest yet made,
 - if an arrest has been made.
- Caveat: information may be withheld if determined to jeopardize: 1) the safety of any person; or 2) the investigation in progress

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Commercial Purpose/Daniel's Law Review

N.J.S.A. 47:1A-5(g):

- Requests for commercial purposes
 - Fourteen (14) business days, but the custodian shall notify the requestor of the additional time within seven (7) business days.
 - Response time frame can be reduced to seven (7) business days upon payment of no more than two times the cost to produce the responsive records. N.J.S.A. 47:1A-5(i)(1).
- Records requiring review for compliance with "Daniel's Law" (N.J.S.A. 47:1B-1, et seq.)
 - Fourteen (14) business days, but the custodian shall notify the requestor of the additional time within seven (7) business days.

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Elections Records

N.J.S.A. 47:1A-5.3(c): Certain records require "immediate access or transmission via e-mail **as soon as possible**, but not later than two business days" without charge.

- o Exception: commercial purposes.

N.J.S.A. 47:1A-5.3(d): Certain records require "immediate access and transmission **as soon as possible** . . ." if request is made within sixteen (16) days of an election.

- o If request is made by noon the day before an election, disclosure must occur by noon the day of the election.
- Applies to N.J. Div. of Elections, the N.J. Election Law Enforcement Comm'n, Cnty. Bd. of Elections, Cnty. Superintendents of Elections, Cnty. Clerks, Municipal Clerks, Fire Dist. Bd. Clerks, School Dist. Business Administrators, and School Dist. Bd. Secretaries

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Tips in Responding: Ask yourself...

1. When is my deadline to respond?
2. Is this a valid OPRA request under the current version of OPRA?
3. Do I have enough information to fulfill request?
4. Will the request require a special service charge?
5. Substantial disruption of agency operations?
6. Can I obtain records responsive to request?
7. Do the records or portions thereof fit into any of OPRA's exemptions?
8. Must I redact, convert to requested medium, calculate appropriate fees?
9. Can I provide records via the requested method of delivery?
10. If I must deny, can I do so with legal basis in writing?

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Quiz Question

What date did OPRA officially replace the old RTKL?

1. May 13, 2002
2. June 5, 2002
3. July 7, 2002

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Response Types

- Granting Access:
 - Typically, in the medium and method requested.
 - New 14 business day deadline for requestors to retrieve hardcopy records from the agency.
 - Amended provisions may affect the medium discussion.
- Lawful Basis for Denial:
 - *At the time of denial* for each record or redaction.
- Extensions of Time:
 - To a date certain instead of a time frame. Papiez v. Cnty. of Mercer, GRC 2012-59.
 - New extension provisions.
- Clarification:
 - An option but not a requirement.

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Granting Access

- OPRA now expressly allows for custodians to direct requestors to an agency website. Rodriguez v. Kean Univ., GRC 2013-69.
 - N.J.S.A. 47:1A-5(e): Custodians can direct requestors to the agency's website to obtain "complete and unabridged" records.
 - If directions are required to access the record, the custodian must provide them.
 - Request "deemed fulfilled" if the requestor does not contact the agency within seven (7) business days.
 - If the requestor cannot locate the record and advises the custodian, they have seven (7) business days to "make a reasonable attempt to assist . . ."
 - If unsuccessful and the requestor seeks a physical copy, custodians may charge up to two (2) times the duplication cost and disclose same within seven (7) business days after request.

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Lawful Basis for Denial

- Custodians must provide a lawful basis for denial *at the time of denial*.
- This includes outright denials and redactions. You cannot merely say, "it's exempt, so go away!"
- Examples: Dear requestor:
 - With respect to request No. 3, Jane Smith's social security number is redacted because social security numbers are exempt from public access pursuant to N.J.S.A. 47:1A-1.1.
 - The letter from John Smith, Esq., to Mary Jones, dated January 4, 2010, is exempt from disclosure pursuant to N.J.S.A. 47:1A-1.1 as attorney-client privileged material that could divulge strategy.

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Extensions of Time to Respond

N.J.S.A. 47:1A-5(i)(1) now expressly allows for extensions in two (2) situations:

1. Records in storage – No more than 21 business days from the date the custodian advises the requestor of extension.
 - Custodian must inform the requestor of the extension within the applicable time frame.
 2. Unforeseen or reasonable circumstances – custodians are entitled to a reasonable extension
 - Extension notification within seven (7) business days.
 - See Ciccarone v. N.J. Dep't of Treasury, GRC 2013-280.
- Failure to grant/deny access by any extended deadline date remains a "deemed" denial. N.J.S.A. 47:1A-5(i).

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Seeking Clarification

- Clarification must be in writing. See Leibel v. Manalapan Englishtown Reg'l Bd. of Educ., GRC 2004-51.
- Response time stops until requestor responds. Time begins anew. Moore v. Twp. of Old Bridge, GRC 2005-80.

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A proper response to an OPRA request:

- Is in writing within seven (7) business days!!!
- (Exception for immediate access and 3(b))!!!!
- Grants access, denies access, seeks clarification, or requests an extension of time (including an anticipated deadline date) w/in the appropriate response time.
- Addresses each record requested. Stand by!
- Addresses requestor's preferred method of delivery.
- Provides an account of the actual cost of duplicating the records, if any.
- If special service charge applies, provides estimate and gives requestor opportunity to accept or reject.
- Includes index that identifies the specific legal basis for a denial of access (including redactions).

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Overly Broad and Invalid Requests

- An OPRA request is invalid when it "would require research and the collection of information from the contents of government records and the creation of new government records setting forth that research and information." N.J.S.A. 47:1A-5(g).
- The validity of an OPRA request will still likely fall into three (3) categories:
 - "Any and all" requests seeking "records" generically, *etc.* and requiring a custodian to conduct research. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super 534, 546 (App. Div. 2005); Donato v. Twp. of Union, GRC Complaint No. 2005-182 (January 2007).
 - Requests seeking information or asking questions. See *e.g.* Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012).
 - Requests that are either not on an official OPRA request form or does not invoke OPRA. See *e.g.* Naples v. N.I. Motor Vehicle Comm'n, GRC Complaint No. 2008-97 (December 2008).

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Correspondence and the Old/New Standard

- Proper request for e-mails/correspondence: previous reliance on Elcavage v. West Milford Twp., GRC 2009-07, *et seq.*; Burke v. Brandes, 429 N.J. Super. 169, 175 (App. Div. 2012); *etc.*
- New Standard (N.I.S.A. 47:1A-5(g)):
 - Specific job titles and/or accounts;
 - Specific subject matter;
 - Reasonable time period.
- Standard also applies to text messages, social media posts, and other types of messages

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Possession Question Renewed

- It is reasonable that a custodian might not have physical custody of all records maintained within their individual agency.
 - In this instance, a custodian is required to contact the appropriate employees or officials to obtain potentially responsive records.
 - Includes third-parties. Burnett, 415 N.J. Super. 506.
- N.I.S.A. 47:1A-5(i)(1):
 - "A public agency shall not be considered to be in possession of a public record that is created, maintained, or received by another public agency and made available to the public agency either by remote access to a computer network or by distribution as a courtesy copy, unless the agency that created, maintained, or received the record resides within the judicial branch . . ."
 - "A records custodian . . . that receives a request for a record created, maintained, or received by another public agency shall not be obligated to provide the record to the requestor. In the event the custodian does not provide the record, the custodian shall direct the requestor within seven business days to the public agency that, to the best of their knowledge, created, maintains, or received the requested record, at which time the request shall be considered completed."

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OPRA Copying Fees

- N.J.S.A. 47:1A-5(b) provides:
 - Flat fee of \$0.05 per page for letter sized pages and smaller;
 - Flat fee of \$0.07 per page for legal sized pages and larger.
 - Any public agency whose actual costs to produce paper copies exceed the \$0.05 and \$0.07 rates may charge the actual cost of duplication.
 - Records provided electronically, including through the agency's website, are **FREE OF CHARGE** (*i.e.*, records sent via e-mail and fax).
 - Must charge the actual cost to provide records in another medium (*i.e.* computer disc, CD-ROM, DVD).

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Cost Fee Exceptions They Will Still Exist!

- OPRA allows an agency to charge fees "prescribed by law or regulation" N.J.S.A. 47:1A-5(b).
- Example: Fees for Auto Accident Reports
 - N.J.S.A. 39:4-131 "If copies of reports are requested other than in person, an additional fee of up to \$5.00 may be added to cover the administrative costs of the report"

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Special Service Charge

- Special service charges come in two (2) types:
 1. Those charges associated with duplicating a record that cannot be reproduced on "ordinary document copying equipment" N.J.S.A. 47:1A-5(c); N.J.S.A. 47:1A-5(d).
 - Records requiring duplication by a third-party vendor. N.J.S.A. 47:1A-5(c).
 - O'Shea v. Pine Hill Bd. of Educ. (Camden), GRC No. 2007-192
 - Medium conversion requiring "extensive use of information technology, or for labor cost of personnel . . . actually incurred . . . for the programming, clerical, and supervisory assistance required, or both." N.J.S.A. 47:1A-5(d).

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2. The agency must engage in an "extraordinary expenditure of time and effort to accommodate the request . . ." N.J.S.A. 47:1A-5(c).

- Under the amended provision:
 - The charge is still calculated and provided in advance of incurring the cost; **HOWEVER**, the custodian must include in their response an explanation for an itemized list of fees/charges.
 - GRC's "14 Point Analysis" could prove useful in this response.
 - The charge should likely still be calculated based on hourly rate(s) of the lowest paid employee(s) capable of performing the required task(s).
- In objecting to a special service charge, the burden to prove it is unreasonable shifts to the requestor.

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- Important – the requestor must agree to pay that fee
- Case-by-case determination.
- Flat-Rates? Still no (Carluccio v. N.J. Dep't of Env'tl. Prot., GRC 2008-10).
- Requirement to pass ordinances to justify fees exceeding those established by law removed from OPRA.

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Substantially Disrupted? The OPRA Exemption Remains.

- If a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record(s) only *after* attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency. N.J.S.A. 47:1A-5(g).
- This is a subjective determination based on the circumstances and an agency's resources available to fulfill a request.

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- Caggiano v. N.J. Div. of Consumer Affairs, GRC 2007-69: The Council ruled that the agency acted reasonably in trying to accommodate the requestor and properly met its burden of proving a substantial disruption of operations.
- **Conversely** Caldwell v. Vineland Bd. Of Educ. (Cumberland), GRC 2009-278: The Council held that the custodian violated OPRA by denying access under the exemption without trying to reach a reasonable accommodation.

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Redaction is a Visual Experience

A redaction should be made using a "visually obvious method." White out is problematic. See Scheeler v. City of Cape May, GRC 2015-91.

- Electronic redaction may be available; however, be sure to delete the material being redacted. Techniques such as "hiding" text or changing its color so it is invisible should not be used as sophisticated users can detect the changes.

**** Custodians must identify the legal basis for each redaction!!**

Custodians should manually "black out" the information prior to providing the copy to the requestor. Ensure that your redactions cannot be undone or seen through.

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Do I Really Have to Redact This Whole Page?

- Custodians can use a full sheet of paper in the packet of responsive documents to indicate that the entire page was redacted and that the page should cite to the statutory exemption.

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Mediums and Conversion

- A custodian must permit access to government records in the medium/format requested if maintained in that medium/format. N.J.S.A. 47:1A-5(d).
- If custodian does not maintain record in medium requested, they shall:
 - **Convert** the record to the medium requested if it does not require substantial work or a third-party vendor, or
 - **Disclose** the record in electronic format maintained, at a minimum if conversion require substantial work or a third-party vendor.
- "Meaningful medium" removed.
- Note the prior discussed potential service charges associated with conversion are discussed in Slide Nos. 43/44.

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To Privacy, And Beyond!

- OPRA's legislative findings state "a public agency has a responsibility and an obligation to N.J.S.A. 47:1A-1, which still exists, continues to maintain that a public agency has an obligation to safeguard from public access a citizen's personal information . . . when disclosure thereof would violate the citizen's reasonable expectation of privacy." See Burnett v. Cnty. of Bergen, 198 N.J. 408 (2009)
- OPRA will now include some additional brightline exemptions on privacy in addition to those already in existence.
- Case-by-case decisions deploying a balancing test may still be necessary. Burnett, 198 N.J. 408. The colorable claim threshold could also apply. Brennan v. Bergen Cnty. Prosecutor's Office, 233 N.J. 330 (2018); Rodriguez v. Kean Univ., GRC 2019-109.

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Privacy, Beyond (cont'd)

- New and Changing Privacy Exemptions in N.J.S.A. 47:1A-1.1:
 - Debit card number, bank account information.
 - Month and day of birth.
 - Personal telephone numbers.
 - Personal e-mail addresses "required . . . for government applications, services, or programs . . ."
 - Personal information of juveniles under 18, with exceptions (MVC and Elections).
 - Portion of documents containing personal information provided to an agency for the sole purpose of receiving official notifications.
 - Personal identifying information on domestic animal permits, licenses, and registrations (overturning Bozzi v. City of Jersey City, 248 N.J. 274 (2021)).
 - HIPAA data and indecent graphic images (already listed in Slide No. 15).

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The Harassment Zone: A New Hope

- N.J.S.A. 47:1A-5.1:
 - Courts may issue protective orders limiting individuals found to have submitted OPRA requests “with the intent to substantially interrupt the performance of government function.”
 - Several options available to the court up to and including changing response time frames and eliminating an agency’s requirement to respond to the individual’s OPRA requests.
 - An extremely high bar!
 - Does not apply to labor unions seeking records “material” to enforcement of State and federal statutes/regulations on topics such as wage and hour protections, workplace safety, and public procurement or bidding.

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Knowing and Willful

- A public official, officer, employee or custodian who knowingly and willfully violates OPRA and unreasonably denies access under the totality of the circumstances is assessed a monetary penalty.
 - \$1,000 for initial violation.
 - \$2,500 for second violation within 10 years of initial violation.
 - \$5,000 for third violation within 10 years of initial violation.
- N.J.S.A. 47:1A-11 now provides that the civil penalty is payable by the agency, and not personally by individual.
- Knowing and willful = standard remains unchanged.
- The Courts can also impose a fine. N. Jersey Media Grp. v. State Office of the Governor, 451 N.J. Super. 282 (App. Div. 2017).

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Prevailing Party Fees

- N.J.S.A. 47:1A-6 provides that a fee award is no longer mandatory if a complainant who is represented by an attorney prevails.
- Notwithstanding, fee awards will be mandatory if the agency:
 - Unreasonable denies access.
 - Acts in bad faith; and/or
 - Knowingly and willfully violates OPRA.
- Attorney's fees may also be awarded even if a complaint is dismissed (without prejudice) due to a disclosure occurring within seven (7) business days after a complaint filing.

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Prevailing Party Fees (cont'd)

- Boggia v. Borough of Oakland, GRC 2005-36.
- The Council denied prevailing party fees to the complainant, who was an attorney representing himself. The Council reasoned that "the courts of this state have determined that . . . fee shifting statutes are intended to compensate an attorney hired to represent a plaintiff, not an attorney . . . representing himself." See also Feld v. City of Orange Twp., 2019 N.J. Super. Unpub. LEXIS 903 (App. Div. 2019).

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Home > OPRA, Advisory Opinions & Other Laws > Readable Version of OPRA

Readable Version Of OPRA

This document is a complete copy of P.L. 2001, c. 404, commonly known as the Open Public Records Act, as amended by P.L. 2024, c.16 (effective September 3, 2024). It is the full text of the law, specially formatted to be easily readable and to serve as a reference document for users. The formatting consisted of adding bullet points, paragraph breaks, and spacing to facilitate easy use. However, no text or punctuation has been altered.

More Information
Readable Version of OPRA (as of September 3, 2024) [PDF Version]
Readable Version of OPRA (as of August 1, 2024) [PDF Version]
Readable Version of OPRA (as of November 7, 2022) [PDF Version]

Readable Version of OPRA
Advisory Opinions

To assist readers in using the law, references have been made in the left margin to highlight the content of each section or important subsections.

You can also download a .pdf copy of the "Readable Version of OPRA (as of September 3, 2024)" and prior versions of OPRA in the "More Information" box.

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Definitions	47:1A-1.1	Definitions
Biotechnology exemption	47:1A-1.2	Restricted access to biotechnology trade secrets
Disclosable firearms information	47:1A-1.3	Certain firearms records considered public records
Limits to convicts	47:1A-2.2	Access to certain information by convict prohibited; exceptions
Ongoing Investigations	47:1A-3	Access to records of investigation in progress
Requests and Responses	47:1A-5	Times during which records may be inspected, examined, copied; access; copy fees
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- 47:1A-12 Court rules
- 47:1A-13 Annual budget request for the council
- Section 11 Appropriation
- Section 12 Effective Date

**Open Public Records Act
P.L. 2001, CHAPTER 404
N.J.S. 47:1A-1 et seq. (Effective September 3, 2024)**

Legislative policy declaration **C.47:1A-1 Legislative findings, declarations.**

The Legislature finds and declares it to be the public policy of this State that:

All records shall be accessible

- 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 by P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented, shall be construed in favor of the public's right of access;

All records public unless under a permitted exemption

- all government records shall be subject to public access unless exempt from such access by: P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented; 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;

Privacy interest

- 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; and nothing contained in P.L. 1963, c. 73 (C. 47:1A-1 et seq.), as amended and supplemented, shall be construed as affecting in any way the common law right of access to any record, including but not limited to criminal investigatory records of a law enforcement agency.

Definitions

C.47:1A-1.1 Definitions.

As used in P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented:

"Biotechnology" means any technique that uses living organisms, or parts of living organisms, to make or modify products, to improve plants or animals, or to develop micro-organisms for specific uses; including the industrial use of recombinant DNA, cell fusion, and novel bioprocessing techniques.

Defines "child protective investigator"

"Child protective investigator in the Division of Child Protection and Permanency" means an employee of the Division of Child Protection and Permanency in the Department of Children and Families whose primary duty is to investigate reports of child abuse and neglect, or any other employee of the Department of Children and Families whose duties include investigation, response to, or review of allegations of child abuse and neglect.

Defines "commercial purpose" with exceptions

"Commercial purpose" means the direct or indirect use of any part of a government record for sale, resale, solicitation, rent, or lease of a service or any use by which the user expects a profit either through commission, salary, or fee. "Commercial purpose" shall not include the use of a government record for any purpose by:

(1) the news media, or any parent company, subsidiary, or affiliate of any news media, as defined by section 2 of P.L.1977, c.253 (C.2A:84A-21a);

(2) any news, journalistic, educational, scientific, scholarly, or governmental organization;

(3) any person authorized to act on behalf of a candidate committee, joint candidate committee, political committee, continuing political committee, political party committee, or legislative leadership committee, as defined by section 3 of P.L.1973, c.83 (C.19:44A-3), registered with the New Jersey Election Law Enforcement Commission;

(4) any labor organization;

(5) any contractor signatory to a collective bargaining agreement seeking information material to the enforcement of State or federal statutes or regulations regarding, but not limited to, wage and hour protections, workplace safety, or public procurement and public bidding, including, but not limited to, requests for certified payrolls or information about all bids submitted in response to a public procurement process subsequent to the deadline for the submission of all bids for that solicitation;

(6) any employee, agent, contractor, or affiliates of any entity identified in paragraphs (1) through (5) of this definition in this section; or

(7) any non-profit entity, including organizations or individuals qualified for exemption from federal taxation pursuant to section 501(c)(3) of the federal Internal Revenue Code, 26 U.S.C. s.501(c)(3) and section 501(c)(4) of the federal Internal Revenue Code, 26 U.S.C. § 501(c)(4), when the entity does not sell, resell, solicit, rent, or lease a government record to an unaffiliated third party in a way in which the entity expects a fee.

Defines "constituent"	"Constituent" means any State resident or other person communicating with a member of the Legislature.
Defines "criminal investigatory record"	"Criminal investigatory record" means a record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.
Defines "custodian of record"	"Custodian of a government record" or "custodian" means in the case of a municipality, the municipal clerk and in the case of any other public agency, the officer officially designated by formal action of that agency's director or governing body, as the case may be.
Defines "government record"	"Government record" or "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. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material.
Defines "labor organization"	"Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.
Records that are exempt	A government record shall not include the following information which is deemed to be confidential for the purposes of P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented:

- Legislative records
- information received by a member of the Legislature from a constituent or information held by a member of the Legislature concerning a constituent, including but not limited to information in written form or contained in any e-mail or computer data base, or in any telephone record whatsoever, unless it is information the constituent is required by law to transmit;
 - any memorandum, correspondence, notes, report or other communication prepared by, or for, the specific use of a member of the Legislature in the course of the member's official duties, except that this provision shall not apply to an otherwise publicly-accessible report which is required by law to be submitted to the Legislature or its members;
- Medical examiner records
- any copy, reproduction or facsimile of any photograph, negative or print, including instant photographs and videotapes of the body, or any portion of the body, of a deceased person, taken by or for the medical examiner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the medical examiner except:
 - for use by a legal next of kin, a legal representative, or an attending physician of the deceased person,
 - for the use as a court of this State permits, or for use by any law enforcement agency in this State or any other state or federal law enforcement agency;
- Criminal investigatory records
- criminal investigatory records;
 - the portion of any criminal record concerning a person's detection, apprehension, arrest, detention, trial or disposition for unlawful manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in violation of paragraph (11) of subsection b. of N.J.S.2C:35-5, or a lesser amount of marijuana or hashish in violation of paragraph (12) of subsection b. of that section, or a violation of either of those paragraphs and a violation of subsection a. of section 1 of P.L.1987, c.101 (C.2C:35-7) or subsection a. of section 1 of P.L.1997, c.327 (C.2C:35-7.1) for distributing, dispensing, or possessing, or having under control with intent to distribute or dispense, on or within 1,000 feet of any school property, or on or within 500 feet of the real property comprising a public housing facility, public park, or public building, or for obtaining, possessing, using, being under the influence of, or failing to make lawful disposition of marijuana or hashish in violation of paragraph (3) or (4) of subsection a., or subsection b., or subsection c. of N.J.S.2C:35-10, or for a violation of any of

those provisions and a violation of N.J.S.2C:36-2 for using or possessing with intent to use drug paraphernalia with that marijuana or hashish;

- | | |
|---|--|
| Victims' records | <ul style="list-style-type: none"> • victims' records, except that a victim of a crime shall have access to the victim's own records;
 • any written request by a crime victim for a record to which the victim is entitled to access as provided in this section, including, but not limited to, any law enforcement agency report, domestic violence offense report, and temporary or permanent restraining order; |
| Personal firearms records | <ul style="list-style-type: none"> • personal firearms records, except for use by any person authorized by law to have access to these records or for use by any government agency, including any court or law enforcement agency, for purposes of the administration of justice;
 • personal identifying information received by the Division of Fish and Wildlife in the Department of Environmental Protection in connection with the issuance of any license authorizing hunting with a firearm; |
| Trade secrets and proprietary information | <ul style="list-style-type: none"> • trade secrets and proprietary commercial or financial information obtained from any source. For the purposes of this paragraph, trade secrets shall include software, applications, and code obtained by a public body under a licensing agreement which prohibits its disclosure; |
| Attorney client privilege | <ul style="list-style-type: none"> • any record within the attorney-client privilege. This paragraph shall not be construed as exempting from access attorney or consultant bills or invoices except that such bills or invoices may be redacted to remove any information protected by the attorney-client privilege; |
| Computer security | <ul style="list-style-type: none"> • administrative or technical information regarding computer hardware, tablets, telephones, electronic computing devices, software applications, and networks or devices which operate on or as a part of a computer network or related technologies within the same, which shall include system logs, event logs, transaction logs, tracing logs, or any logs which are reasonably construed to be similar to the same and generated by the devices or servers covered within this paragraph, which, if disclosed, could jeopardize computer security, or related technologies; |

Building security	<ul style="list-style-type: none"> • emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein;
Security measures and techniques	<ul style="list-style-type: none"> • security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software;
Security alarms and footage	<ul style="list-style-type: none"> • security alarm system activity and access reports, including video footage, for any public building, facility, or grounds unless the request identifies a specific incident that occurred, or a specific date and limited time period at a particular public building, facility, or grounds, and is deemed not to compromise the integrity of the security system by revealing capabilities and vulnerabilities of the system;
Advantage to bidders	<ul style="list-style-type: none"> • information which, if disclosed, would give an advantage to competitors or bidders, including detailed or itemized cost estimates prior to bid opening;
Public employee related	<ul style="list-style-type: none"> • information generated by or on behalf of public employers or public employees in connection <ul style="list-style-type: none"> ♦ with any sexual harassment complaint filed with a public employer or ♦ with any grievance filed by or against an individual or ♦ in connection with collective negotiations, including documents and statements of strategy or negotiating position;
Risk management	<ul style="list-style-type: none"> • information which is a communication between a public agency and its insurance carrier, administrative service organization or risk management office;

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|---|--|
| Court orders | <ul style="list-style-type: none"> • information which is to be kept confidential pursuant to court order; |
| Honorable discharge certificates | <ul style="list-style-type: none"> • any copy of form DD-214, NGB-22, or that form, issued by the United States Government, or any other certificate of honorable discharge, or copy thereof, from active service or the reserves of a branch of the Armed Forces of the United States, or from service in the organized militia of the State, that has been filed by an individual with a public agency, except that a veteran or the veteran's spouse or surviving spouse shall have access to the veteran's own records; |
| Oath of allegiance or office | <ul style="list-style-type: none"> • any copy of an oath of allegiance, oath of office or any affirmation taken upon assuming the duties of any public office, or that oath or affirmation, taken by a current or former officer or employee in any public office or position in this State or in any county or municipality of this State, including members of the Legislative Branch, Executive Branch, Judicial Branch, and all law enforcement entities, except that the full name, title, and oath date of that person contained therein shall not be deemed confidential; and |
| Personal identifying information (including Daniel's Law information) | <ul style="list-style-type: none"> • that portion of any document which discloses the social security number, credit card number, debit card number, bank account information, month and day of birth, any personal email address required by a public agency for government applications, services, or programs, any telephone number or driver license number of any person, or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), that portion of any document which discloses the home address, whether a primary or secondary residence, of any active, formerly active, or retired judicial officer, law enforcement officer, child protective investigator in the Division of Child Protection and Permanency, or prosecutor, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-1), any immediate family member thereof; except for: <ul style="list-style-type: none"> • use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, • or any private person or entity seeking to enforce payment of court-ordered child support; • with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L. 1997, c. 188 (C. 39:2-3.4); • with respect to the disclosure of information included in records and documents maintained by the Department of the Treasury in connection with the State's business registry programs; |

Metadata	<ul style="list-style-type: none"> structured reference data that helps to sort and identify attributes of the information it describes, referred to as metadata, or any extrapolation or compilation thereof, which shall include the SMTP header properties of emails, except that portion that identifies authorship, identity of editor, and time of change;
NJSFA applications	<ul style="list-style-type: none"> New Jersey State Firemen's Association financial relief applications;
Manuals	<ul style="list-style-type: none"> Owner and maintenance manuals;
HIPAA data	<ul style="list-style-type: none"> data classified under the "Health Insurance Portability and Accountability Act of 1996," Pub.L.104-191;
Indecent/graphic images	<ul style="list-style-type: none"> any indecent or graphic images of a person's intimate parts, as defined in section 10 of P.L.2024, c.16 (C.47:1A-5.2), that are captured in a photograph or video recording without the prior written consent of the subject of the photograph or video footage, as defined in section 10 of P.L.2024, c.16 (C.47:1A-5.2).
Higher education exemptions	<p>A government record shall not include, with regard to any public institution of higher education, the following information which is deemed to be privileged and confidential:</p> <ul style="list-style-type: none"> pedagogical, scholarly and/or academic research records and/or the specific details of any re-search project conducted under the auspices of a public higher education institution in New Jersey, including, but not limited to research, development information, testing procedures, or information regarding test participants, related to the development or testing of any pharmaceutical or pharmaceutical delivery system, except that a custodian may not deny inspection of a government record or part thereof that gives the name, title, expenditures, source and amounts of funding and date when the final project summary of any research will be available; test questions, scoring keys and other examination data pertaining to the administration of an examination for employment or academic examination;

- records of pursuit of charitable contributions or records containing the identity of a donor of a gift if the donor requires non-disclosure of the donor's identity as a condition of making the gift provided that the donor has not received any benefits of or from the institution of higher education in connection with such gift other than a request for memorialization or dedication;

- valuable or rare collections of books and/or documents obtained by gift, grant, bequest or devise conditioned upon limited public access;

- information contained on individual admission applications; and

- information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.

Certain info still required to be disclosed

Nothing in this section shall be construed to limit the requirements to provide and make publicly available the information pursuant to section 5 of P.L.1963, c.150 (C.34:11-56.29) and section 5 of P.L.1999, c.238 (C.34:11-56.52).

Defines "judicial officer"

"Judicial officer" means any active, formerly active, or retired federal, state, county, or municipal judge, including a judge of the Tax Court and any other court of limited jurisdiction established, altered, or abolished by law, a judge of the Office of Administrative Law, a judge of the Division of Workers' Compensation, and any other judge established by law who serves in the executive branch.

Defines "law enforcement agency"

"Law enforcement agency" means a public agency, or part thereof, determined by the Attorney General to have law enforcement responsibilities.

Defines "law enforcement officer"

"Law enforcement officer" means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State.

Defines "member of the Legislature" "Member of the Legislature" means any person elected or selected to serve in the New Jersey Senate or General Assembly.

Defines "personal firearms record" "Personal firearms record" means:

- any information contained in a background investigation conducted by the chief of police, the county prosecutor, or the Superintendent of State Police, of any applicant for a permit to purchase a handgun, firearms identification card license, or firearms registration; any application for a permit to purchase a handgun, firearms identification card license, or firearms registration; any document reflecting the issuance or denial of a permit to purchase a handgun, firearms identification card license, or firearms registration; and any permit to purchase a handgun, firearms identification card license, or any firearms license, certification, certificate, form of register, or registration statement.
- For the purposes of this paragraph, information contained in a background investigation shall include, but not be limited to, identity, name, address, social security number, telephone number, fax number, driver's license number, email address, social media address of any applicant, licensee, registrant or permit holder.

Defines "public agency" "Public agency" or "agency" means

- any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department;
- the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch; and
- any independent State authority, commission, instrumentality or agency.

The terms also mean any political subdivision of the State or combination of political subdivisions, and any division, board, bureau, office, commission or other instrumentality within or created by a political subdivision of the State or combination of political subdivisions, and any independent authority, commission, instrumentality or agency created by a political subdivision or combination of political subdivisions.

Defines "victim of a crime" "Victim of a crime" means a person who has suffered personal or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime, or if such a person is deceased or incapacitated, a member of that person's immediate family.

Defines "victim's record" "Victim's record" means an individually identifiable file or document held by a victims' rights agency which pertains directly to a victim of a crime except that a victim of a crime shall have access to the victim's own records.

Defines "victims' rights agency" "Victims' rights agency" means a public agency, or part thereof, the primary responsibility of which is providing services, including, but not limited to, food, shelter, or clothing, medical, psychiatric, psychological or legal services or referrals, information and referral services, counseling and support services, or financial services to victims of crimes, including victims of sexual assault, domestic violence, violent crime, child endangerment, child abuse or child neglect, and the Victims of Crime Compensation Board, established pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the Victims of Crime Compensation Office pursuant to P.L.2007, c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

Defines "personally identifying information" As used in this section, "personal identifying information" means information that may be used, alone or in conjunction with any other information, to identify a specific individual. Personal identifying information shall include, but shall not be limited to, the following data elements: name, social security number, credit card number, debit card number, bank account information, month and day of birth, any personal email address required by a public agency for government applications, services, or programs, personal telephone number, the street address portion of any person's primary or secondary home address, or driver license number of any person. "Personal identifying information" shall not include any street address, mailing address, email address, or telephone number of a public agency. "Personal identifying information" shall not include the email address of a governmental affairs agent.

Biotechnology exemption

C.47:1A-1.2 Restricted access to biotechnology trade secrets.

a. When federal law or regulation requires the submission of biotechnology trade secrets and related confidential information, a public agency shall not have access to this information except as allowed by federal law.

b. A public agency shall not make any biotechnology trade secrets and related confidential information it has access to under this act available to any other public agency, or to the general public, except as allowed pursuant to federal law.

Disclosable
firearms info

C.47:1A-1.3 Certain firearms records considered public records

Notwithstanding the provisions of any other statute or regulation to the contrary, government record as defined in section 1 of P.L.1995, c.23 (C.47:1A-1.1) shall include aggregate information regarding the total number of permits to purchase a handgun and firearms purchaser identification cards, without any personal identifying information, that have been issued by the Superintendent of State Police or the Chief of Police of a municipal police department.

Limits to convicts

C.47:1A-2.2 Access to certain information by convict prohibited; exceptions.

a. Notwithstanding the provisions of P.L. 1963, c. 73 (C. 47:1A-1 et seq.) or the provisions of any other law to the contrary, where it shall appear that a person who is convicted of any indictable offense under the laws of this State, any other state or the United States is seeking government records containing personal information pertaining to the person's victim or the victim's family, including but not limited to a victim's home address, home telephone number, work or school address, work telephone number, social security account number, medical history or any other identifying information, the right of access provided for in P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented shall be denied.

b. A government record containing personal identifying information which is protected under the provisions of this section may be released only if the information is necessary to assist in the defense of the requestor. A determination that the information is necessary to assist in the requestor's defense shall be made by the court upon motion by the requestor or his representative.

c. Notwithstanding the provisions of P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented, or any other law to the contrary, a custodian shall not comply with an anonymous re-quest for a government record which is protected under the provisions of this section.

Ongoing
Investigations

C.47:1A-3 Access to records of investigation in progress.

a. Notwithstanding the provisions of P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented, where it shall appear that the record or records which are sought to be inspected, copied, or examined shall pertain to an investigation in progress by any public agency, the right of access provided for in P.L. 1963, c. 73 (C. 47:1A-1 et seq.) as amended and supplemented may be denied if the inspection, copying or examination of such record or records shall be inimical to the public interest; provided, however, that this provision shall not be construed to allow any public agency to prohibit access to a record of that agency that was open for public inspection, examination, or copying before the investigation commenced. Whenever a public agency, during the course of an investigation, obtains from another public agency a government record that was open for public inspection, examination or copying before the investigation commenced, the investigating agency shall provide the other agency with sufficient access to the record to allow the other agency to comply with requests made pursuant to P.L. 1963, c. 73 (C. 47:1A-1 et seq.).

b. Notwithstanding the provisions of P.L. 1963, c. 73 (C. 47:1A-1 et seq.), as amended and supplemented, the following information concerning a criminal investigation shall be available to the public within 24 hours or as soon as practicable, of a request for such information:

- where a crime has been reported but no arrest yet made, information as to the type of crime, time, location and type of weapon, if any;

- if an arrest has been made, information as to the name, address and age of any victims unless there has not been sufficient opportunity for notification of next of kin of any victims of injury and/or death to any such victim or where the release of the names of any victim would be contrary to existing law or Court Rule. In deciding on the release of information as to the identity of a victim, the safety of the victim and the victim's family, and the integrity of any ongoing investigation, shall be considered;

- if an arrest has been made, information as to the defendant's name, age, residence, occupation, marital status and similar background information and, the identity of the complaining party unless the release of such information is contrary to existing law or Court Rule;

- information as to the text of any charges such as the complaint, accusation and indictment unless sealed by the court or unless the release of such information is contrary to existing law or court rule;

- information as to the identity of the investigating and arresting personnel and agency and the length of the investigation;

- information of the circumstances immediately surrounding the arrest, including but not limited to the time and place of the arrest, resistance, if any, pursuit, possession and nature and use of weapons and ammunition by the suspect and by the police; and
- information as to circumstances surrounding bail, whether it was posted and the amount thereof.

Notwithstanding any other provision of this subsection, where it shall appear that the information requested or to be examined will jeopardize the safety of any person or jeopardize any investigation in progress or may be otherwise inappropriate to release, such information may be withheld. This exception shall be narrowly construed to prevent disclosure of information that would be harmful to a bona fide law enforcement purpose or the public safety. Whenever a law enforcement official determines that it is necessary to withhold information, the official shall issue a brief statement explaining the decision.

Requests and Responses

C.47:1A-5 Times during which records may be inspected, examined, copied; access; copy fees.

Time when access is required

a. The custodian of a government record shall permit the record to be inspected, examined, and copied by any person during regular business hours; or

- in the case of a municipality having a population of 5,000 or fewer according to the most recent federal decennial census,
- a board of education having a total district enrollment of 500 or fewer, or
- a public authority having less than \$ 10 million in assets,

during not less than six regular business hours over not less than three business days per week or the entity's regularly-scheduled business hours, whichever is less; unless a government record is exempt from public access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented; 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.

Personal information to be redacted

Prior to allowing access to any government record, the custodian thereof shall redact from that record any information which discloses the social security number, credit card number, personal telephone number, or driver license number of any person, or, in accordance with section 2 of P.L.2021, c.371 (C.47:1B-2), the home address, whether a primary or secondary residence, of any active, formerly active, or retired judicial officer, prosecutor, law enforcement officer, or child protective investigator in the Division of Child Protection and Permanency, or, as defined in section 1 of P.L.2021, c.371 (C.47:1B-1), any immediate family member thereof; except for:

- use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof,
- any private person or entity seeking to enforce payment of court-ordered child support;
- with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L. 1997, c. 188 (C. 39:2-3.4);
- 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 State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor;

Except where an agency can demonstrate an emergent need, a regulation that limits access to government records shall not be retroactive in effect or applied to deny a request for access to a government record that is pending before the agency, the council or a court at the time of the adoption of the regulation.

Fees for copies

b. (1) A copy or copies of a government record may be purchased by any person upon payment of the fee prescribed by law or regulation.

Except as otherwise provided by law or regulation, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be

- \$ 0.05 per letter size page or smaller, and
- \$ 0.07 per legal size page or larger.

Access to electronic records and non-printed materials shall be provided free of charge, but the public agency may charge for the actual costs of any needed supplies such as computer discs.

No fee shall be charged if the request is completed by directing the requestor to the requested government record that is available on the public agency's website or the website of another public agency.

(2) No fee shall be charged to a victim of a crime for a copy or copies of a record to which the crime victim is entitled to access, as provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

Special service charges

c. Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the request, the public agency may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be based upon the actual direct cost of providing the copy or copies, and such special service charge shall be reasonable. The custodian shall provide the requestor with an explanation for and an itemized list of the fees or charges.

The requestor shall have the opportunity to review and object to any fee or charge prior to it being incurred. There shall be a rebuttable presumption that the fees or charges presented by the custodian are reasonable. If the requestor objects to the fees or charges, the burden of proof shall be on the requestor to demonstrate that the fees or charges are unreasonable.

Mediums for copying

d. A custodian shall permit access to a government record and provide a copy thereof in the medium or format requested if the public agency maintains the record in that medium or format.

- If the public agency does not maintain the record in the medium or format requested, the custodian shall convert the record to the medium or format requested, if the medium or format is available to the public agency and

does not require a substantial amount of manipulation or programming of information technology or the services of a third-party vendor.

- If the public agency converts the record to the medium or format requested, the agency may charge, in addition to the actual cost of duplication, a special service fee that shall be reasonable and shall be based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the agency or attributable to the agency for the programming, clerical, and supervisory assistance required, or both.
- If the public agency does not maintain the record in the electronic medium or format requested, and the medium or format is not available to the public agency without a substantial amount of manipulation or programming of information technology, the custodian shall be under no obligation to convert the record to the electronic medium or format requested but shall, at a minimum, provide a copy in the electronic format maintained by the public agency.

Immediate access records e. Immediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information. Immediate access to government records shall not be required to be granted for documents over 24 months old.

Government records shall be made available to the public on a publicly available website to the extent feasible. A public agency may enter into shared services agreements for providing certain government records electronically.

Directing requestors to the internet If the government record in a complete and unabridged form is readily available on a public agency's website, the custodian may require the requestor to obtain the record from the website, which shall contain a search bar feature on its home page. The custodian shall provide the requestor with directions to assist in finding the record on the website, including providing the website URL address and the location on the website of the search bar, menu button, tab, link, landing page, or equivalent, which contains the requested record. If the requestor does not respond to the custodian within seven business days of the custodian providing information about a record on the public agency's website, the request shall be deemed fulfilled unless the version of the government record on the public agency's website fails to contain non-protected information contained in the original record, in which case the custodian shall produce the original version of the record subject to any redactions required by law.

- If, after the custodian has provided instructions on how to find a record on a public agency's website, the requestor is unable to find the record upon making a good faith effort to locate the record on the website, the requestor shall notify the custodian within seven business days of the custodian providing the information. Upon receiving such a request for assistance from a requestor, the custodian shall make a reasonable attempt to assist the requestor in finding the record on the website within seven business days of the requestor notifying the custodian.

- If the requestor is still unable to locate the record and requests a physical copy, the custodian shall provide the requestor with a physical copy of the record for a fee not exceeding two times the cost of the production of the document. The custodian shall provide the requestor with the physical copy of the record within seven business days of the request for a physical copy.

Form for requests f. The custodian of a public agency shall adopt the form established by the Government Records Council pursuant to subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7), for the use of any person who requests access to a government record held or controlled by the public agency.

- The form shall provide space for the name, address, email address and telephone number of the requestor and a brief description of the government record sought.

Proper request submissions A request shall be submitted by a requestor in the form adopted by the custodian and the custodian may deny a request that is incomplete, except that a requestor indicating the request is being submitted anonymously shall not be grounds for denial. A completed form adopted by the custodian, a letter, or an email from a requestor including all of the information required on the adopted form shall suffice in place of a completed form as a valid government record request.

- If the letter or email from a requestor includes substantially more information than required on the adopted form and requires more than reasonable effort to clarify the information, the custodian may deny the request.
- If a letter or an email from a requestor does not include all of the information required on the adopted form, the custodian may deny the record request.

Anonymous requests A request may be submitted anonymously provided, however, that anonymous requestors shall not be permitted to institute proceedings pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). A request that is submitted anonymously shall not be considered incomplete.

Additional form requirements The form also shall include space for a requestor to certify whether the government record will be used by that requestor or another person for a commercial purpose, and the requestor shall be required to provide this information for the request to be fulfilled.

The form shall also include the following:

- (1) specific directions and procedures for requesting a record;

- (2) a statement as to whether prepayment of fees or a deposit is required;
- (3) the time period within which the public agency is required by P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to make the record available;
- (4) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal;
- (5) space for the custodian to list reasons if a request is denied in whole or in part;
- (6) space for the requestor to sign and date the form;
- (7) space for the custodian to sign and date the form if the request is fulfilled or denied.

Deposits The custodian may require a deposit against costs for reproducing documents sought through a request whenever the custodian anticipates that the information thus requested will cost in excess of \$5 to reproduce.

Electronic forms and responses Custodians who have adopted electronic government record request forms shall provide directions on how to submit requests for government records, including any required forms, on the public agency's website.

Custodians shall be permitted to provide an electronic response to any electronic records request if government records are available electronically.

Requests and Responses g. A request for access to a government record shall be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. A public agency may make available to the public on its website an online form, portal, or software for transmitting requests electronically. The form established by the Government Records Council, pursuant to subsection b. of section 8 of P.L.2001, c.404 (C.47:1A-7), may be submitted electronically or by fax.

- Each submission of a government record request form or an email record request shall be made to the custodian of not more than one public agency.

- Submission of repeated requests to multiple custodians in the same public agency for the same record, while an identical or substantially similar request is pending in the agency, shall permit the custodian to deny the request.

A custodian shall promptly comply with a request to inspect, examine, copy, or provide a copy of a government record.

If the custodian is unable to comply with a request for access, the custodian shall indicate the specific basis therefor on the request form and promptly return it to the requestor. The custodian shall sign and date the form and provide the requestor with a copy thereof.

If the custodian of a government record asserts that part of a particular record is exempt from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall delete or excise from a copy of the record that portion which the custodian asserts is exempt from access and shall promptly permit access to the remainder of the record.

Substantial
disruption of
operations

If a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after informing the requestor of the potential disruption to agency operations and attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency.

Records sought
that are part of a
court
order/pending
discovery request

A party to a legal proceeding may not request a government record if the record sought is the subject of a court order, including a pending discovery request, and a custodian shall not be required to complete such a request. The requestor shall be required to certify whether the government record is being sought in connection with a legal proceeding and identify the proceeding for the request to be fulfilled. For purposes of this provision, a party to a legal proceeding shall include a party subject to a court order, any attorney representing that party, and any person acting as an agent for or on behalf of that party.

Exceptions

Nothing in this paragraph shall bar a request for a government record filed by a labor organization or by a contractor signatory to a collective bargaining agreement seeking information material to the enforcement of State or federal statutes or regulations regarding, but not limited to, wage and hour protections, workplace safety, or public procurement and public bidding, including, but not limited to, requests for certified payrolls or information about all bids submitted in response to a public procurement process subsequent to the deadline for the submission of all bids for that solicitation, when the request by the labor organization or contractor signatory is not sought in connection with or in furtherance of discovery requests in a court proceeding.

Criteria for correspondence requests	A custodian shall not be required to complete a request, including for, but not limited to, mail, email, text messages, correspondence, or social media postings and messages, if the request does not identify a specific job title or accounts to be searched, a specific subject matter, and is not confined to a reasonable time period, or if the custodian determines that the request would require research and the collection of information from the contents of government records and the creation of new government records setting forth that research and information. It shall be sufficient for a requestor to identify specific individuals by the individual's job title and position.
Request received by other officers or employees	h. Any officer or employee of a public agency who receives a request for access to a government record shall forward the request to the custodian of the record or direct the requestor to the custodian of the record.
Time period for responses	i. (1) Unless a shorter time period is otherwise provided by statute, regulation, or executive order, a custodian of a government record shall grant access to a government record or deny a request for access to a government record as soon as possible, but not later than seven business days after receiving the request, or 14 business days if the request is for a commercial purpose or if the records have to be reviewed by the public agency for the purpose of the agency's compliance with P.L.2021, c.371 (C.47:1B-1 et seq.), but the custodian shall notify the requestor of the additional response time within seven business days, provided that the record is currently available and not in storage or archived. The response time periods of seven or 14 business days, as established in this subsection, shall be an additional seven business days longer if the public agency is a fire district which employs one or fewer full-time employees who serve as custodians. If a commercial requestor would like to receive the record within seven business days, as established in this subsection, the custodian shall provide the requestor with a copy of the record and may charge a special service fee not exceeding two times the cost of the production of the record.
Extensions – reasonable circumstances	In the event a records custodian is unable to fulfill a records request due to unforeseen circumstances or circumstances that otherwise reasonably necessitate additional time to fulfill the records request, the custodian shall be entitled to a reasonable extension of any response deadline and shall notify the requestor of the time extension within seven business days after receiving the request.
“Deemed” denial	In the event a custodian fails to respond within seven business days or 14 business days, as appropriate, after receiving a request, the failure to respond shall be deemed a denial of the request, unless the requestor has elected not to accurately identify themselves or to provide an accurate address, email address, or telephone number. If the requestor has elected not to accurately identify themselves or to provide an accurate address, email address, or telephone number, the custodian shall not be required to respond until the requestor contacts the custodian seeking a response to the original request.

Extensions – Records in storage	If the government record is in storage or archived, the requestor shall be so advised within seven or 14 business days, as appropriate, after the custodian receives the request. The requestor shall be advised by the custodian when the record can be made available, which shall be no more than 21 business days from the date the requestor is so advised. If the record is not made available by that time, access shall be deemed denied.
Possession through remote access or as a courtesy copy	A public agency shall not be considered to be in possession of a public record that is created, maintained, or received by another public agency and made available to the public agency either by remote access to a computer network or by distribution as a courtesy copy, unless the agency that created, maintained, or received the record resides within the judicial branch of the State Government. A records custodian of a public agency that receives a request for a record created, maintained, or received by another public agency shall not be obligated to provide the record to the requestor. In the event the custodian does not provide the record, the custodian shall direct the requestor within seven business days to the public agency that, to the best of their knowledge, created, maintains, or received the requested record, at which time the request shall be considered completed.
Identical requests	The custodian shall not be required to complete an identical request for access to a government record from the same requestor if the information has not changed. Nothing in this section shall prevent a requestor from filing periodic requests regarding regularly updated public records, including, but not limited to, certified payrolls, permits, and licensing applications.
Retrieval of records by requestors	A requestor shall have 14 business days to retrieve the government records following notice from the custodian that the request has been completed and the records are available.
State of emergency time period for response	(2) During a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or state of local disaster emergency, the deadlines by which to respond to a request for, or grant or deny access to, a government record under paragraph (1) of this subsection or subsection e. of this section shall not apply, provided, however, that the custodian of a government record shall make a reasonable effort, as the circumstances permit, to respond to a request for access to a government record within seven business days or 14 business days, as appropriate, or as soon as possible thereafter.
Notice to be posted	j. A custodian shall include information on the public agency's website and public records request form regarding a requestor's right to appeal a denial of, or failure to provide, access to a government record and the procedure by which an appeal may be filed, which shall include the website address and toll-free information line phone number of the Government Records Council.

Public defender records k. The files maintained by the Office of the Public Defender that relate to the handling of any case shall be considered confidential and shall not be open to inspection by any person unless authorized by law, court order, or the State Public Defender.

Protective orders **C.47:1A-5.1 Verified complaint, government records, requestor with intention to interrupt government functioning, protective order**

a. Notwithstanding any other law or rule or regulation to the contrary, whenever there is filed a verified complaint to the Superior Court of the county in which the request for access to government records was made under P.L.1963, c.73 (C.47:1A-1 et seq.) alleging that a requestor has sought records with the intent to substantially interrupt the performance of government function, the court may issue a protective order limiting the number and scope of requests the requestor may make or order such other relief as it deems appropriate, including referral of the matter to mediation or a waiver of the required response time. The court may issue the protective order if it finds by clear and convincing evidence that the requestor has sought records under P.L.1963, c.73 (C.47:1A-1 et seq.) with the intent to substantially interrupt the performance of government function. The complaint shall be accompanied by a declaration of facts by the public agency withholding the records demonstrating that it has complied with P.L.1963, c.73 (C.47:1A-1 et seq.) and has made a good faith effort to reach an informal resolution of the issues relating to the records requests.

The requestor shall have notice and an opportunity to answer the allegations set forth in the petition submitted by the public agency.

The public agency shall have the burden of proof by clear and convincing evidence.

The court's consideration of a public agency's complaint for relief shall proceed in a summary or expedited manner.

b. The order specified in subsection a. of this section may limit, or, in appropriate circumstances, eliminate the public agency's duty to respond to government records requests from the requestor in the future.

Exceptions c. Requests for government records filed by a labor organization or by a contractor signatory to a collective bargaining agreement seeking information material to the enforcement of State or federal statutes or regulations regarding, but not limited to, wage and hour protections, workplace safety, or public procurement and public bidding, including, but not limited to, requests for certified payrolls or information about all bids submitted in response to a public procurement process subsequent to the deadline for the submission of all bids for that solicitation, when the request by the labor organization or contractor signatory is not sought in connection to or in furtherance of discovery requests in a court proceeding, shall not be considered to be intended to interrupt government functions, and shall not form the basis for the filing of a complaint under this section.

Indecent and graphic images

C.47:1A-5.2 Prior written consent, subject, legal next of kin, indecent, graphic photograph, video footage

Consent

a. A person who has obtained a photograph or video recording pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), and who is not a subject of the photograph or video footage, shall not disclose any indecent or graphic images of the subject's intimate parts, captured by the photograph or recording, without the prior written consent of the subject of the photograph or video footage or written consent of the legal next of kin if the subject is deceased.

Penalties

b. A person who knowingly violates the provisions of subsection a. of this section shall be guilty of a disorderly persons offense.

Definitions

c. As used in this section:

- "Disclose" means to sell, manufacture, give, provide, lend, mail, deliver, transfer, publish, post, distribute, circulate, disseminate, present, exhibit, advertise, offer, share, or make available through the Internet or by any other means, whether or not for pecuniary gain.
- "Indecent or graphic" means images depicting exposed intimate parts in a manner that would be clearly visible to a reasonable person.
- "Intimate parts" means the following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock, or breast of a person.
- "Subject of the photograph or video footage" means a person who appears in the photograph or video recording.

Election Records

C.47:1A-5.3 Applicability

a. The provisions of this section shall apply only to the New Jersey Division of Elections, the New Jersey Election Law Enforcement Commission, County Boards of Elections, County Superintendents of Elections, County Clerks, Municipal Clerks, Fire District Board Clerks, School District Business Administrators, and School District Board Secretaries, hereafter referred to as an "election agency" or "election agencies." Except as otherwise provided for in this section, all provisions of this act,

P.L.2024, c.16 (C.47:1A-5.1 et al.), shall apply to all election agencies. Nothing herein shall be construed to mean that an election agency is required to provide a record in response to a request for records, unless it has made or received and maintains said requested record pursuant to law or regulation.

Disclosure with no redactions except as permitted

b. Notwithstanding any other law, rule, or regulation to the contrary, except as otherwise provided in sections 2 and 3 of P.L.2021, c.371 (C.47:1B-1 et seq.), subsection b. of section 1 of P.L.1994, c.148 (C.19:31-3.2), or in any rules or regulations promulgated by the Secretary of State pursuant to subsection f. of this section, the following shall be records for which the provided information shall not be redacted by an election agency except for voter signatures, Social Security numbers, driver license numbers, and non-driver identification numbers:

- (1) Voter registration forms and forms changing the provided information thereof;
- (2) Party affiliation forms and forms changing the provided information thereof;
- (3) Applications for a vote-by-mail ballot, except as otherwise provided in sections 3 and 13 of P.L.2020, c.70 (C.19:63-1 et seq.);
- (4) Forms or reports submitted to the Election Law Enforcement Commission;
- (5) Nominating petitions for any candidate for any elected office, which shall be provided in a manner that includes voter signatures on such petitions;
- (6) Petitions to recall an elected official, which shall be provided in a manner that includes voter signatures on such petitions;
- (7) Petitions or submissions for any public question or referendum to be considered by voters, which shall be provided in a manner that includes voter signatures on such petitions;
- (8) Any submissions, responses, objections, or challenges pertaining to a record referred to in this subsection; and
- (9) Any addendums, amendments, corrections, withdrawals, or accompanying forms or submissions pertaining to a record referred to in this subsection.

2-day response time frame, with exceptions

c. Notwithstanding any other law, rule, or regulation to the contrary, the following shall be records and information that an election agency shall make available to requestors for immediate access and transmission via email as soon as possible, but not later than two business days after receipt of the request, provided the

request is not for a commercial purpose, for which a fee shall not be charged nor collected:

(1) Nominating petitions for any candidate for any elected office filed with the election agency within the preceding 90 days of the date the request is received;

(2) Petitions to recall an elected official filed with the election agency within the preceding 90 days of the date the request is received;

(3) Petitions or submissions for any public question or referenda to be considered by voters filed with the election agency within the preceding 90 days of the date the request is received;

(4) Any submissions, responses, objections, or challenges filed with the election agency within the preceding 90 days pertaining to a record referred to in this subsection;

(5) Any addendums, amendments, corrections, withdrawals, or accompanying forms or submissions filed with the election agency within the preceding 90 days pertaining to a record referred to in this subsection; and

(6) The inspection and transmission deadline requirements of this subsection shall be deemed satisfied if an election agency posts on its website the records and information referred to in this subsection.

Immediate response time frame within 16 days of an election

d. Notwithstanding any other law, rule, or regulation to the contrary, the following in paragraphs (1) through (4) of this subsection shall be records and information that an election agency shall make available to requestors for immediate access and transmission via email as soon as possible, provided the request pertains only to an election to be held within 16 days after the date of the request and is not for a commercial purpose. The transmission shall be not later than two business days after receipt of the request when said request is made between one and 15 days before the date of the election pertaining to the request. For any request submitted the day before an election by noon, the request shall be completed by noon the day of the election. A fee shall not be charged nor collected. This subsection shall apply to:

(1) Lists, in a format capable of being sorted by the requestor, of registered voters, including their name, address, party affiliation, and municipal voting ward and district, who have requested, been mailed, or returned a vote-by-mail ballot, including the dates the ballot was requested by the voter, mailed to the voter, and received by the appropriate election agency;

(2) Lists, in a format capable of being sorted by the requestor, of registered voters, including their name, address, party affiliation, and municipal voting ward and district, who have cast a vote during the early voting period, including the date and polling location the vote was cast;

(3) The inspection and transmission deadline requirements of this subsection shall be deemed satisfied if an election agency posts on its website the records and

information referred to in this subsection; and

(4) Whenever the requirements of this subsection would cause a voter's privacy to be violated, the information shall be provided in a manner that maintains the privacy of the voter.

Exemptions

e. The following records or information shall not be subject to disclosure pursuant to a request for public records:

(1) Ballots marked by a voter, vote tabulations, or election results for any election prior to the time of the closing of the polls on the date of the election, except as otherwise provided for by law, rule, or regulation; and

(2) Manuals instructions, specifications, technical information, or programming code of computers, software, applications, networks, tablets, voting machines, printers, scanners, and any other equipment, systems, policies or plans used for the conduct of elections, the disclosure of which, could have the potential to jeopardize the security, integrity or accuracy of the conduct of elections, tabulation of votes, or determination of election results, except as otherwise provided for by law, rule, or regulation, or in response to a subpoena or order of a court or tribunal of competent jurisdiction.

Rulemaking

f. The Secretary of State may adopt regulations necessary to effectuate the purposes of this act, which regulations shall be effective immediately upon filing with the Office of Administrative Law for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

Challenges to access denial

C.47:1A-6 Proceeding to challenge denial of access to record.

Statute of limitation

A person who is denied access to a government record by the custodian of the record, at the option of the requestor who is accurately identified by name, may, within 45 days of the date of denial:

- institute a proceeding to challenge the custodian's decision by filing an action in Superior Court which shall be heard in the vicinage where it is filed by a Superior Court Judge who has been designated to hear such cases because of that judge's knowledge and expertise in matters relating to access to government records; or

- in lieu of filing an action in Superior Court, file a complaint with the Government Records Council established pursuant to section 8 of P.L. 2001, c. 404 (C. 47:1A-7).

The right to institute any proceeding under this section shall be solely that of the requestor. Any such proceeding shall proceed in a summary or expedited manner. The public agency shall have the burden of proving that the denial of access is authorized by law. If it is determined that access has been improperly denied, the court or Government Records Council shall order that access be allowed.

Prevailing party fees

A requestor who prevails in any proceeding may be entitled to a reasonable attorney's fee. While the court or Government Records Council may award a reasonable attorney's fee to a prevailing party in any proceeding, if the public agency has been determined to have unreasonably denied access, acted in bad faith, or knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), then the court or Government Records Council shall award a reasonable attorney's fee.

Dismissal without prejudice on disclosure

If the records sought are produced by the public agency within seven business days of service of an action in Superior Court or a complaint before the Government Records Council, upon notification to the Superior Court or the Government Records Council, the matter shall be dismissed without prejudice and the requestor may be entitled to a reasonable attorney's fee if the custodian knew or should have known that the denial of access violated P.L.1963, c.73 (C.47:1A-1 et seq.).

Government Records Council (GRC)

C.47:1A-7 Government Records Council.

Council membership

a. (1) There is established in the Department of Community Affairs a Government Records Council. The council shall consist of the Commissioner of Community Affairs or the commissioner's designee, who shall serve as Chair, and eight public members appointed as follows: four appointed by the Governor with the advice and consent of the Senate, no more than two of whom shall be members of the same political party; two directly appointed by the Governor from persons recommended by the President of the Senate, no more than one of whom shall be a member of the same political party; and two directly appointed by the Governor from persons recommended by the Speaker of the General Assembly, no more than one of whom shall be a member of the same political party. Each public member shall serve for a term of five years and until a successor is appointed and qualified.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, or any other law, rule, or regulation to the contrary, within 90 days following the enactment date of P.L.2024, c.16 (C.47:1A-5.1 et al.), the Governor shall directly appoint eight public members to the council, each of whom shall serve for a term of three years and until a successor is appointed and qualified, as follows: two from persons recommended by the President of the Senate, no more than one of whom shall be a member of the same political party; two from persons recommended by the Speaker of the General Assembly, no more than one of whom shall be a member of the same political party; and four appointed at the sole discretion of the Governor, no more than two of whom shall be members of the same political party. The terms of office of the members of the council serving on the date of enactment of P.L.2024, c.16 (C.47:1A-5.1 et al.), shall expire upon the Governor's direct appointment of the new members pursuant to this subsection.

(3) A public member shall not hold any other State or local elected office while serving as a member of the council. A public member shall receive a salary equivalent to that provided by law for a public member of the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs. A member may be removed by the Governor for cause. Vacancies among the public members shall be filled by appointment by the Governor, according to the provisions of subsection a. of this section, and for the remainder of the unexpired term.

The council may employ an executive director and such professional and clerical staff as it deems necessary and may call upon the Department of Community Affairs for such assistance as it deems necessary and may be available to it.

Duties of GRC

b. The Government Records Council shall:

- establish an informal mediation program to facilitate the resolution of disputes regarding access to government records;
- receive, hear, review and adjudicate a complaint filed by any person concerning a denial of access to a government record by a records custodian;
- issue advisory opinions, on its own initiative, as to whether a particular type of record is a government record which is accessible to the public;
- prepare guidelines and an informational pamphlet for use by records custodians in complying with the law governing access to public records;

- prepare an informational pamphlet explaining the public's right of access to government records and the methods for resolving disputes regarding access, which records custodians shall make available to persons requesting access to a government record;

- prepare lists for use by records custodians of the types of records in the possession of public agencies which are government records;

- make training opportunities available for records custodians and other public officers and employees which explain the law governing access to public records;

- promulgate rules and regulations to establish a uniform government record request form for all government record requests permitted for use by any public agency that includes the required form components as set forth in subsection f. of section 6 of P.L.2001, c.404 (C.47:1A-5). The form shall include certification that a party to a legal proceeding may not request a government record if the record sought is the subject of a court order or a pending discovery request. The council shall make the form available electronically and in print and shall make the form available to incarcerated individuals; and

- operate an informational website and a toll-free helpline staffed by knowledgeable employees of the council during regular business hours which shall enable any person, including records custodians, to call for information regarding the law governing access to public records and allow any person to request mediation or to file a complaint with the council when access has been denied;

In implementing the provisions of this section, the council shall: act, to the maximum extent possible, at the convenience of the parties; utilize video conferencing, teleconferencing, faxing of documents, e-mail and similar forms of modern communication; conduct virtual meetings and hearings when practical and at the discretion of the council; and when in-person meetings are necessary, send representatives to meet with the parties at a location convenient to the parties.

The council shall periodically review the information and format of its website and make such adjustments as shall be deemed necessary to ensure that the information is clearly presented, accessible, and useful for the general public. The council shall conduct such an initial review within six months following the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.).

GRC hearings c. At the request of the council, a public agency shall produce documents and ensure the attendance of witnesses with respect to the council's investigation of any complaint or the holding of any hearing.

Use of mediation d. Upon receipt of a written complaint signed by any person alleging that a custodian of a government record has improperly denied that person access to a government record, the council shall offer the parties the opportunity to resolve the dispute through mediation.

Mediation shall enable a person who has been denied access to a government record and the public agency that employs the records custodian who denied or failed to provide access thereto to attempt to mediate the dispute through a process whereby a neutral mediator, who shall be trained in mediation selected by the council, acts to encourage and facilitate the resolution of the dispute.

Mediation shall be an informal, nonadversarial process having the objective of helping the parties reach a mutually acceptable, voluntary agreement. The mediator shall assist the parties in identifying issues, foster joint problem solving, and explore settlement alternatives.

Formal investigation e. If any party declines mediation or if mediation fails to resolve the matter to the satisfaction of all parties, the council shall initiate an investigation concerning the facts and circumstances set forth in the complaint. The council shall make a determination as to whether the complaint is within its jurisdiction or frivolous or without any reasonable factual basis. The council may assign staff attorneys to conduct the investigation, present findings, and make recommendations to the council.

If the council shall conclude that the complaint is outside its jurisdiction, frivolous, or without factual basis, it shall reduce that conclusion to writing and transmit a copy thereof to the complainant and to the public agency that employs the records custodian against whom the complaint was filed. Otherwise, the council shall notify the public agency that employs the records custodian against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein.

The public agency that employs the records custodian shall have the opportunity to present the board with any statement or information concerning the complaint which the agency wishes. If the council is able to make a determination as to a record's accessibility based upon the complaint and the agency's response thereto, it shall reduce that conclusion to writing and transmit a copy thereof to the

complainant and to the public agency that employs the records custodian against whom the complaint was filed.

If the council is unable to make a determination as to a record's accessibility based upon the complaint and the agency's response thereto, the council shall conduct a hearing on the matter in conformity with the rules and regulations provided for hearings by a State agency in contested cases under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), insofar as they may be applicable and practicable.

Council decisions The council shall, by a majority vote of its members, render a decision as to whether the record which is the subject of the complaint is a government record which must be made available for public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented. If the council determines, by a majority vote of its members, that a custodian is found to have knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented, and to have unreasonably denied access under the totality of the circumstances, the council may impose the penalties provided for in section 12 of P.L.2001, c.404 (C.47:1A-11) on the public agency that employs the custodian.

Appeal of council decisions A decision of the council may be appealed to the Appellate Division of the Superior Court. Such appeals shall be filed within 45 days from the date the council renders a decision. A decision of the council shall not have value as a precedent for any case initiated in Superior Court pursuant to section 7 of P.L.2001, c.404 (C.47:1A-6). All proceedings of the council pursuant to this subsection shall be conducted as expeditiously as possible.

Adjudication time frames Beginning 18 months following the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.), the council shall adjudicate all complaints that come before it within 90 days of the complaint's filing, with the ability to extend for 45 days for good cause, exclusive of any time period during which the parties are engaged in a mediation process pursuant to this section. The council shall make such organizational adjustments and modify its procedures as it deems necessary to ensure that complaints are adjudicated in such a timeframe.

f. The council shall not charge any party a fee in regard to actions filed with the council. The council shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6), except that the council may go into closed session during that portion of any proceeding during which the contents of a contested record would be disclosed. A requestor who prevails in any proceeding may be entitled to a reasonable attorney's fee as provided for in section 7 of P.L.2001, c.404 (C.47:1A-6).

g. The council shall not have jurisdiction over the Judicial or Legislative Branches of State Government or any agency, officer, or employee of those branches.

Court reporting h. The Superior Court shall provide the Government Records Council a list of all actions which have been brought before the courts filed pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the open public records act, which have been settled by the parties thereto. Such a list shall provide the docket number and names of the parties to the action. The council shall compile a database comprised of the data provided by the Superior Court.

The Administrative Office of the Courts, on behalf of the Superior Court of New Jersey, shall provide the Government Records Council a report at the end of each court year of all cases filed pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). The report shall be grouped by defendant and county filed in and shall include a comprehensive list of all cases filed with a summary judgment regarding P.L.1963, c.73 (C.47:1A-1 et seq.), Statewide, itemized by the following factors:

- (1) Case caption;
- (2) County of venue;
- (3) Docket number;
- (4) Counsel of records;
- (5) Case disposition; and
- (6) Attorney's fees requested and awarded.

Complaint
Dismissal

C.47:1A-7.1 Complaints, appeals, Government Records Council, Superior Court, anonymous, fictitious identity, dismissal with prejudice

a. All complaints and appeals pending before the Government Records Council or the Superior Court filed prior to the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.), either anonymously or using a fictitious name or identity, may be dismissed with prejudice upon a motion by the public agency, unless the complainant files an amendment to their complaint that accurately identifies their name and mailing address within 90 days of the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.).

b. The parties to any complaint or appeal pending before the Government Records Council, the Superior Court or the Supreme Court of New Jersey filed prior to the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.), shall be permitted to file an

amendment to their respective complaints and answers within 90 days of the effective date of P.L.2024, c.16 (C.47:1A-5.1 et al.).

Continuation of
common law

C.47:1A-8 Construction of act.

Nothing contained in P.L. 1963, c. 73 (C. 47:1A-1 et seq.), as amended and supplemented, shall be construed as limiting the common law right of access to a government record, including criminal investigatory records of a law enforcement agency.

Continuation of
existing
exemptions

C.47:1A-9 Other laws, regulations, privileges unaffected.

a. The provisions of this act, P.L. 2001, c. 404 (C. 47:1A-5 et al.), shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to P.L. 1963, c. 73 (C. 47:1A-1 et seq.); 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.

b. The provisions of this act, P.L. 2001, c. 404 (C. 47:1A-5 et al.), shall not abrogate or erode any executive or legislative privilege or grant of confidentiality heretofore established or recognized by the Constitution of this State, statute, court rule or judicial case law, which privilege or grant of confidentiality may duly be claimed to restrict public access to a public record or government record.

Access to
personnel and
pension records

C.47:1A-10 Personnel, pension records not considered public information; exceptions.

Notwithstanding the provisions of P.L. 1963, c. 73 (C. 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, including but not limited to records relating to any grievance filed by or against an individual, 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;
- personnel or pension records of any individual shall be accessible when required to be disclosed by another law, when disclosure is essential to the performance of official duties of a person duly authorized by this State or the United States, or when authorized by an individual in interest; and
- data contained in information which disclose conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but not including any detailed medical or psychological information, shall be a government record.

Violations

C.47:1A-11 Violations, penalties, disciplinary proceeding.

a. If a public official, officer, employee, or custodian is found to have knowingly and willfully violated P.L.1963, c.73 (C.47:1A-1 et seq.), as amended and supplemented, and to have unreasonably denied access under the totality of the circumstances, the public agency that employs the custodian, officer, employee, or official shall be subject to a civil penalty of \$1,000 for an initial violation, \$2,500 for a second violation that occurs within 10 years of an initial violation, and \$5,000 for a third violation that occurs within 10 years of an initial violation. The penalties authorized pursuant to this subsection may be imposed by the courts or by the Government Records Council.

b. A requestor who is found to have intentionally failed to certify that a records request is for a commercial purpose shall be subject to a civil penalty of \$1,000 for the first offense, \$2,500 for the second offense, and \$5,000 for each subsequent offense. The penalties may be imposed by the courts.

c. These penalties shall be collected and enforced in proceedings in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and the rules of court governing actions for the collection of civil penalties. The Superior Court shall have jurisdiction of proceedings for the collection and enforcement of the penalty imposed by this section.

d. Appropriate disciplinary proceedings may be initiated against a public official, officer, employee or custodian against whom a penalty has been imposed.

Court Rules

C.47:1A-12 Court rules.

The New Jersey Supreme Court may adopt such court rules as it deems necessary to effectuate the purposes of this act.

Budget

C.47:1A-13 Annual budget request for the council.

The Commissioner of Community Affairs shall include in the annual budget request of the Department of Community Affairs a request for sufficient funds to effectuate the purposes of section 8 of P.L. 2001, c. 404 (C. 47:1A-7).

11. Appropriation.

a. There is hereby appropriated \$4,000,000 from the State General Fund to the Department of Community Affairs to provide grants to political subdivisions of the State for the purpose of making government records that are accessible under P.L.1963, c.73 (C.47:1A-1 et seq.) available electronically, including through the use of shared services agreements.

b. There is hereby appropriated \$4,000,000 from the State General Fund to the Department of Community Affairs for the Government Records Council.

c. There is hereby appropriated \$2,000,000 from the State General Fund to the Department of Community Affairs for the Government Records Council to effectuate the purposes of section 8 of P.L.2001, c.404 (C.47:1A-7) as amended by section 4 of P.L.2024, c.16 (C.47:1A-7).

12. Effective Date.

This act shall take effect 90 days following the date of enactment.

Approved June 5, 2024 (P.L. 2024, c.16).

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Seeing this link on any public agency web site brings up information about the agency's public record access information. New Jersey public agencies are urged to use this symbol to bring web users to their OPRA information.

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