



OPEN RECORDS AND MEETINGS: A CITIZEN'S GUIDE

by



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More information and an online version of this book is
available at njfog.org.

Open Public Records and You

There are few tools in the quest for public access to records more important than the N.J. Open Public Records Act. Signed into law in 2002, OPRA, as it is known, gives citizens a chance to level the playing field between what information public officials use to govern and what the people know.

This handbook, supported by a grant from the Pratt fund of the Rutgers-Newark Law School, attempts to assist citizens in understanding OPRA and to find the documents they need. It can be used by journalists, attorneys, business people, non-profit leaders and, of course, ordinary citizens who just want to know why a certain action is being contemplated by their municipal council or school board.

This handbook also covers some of the aspects of the Open Public Meetings Act.

We at the Foundation for Open Government hope that you will find this book helpful and will utilize it to demystify some of the ins and outs of government actions.

As you go through this handbook, please jot down any questions or corrections you have and send them to us at our website njfog.org.

We hope that you find this book helpful, and we expect that future versions will improve on this first edition. For your convenience, you may copy portions or all of this book as long as you give credit to the Foundation for Open Government. Good luck in your search for records in New Jersey!

— Foundation for Open Government
A non-profit organization.

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DEFINITIONS

What is OPRA?

New Jersey's Open Public Records Act (OPRA), N.J.S.A. 47:1A-1, requires that government records, with certain exceptions, be readily accessible to the public for inspection, examination, and copying. It requires officials and judges to place a high value on the public's right of access but also requires public agencies not to disclose an individual's personal information when public access would violate the person's reasonable expectation of privacy. The full text of the law and other helpful information may be found on the website of the New Jersey Foundation for Open Government (www.njfog.org); or the New Jersey Government Records Council, (www.nj.gov/grc), a state agency created to help records requesters use the law and to resolve disputes about access to records.

What is FOIA?

The Freedom of Information Act (FOIA) (5 U.S.C. § 552) establishes a presumption that records in the possession of agencies and departments of the Executive Branch of the U.S. Government are available to the public. The FOIA sets standards for determining when Government records must be made available and which records may be withheld. The FOIA also gives requesters specific legal rights and provides administrative and judicial remedies when access to records or portions of records is denied. Most importantly, the FOIA statute requires that Federal agencies provide access to and disclosure of information pertaining to the Government's business to the fullest extent possible. The text of the Act may be viewed by accessing the U.S. Department of Justice FOIA web site (www.usdoj.gov/oip/index.html).

What is Common Law Access?

There is a Common Law Right of Access to records if the requester's need for access is greater than the government's need for secrecy. Common Law refers to law developed through decisions of courts and similar tribunals (called case law), rather than through legislative statutes or executive action, and to corresponding legal systems that rely on precedential case law.

What is NJDARM?

The New Jersey Division of Archives and Records Management

(NJDARM) is responsible for carrying out the Division's mandate to ensure that government records are maintained in accordance with New Jersey's public records laws. The division has statutory authority to ensure the security, integrity, and efficiency of record-keeping by state and local public agencies, and to preserve the rich documentary heritage of New Jersey and its people. More information about the rules of records storage and destruction can be

found on the agency's website (www.state.nj.us/state/darm/index.htmlall).

What is an agency?

The term "agency" is broadly defined in OPRA to include the following:

Every state department, agency, board, bureau, commission, public corporation, and authority; Every county, municipality, school district and other political subdivision;

Every department, agency, board, bureau, commission, authority and similar body of each county, municipality or other political subdivision of the state; Every city, county, regional or other authority established pursuant to state law; and; Non-profit organizations that receive more than one-third of their funds from a direct allocation of state funds from the governing authority of an agency.

REQUESTING RECORDS

Who Can Review or Copy Public Records?

Anyone for any reason. The only exception is that an individual convicted of a crime cannot obtain personal information regarding his victim or his victim's family. Businesses can request information for commercial purposes. People can request information that they have previously requested, provided that the requests do not amount to harassment.

Who do I contact to make a request?

Every agency must have a designated custodian of records. At the municipal level, that person will almost always be the municipal clerk. At other public agencies, that person will be an official designated by the agency.

How do I make a request?

Records may be requested informally, but any formal request must be in writing and must be hand-delivered, mailed, faxed or "otherwise conveyed" to the appropriate custodian. Requests cannot be made verbally. The request does not have to be on a form provided by the agency, but should include an accurate description of each specific record sought. Anonymous requests are generally permitted, but the custodian may require a 100% advance payment for any copies. At this time, an agency may regulate the manner in which a written request is delivered to an agency. Therefore, agencies may have rules prohibiting OPRA requests by fax or other means.

A written request should begin with the following language: "Please consider this a request for records under the Open Public Records Act and the common law right of access to public records."

Do I need to give a reason for wanting records?

No.

How can I limit costs?

Be as specific as possible in order to limit fees. You can make additional records requests later. You can also request to inspect the records and then ask for copies of the pages you need. (See Appendix I "Tips on how to make an effective records request.") Also, if the records exist in electronic format, you can ask that the records be emailed to you. In addition, you can request that the documents be faxed to you or scanned and emailed to you.

Whose Records Are Subject to OPRA?

The law applies to all departments and agencies of state government, including state colleges and universities; all counties, municipalities, school districts, fire

districts, county and municipal boards, commissions and agencies; independent authorities and the state legislature and its agencies. See definition of agency.

Whose Records Are Not Subject to OPRA?

Most constituent correspondence and materials specifically prepared for individual legislators are not covered.

The OPRA does not cover federal agencies or the State's judicial branch and municipal courts, which have their own rules. Federal agencies are covered by the Federal Freedom of Information Act (FOIA). The NJ Courts are covered by New Jersey Court Rule 1:38. More information on Court Rule 138 can be found by visiting (www.judiciary.state.nj.us/rules/r1-38.htm).

What Records are Subject to OPRA?

All records held by the agency, including audio, video and computerized information. You can only request existing records. OPRA does not require the agency to answer your questions, compile data to create a record, or do research for you. (Appendix III, List of Executive Orders with disclosure requirements.) Requests for information (instead of records) do not have to be honored.

What records are not subject to OPRA?

OPRA exempts certain records out of concern for individual privacy; public safety and unfettered debate and discussion inside public agencies. OPRA includes twenty-four (24) specific exemptions from disclosure within its many provisions. See the exception to public access set for in the OPRA, N.J.S.A. 47:1A-1, (Appendix II). And/or contact the Government Records Council or a lawyer. If part of a record is exempt from disclosure, the agency is required to disclose the rest of the record with the exempt information redacted. (Appendix IV, Executive Orders' exemptions from disclosure.)

What are the time limits on obtaining records?

The custodian must provide immediate access to budgets, bills, vouchers and contracts that are readily available to the custodian at the time of the request. These include collective bargaining agreements and individual employment contracts. For other records, the custodian must respond to a request "as soon as possible," but no later than seven business days after the request is received. If the record is in storage, the custodian must advise the requester of that fact within seven business days and tell the requester when the record will be available. The 7 day count starts the next business day after you've made your request. i.e., if you submit your request of Monday, day 1 of the 7 business day rule starts on Tuesday.

Can I request email correspondence?

Email correspondence is a public record. It is best to begin by asking for emails based on whether they were “to” or “from” a particular email address on the agency’s server. Initially, limit your request to a single day. The basis for this recommendation is that there are GRC cases that hold that requests for specific records concerning specific days are not overbroad.

COSTS**Inspecting records**

There is no charge to inspect records, unless a special service charge is applicable to the retrieval of those records. Public agencies may not charge requesters for supervising a person while they are inspecting records.

Paper Copies

Fees can be set by law or regulation. If there is no such law or regulation, fees for copying printed records can be no more than 75 cents per page for the first 10 pages, 50 cents per page for the next 10 pages and 25 cents per page for all additional

pages. Also, if there is no such law or regulation, fees for copying non-printed records are limited to the actual cost of copying. Some public agencies have set copying costs that are much lower than the maximum allowed cost.

Electronic records

There is no charge for records that can be transmitted electronically via email but an agency can charge actual cost of copying for a CD-ROM disc.

Retrieving records from storage:

An agency can charge its actual cost to retrieve documents that are in storage.

Special service charge:

If the search, redactions or copying require 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 “reasonable” special service charge based upon the actual direct cost of providing the copy or copies. The requester will have the opportunity to review and object to the charge prior to it being incurred.

If records must be redacted, a special service charge for making those redactions may be applicable, but no special service charge is warranted for attorney review of redactions.

DIFFICULTY OBTAINING RECORDS

What if my request is denied?

If the agency denies access in whole or part, it must give you a specific reason in writing within 7 business days of the request. You can then file a complaint with the Government Records Council or in Superior Court.

You have 45 days from the date of denial to file in Superior Court. Actions in the Government Records Council may be filed anytime after the denial.

N.J.S.A. 47:1A-5g states that if a custodian is unable to comply with a request for access, the custodian shall “indicate the specific basis therefore” on the request form and promptly return it to the requester. When a record is being withheld in its entirety, custodians must reply to the OPRA request and explain the reason why the custodian cannot comply with the request.

Redactions

Under OPRA, a government record that is otherwise publicly accessible may contain non-disclosable information that should be redacted. Redaction means editing a record to prevent public viewing of material that should not be disclosed. Words, sentences, paragraphs, or whole pages may be subject to redaction. A redaction is a denial of access and the custodian must give the requester a written explanation of the material redacted. If you suspect a record has been improperly redacted you can file a complaint with the GRC or in Superior Court.

What are the penalties for custodians who are found to have violated the law?

OPRA permits a \$1,000, \$2,500 or \$5,000 fine against an agency official who “knowingly and willfully” violates OPRA. This means that the official knew that he or she was violating OPRA. Penalties are rare. This is a burdensome hurdle to pass and it usually is impossible to prove. If you should prevail in court the agency will have to pay reasonable attorney’s fees to your counsel.

What can I expect if I file a complaint in Superior Court?

You will have to pay filing fees of \$230.00 (\$200 for the complaint and \$30 for the order to show cause.) If you should prevail in court and an attorney represented you, you may be awarded reasonable attorney’s fees and have your court costs reimbursed. Superior Court has historically adjudicated OPRA cases much faster than the GRC. OPRA lawsuits are treated in an expedited manner. Moreover, in emergency situations, you can obtain an immediate decision. GRC cases take several months or longer. The court, but not the GRC, can enforce your right of access under both OPRA and the common law right of

access to public records. If you should lose in Superior Court or the GRC, you can appeal to the Appellate Division.

What can I expect if I file a complaint with the Government Records Council?

You will not have to pay a filing fee. You do not need a lawyer to file a complaint with the GRC, however if you choose to hire an attorney, their reasonable fees may be reimbursed should you prevail. Historically the GRC has treated procedural violations seriously, something that a judge might view as a waste of the court’s time. The GRC offers mediation if both sides agree to it. If you file a complaint with the GRC it could take months and possibly more than a year, to have a decision.

What can I expect of the mediation option?

The Government Records Council offers the mediation services of the New Jersey State Office of Dispute Settlement to resolve disagreements arising from a request for public records. A trained neutral is available to assist the parties - the person who is denied access to a government record and the custodian who denied or failed to provide access — reach a mutually acceptable resolution to their differences.

What happens when the case is decided?

After the GRC or Superior Court decides the case both sides have 45 days to appeal to the Appellate Division of the Superior Court.

Getting advice and support

New Jersey Foundation for Open Government
New Jersey’s Government Records Council
National FOIA resources:
Brechtner Center for Freedom of Information
National Freedom of Information Coalition
Society of Professional Journalists (FOI page)
Reporters Committee for Freedom of the Press

NEW JERSEY'S OPEN PUBLIC MEETINGS ACT "THE SUNSHINE LAW"

New Jersey's Open Public Meetings Act, known as "The Sunshine Law," is designed to ensure that decision-making government bodies in the state conduct their businesses in public except in specific circumstances where exclusion of the public is needed to protect the privacy of individuals, the safety of the public or the effectiveness of government in such areas as negotiations or investigations.

The main points of the Open Public Meetings Act, N.J.S.A 10:4-6 (1973), are:

All meetings of public bodies in New Jersey must be open to the public unless closure is specifically permitted by law. If a meeting by members of a public body is closed to the public, the reason given must be one specifically authorized under the law.

A public body is a group of two or more persons, empowered as a voting body or public fund-spending body to perform a public governmental function. The judicial branch, the Parole Board and the State Commission of Investigation and all political parties are excluded.

A public meeting is one held by a public body at any level of government – state, county or local – with the intent to discuss or act as a body on public business. A meeting may be in person, by telephone conference call or by other means of electronic communication.

Advisory bodies are not subject to the Sunshine Law, such as when a mayor or governor meets with department heads. However, if an advisory body has the power to eliminate options available to a decision-making body, it too becomes subject to the law.

It is not necessary that a meeting result in some action; mere discussion of public matters is enough to make it a meeting public.

Violations of the law may result in voiding of decisions made by the public body. Also, executive session discussion may be made public by court order, and penalties may be assessed against individual members.

Court decisions have established the right of attendees to audio tape or video-tape public meetings subject only to reasonable rules designed only to avoid undue disruption.

PUBLIC NOTICE: Every public body must publish its meeting schedule by Jan. 10 or within seven days of its annual organization meeting, whichever is later. A 48-hour written notice must also be given for any regular, special, adjourned or unscheduled meeting giving the time, date, location and as complete an agenda as known at time of notice. The notice must be prominently posted in a public place, usually in the municipal building, and delivered to at least two previously designated newspapers. Exceptions to public notice requirements are:

Emergency meetings, which may be called by a three-quarters vote, may be held only if substantial harm to the public interest would result from a delay and the need for the meeting could not have reasonably be foreseen. Whenever possible, the body must provide at least 48-hour notice. Discussion must be limited to the matter which prompted the emergency meeting.

Closed or executive sessions.

CLOSED SESSIONS: Closed or "executive" sessions may be held without public notice, or during the course of a public meeting, provided that the subject matter is covered by one or more of the following legal exemptions:

Matters made confidential by state, federal law or rule by court.

Disclosure would result in an unwarranted invasion of individual privacy, unless the person affected consents in writing.

Disclosure would impair the body's right to receive federal or state funds. Collective bargaining.

Lease or acquisition of property, setting of banking rates, investment of public funds if disclosure would harm the public interest.

Investigations into violations of law.

Strategies to protect public security.

Pending, ongoing or anticipated litigation or contract negotiation, including attorney-client privilege. The threat of litigation must be more than theoretical for this exemption to apply.

Personnel matters affecting employees of the public bodies, unless all parties request or consent to a public hearing. Prior to discussion of personnel, affected employees must be given notice, known as a Rice notice, which gives the

employee the right to request a public hearing.

Proceedings that could result in a suspension, civil penalty, or loss of a license or permit.

Closed sessions are limited to discussion; all formal actions must be made in the open, regardless of subject matter.

Prior to any closed session, the body must adopt a resolution stating the general nature of the subject to be discussed and the time when the discussion can be disclosed. The precise nature of the matter discussed may be withheld until the need for the closed session has passed.

MINUTES: Minutes must be kept of closed sessions. The minutes should start with a statement of the time, place and manner of notice, or in the case of an emergency meeting, a statement sufficient to satisfy the emergency meeting notice requirements. Minutes should show, at a minimum, the names of the members present, individual votes of each member, subjects considered and actions taken. Minutes must be promptly made available once the necessity of the closed session has passed.

IF YOU WITNESS WHAT YOU BELIEVE TO BE A VIOLATION OF THIS LAW, SAY IN A CLEAR VOICE:

“I am _____, resident of _____. (or reporter for _____.) I protest the closing of this meeting. I ask that you reconsider your intent to discuss this matter in closed session and further ask that this protest be recorded in the official minutes of the meeting.”

VIOLATIONS: If you believe there has been a violation of the Open Public Meetings Act you can file a complaint with the appropriate county prosecutor or with the state Attorney General’s office. Or you can file suit against the public body in state Superior Court.

FOR MORE INFORMATION

Society of Professional Journalists - New Jersey Chapter
www.njspj.org

New Jersey Foundation for Open Government
www.njfog.org

New Jersey Press Association
www.njpa.org

*This summary is provided as a handy reference for journalists, public officials and the public by the Society of Professional Journalists, New Jersey Chapter.
(Rev. August 2009)*

Appendix I

TIPS ON HOW TO MAKE AN EFFECTIVE RECORDS REQUEST

Do some homework to find out what records might contain the information you are seeking – and what department or agency has them. OPRA only requires custodians to give you copies of existing records, not to extract or report information you'd like to have. They don't have to tell you how much the superintendent's salary and benefits add up to, just give you a copy of her employment contract or a copy of his payroll record. So start by asking questions about what information is in what records. Many custodians or officials will be helpful, if only to save themselves some work. If local officials are not helpful, do what investigative reporters do and talk to officials or activists in other towns or check with county, state or federal officials who might know the lay of the land. (They might tell you what kinds of records local officials are required to keep and what kinds of information the records are required to contain.) Try to get the exact name of the records you want and include it in your request. If you know what office has the records you want, that will also help you get a useful response.

Avoid making too broad a request. A custodian can legally turn down a request that is so broad that filling it will disrupt his office or that seems to be simply a fishing expedition – all checks issued by the agency for the last five years, all correspondence received by the mayor's office for the last three years. Try to target your request so that it's as manageable and specific as possible. Remember, you can always make additional requests if you don't get what you want on the first try.

Appendix II

OPRA's 24 Exemptions from Disclosure

The Open Public Records Act ("OPRA") provides that government records must be made readily accessible for inspection, copying, or examination by records requesters, *with certain exceptions*. OPRA includes twenty-four (24) specific exemptions from disclosure within its many provisions.

If a records custodian is unable to comply with a request for access, the custodian must indicate the specific basis on the request form and promptly return it to the requester.

The following government records or information are specifically exempt from disclosure and should not be provided to requesters of government records:

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. list specific criminal investigatory information which must be disclosed)

Victims' records

Trade secrets and proprietary commercial or financial information

Any record within the attorney-client privilege

Administrative or technical information regarding computer hardware, software and networks 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

Information which, if disclosed, would give an advantage to competitors or

bidders

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 (Form DD-214) filed with a public agency

Social security numbers

Credit card numbers

Unlisted telephone numbers

Drivers' license numbers

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

N.J.S.A.47:1A-1.2

Biotechnology trade secrets

N.J.S.A.47:1A-2.2

Convicts requesting their victims' records

N.J.S.A.47:1A-3.a.

Ongoing investigations of non-law enforcement agencies (must prove disclosure is inimical to the public interest)

N.J.S.A.47:1A-5.k.

Public defender records

N.J.S.A.47:1A-9

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-10

Personnel and pension records, except specific information identified as follows:

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

Appendix III

Disclosable Records**List of Executive Orders with Disclosure Requirements****Preliminary Release #1 - June 2002****Handbook For Records Custodians****The New Jersey Open Public Records Act (OPRA)****(N.J.S.A. 47:1A-1 et seq.)**

The following records are considered to be disclosable to the public pursuant to the source Executive Order.

Disclosable Records**Document Descriptions and Conditions Source**

Personnel and pension records

Name;

Title;

Salary;

Payroll record;

Length of service;

Position;

Date of separation;

Reason for separation;

Amount and type of pension being received [EO 11](#)
(Section 2(a))

Information that discloses conformity with specific experiential, educational or medical qualifications required for government employment or for receipt of a public pension, but shall not include detailed medical or psychological information. [EO 11](#)

(Section 2(b))

Information concerning crimes reported If an arrest has been made, information as to the defendant's: [EO 123](#)
(Section 2(iii))

Name;

Age;

Residence;

Occupation;

Marital status; 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, information and indictment unless sealed by the court. [EO 123](#)
(Section 2(iv))

Information as to the identity of the investigating and arresting personnel and agency and the length of the investigation. [EO 123](#)
(Section 2(v))

Information on 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 the police. [EO 123](#)
(Section 2(vi))

Information as to circumstances surrounding bail, whether it was posted and amount thereof [EO 123](#)
(Section 2(vii))

Information concerning crimes reported Where crime was reported but no arrest made - information as to the type of crime, time, location and type of weapon, if any [EO 123](#)
(Section 2(i))

If an arrest has been made, information as to the defendant's:

Name; address; and age of any victims;

unless notification to kin has not occurred or the release of information would be contrary to existing law, court rule or harmful to the victim, the victim's family or the ongoing investigation. [EO 123](#)
(Section 2(ii))

Certified copy of a vital record (birth, marriage, death certificates)

Issued only to persons who establish themselves as the subject of the vital record, the subject's parents, legal guardian or legal representative, spouse, child, grandchild or sibling. The registrar must authenticate the identity of the requester and his or her relationship with the subject of the record

Appendix IV

Executive Orders' Exemptions from Disclosure**Second Edition - August 2002****Handbook For Records Custodians****The New Jersey Open Public Records Act (OPRA)****(N.J.S.A. 47:1A-1 et seq.)**

The following records are considered to be **non-disclosable** to the public pursuant to the source Executive Order.

Non-Disclosable Records**Document****Descriptions and Conditions****Source****Public records excluded by Executive Order**

Records excluded by Executive Order of the Governor or by any regulation promulgated under the authority of any Executive Order of the Governor

[EO 9](#)**Regulations**

Regulations adopted and promulgated by state and local government officials excluding certain records

[EO 9](#)

(Section 2)

Rules proposed by state agencies on July 1, 2002 and modified by EO #26 containing proposed exceptions to disclosure under OPRA are exempted until formal adoption action is taken.

[EO 21](#)

(Section 4),

[EO 26](#) at www.nj.gov/opra**Personnel and pension records**

Except as otherwise provided by law or when essential to the performance of official duties or when authorized by a person in interest, an instrumentality of government shall not disclose to anyone other than a person duly authorized by this State or the United States to inspect in connection with his official duties, personnel and pension records of an individual. (See Disclosure section)

[EO 11](#)

(Section 2)

Job applicant information

Disclosure of resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing.

The resumes of unsuccessful candidates may be disclosed after the search has been concluded and the position has been filled, but only where the unsuccessful candidate has consented to such disclosure.

[EO 26](#)

(Section 3)

Governor's Office documents

Any record made, maintained, kept on file or received by the Office of the Governor in the course of its official business which is subject to an executive privilege or grant of confidentiality established or recognized by the Constitution of this State, statute, court rules or judicial case law.

All portions of records, including electronic communications, that contain advisory, consultative or deliberative information or other records protected by a recognized privilege.

All portions of records containing information provided by an identifiable natural person outside the Office of the Governor which contains information that the sender is not required by law to transmit and which would constitute a clearly unwarranted invasion of personal privacy if disclosed.

If any of the foregoing records shall contain information not exempted by the provision of the Open Public Records Act or the preceding subparagraphs (a), (b) or (c) hereof then, in such event, that portion of the record so exempt shall be deleted or excised and access to the remainder of the record shall be promptly permitted.

[EO 26](#)

(Section 2)

Morbidity, mortality and reportable diseases of named persons records

Records of this kind that are required to be made, maintained or kept by any State or local governmental agency

[EO 9](#)

(Section 3(c))

Illegitimacy records

Records of this kind that are required to be made, maintained or kept by any State or local governmental agency which would disclose information concerning illegitimacy

[EO 9](#)

(Section 3(d))

Fingerprint cards, plates and photographs and other similar criminal investigation records

Records of this kind which are required to be made, maintained or kept by any State or local governmental agency

[EO 9](#)

(Section 3(e))

Criminal records

Records of this kind that are required to be made, maintained and kept pursuant to the provisions of R.S. 53:1-20.1 and R.S. 53:1-20.2

[EO 9](#)

(Section 3(f))

Personal property tax returns

Records of this kind that are required to be filed under the provisions of Chapter 4 of Title 54 of the Revised Statute

[EO 9](#)

(Section 3(g))

Records relating to petitions for executive clemency

[EO 9](#)

(Section 3(h))

Certain procurement documents of any State department or agency

Records of this kind concerning surveillance equipment and investigatory services, when disclosure of the equipment type and the subject matter of the services could make known to the target of an investigation the fact that an investigation is in progress.

Records concerning installation of intrusion and detection alarm systems, when disclosure could facilitate illegal entry.

Records concerning studies of computer system security including final reports

when disclosure could facilitate fraudulent use of the information

[EO 79](#)

(Section 1)

[EO 79](#)

(Section 2)

[EO 79](#)

(Section 3)

Domestic security

Government records where accessibility 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 consequence of potential acts of sabotage or terrorism.

[EO 21](#)

(Section 1(a))

Complaints and investigations of discrimination, harassment or hostile environments

Confidential records of complaints and investigations of discrimination, harassment or hostile environments in accordance with the State Policy, regardless of whether they are open, closed or inactive

[EO 26](#)

(Section 4(a))

Information concerning individuals

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.

[EO 26](#)

(Section 4(b))

Test questions, scoring keys and other examination data

Test questions, scoring keys and other examination data pertaining to the

administration of an examination for public employment or licensing.

[EO 26](#)

(Section 4(c))

Records of one agency held by other agencies

Kept confidential if appropriately designated by the initial agency

[EO 26](#)

(Section 4(d))

Whenever a records custodian asserts that fulfilling an OPRA records request requires an “extraordinary” expenditure of time and effort, a special service charge may be warranted pursuant to N.J.S.A. 47:1A-5.c. In this regard, OPRA provides: “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 reasonable and shall be based upon the actual direct cost of providing the copy or copies ...*” (Emphasis added.) N.J.S.A. 47:1A-5.c.

For the Government Records Council to determine (1) whether a special service charge is warranted and (2) whether the special service charge the custodian assessed is reasonable, the Custodian must provide answers to the following questions:

1. What records are requested?
2. Give a general nature description and number of the government records requested.
3. What is the period of time over which the records extend?
4. Are some or all of the records sought archived or in storage?
5. What is the size of the agency (total number of employees)?
6. What is the number of employees available to accommodate the records request?

7. To what extent do the requested records have to be redacted?
8. What is the level of personnel, hourly rate and number of hours, if any, required for a government employee to locate, retrieve and assemble the records for copying?
9. What is the level of personnel, hourly rate and number of hours, if any, required for a government employee to monitor the inspection or examination of the records requested?
10. What is the level of personnel, hourly rate and number of hours, if any, required for a government employee to return records to their original storage place?
11. What is the reason that the agency employed, or intends to employ, the particular level of personnel to accommodate the records request?
12. Who (name and job title) in the agency will perform the work associated with the records request and that person’s hourly rate?
13. What is the availability of information technology and copying capabilities?
14. Give a detailed estimate categorizing the hours needed to identify, copy or prepare for inspection, produce and return the requested documents.

