

Received: Westfield Leader July 5, 2006

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From: "Marlena Russo" <mrusso@ucnj.org>
To:

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Cc: "Nicole Dirado" <ndirado@ucnj.org>
Sent: Wednesday, July 05, 2006 3:38 PM
Attach: Revised OPRA Form (07-06).doc
Subject: Updated OPRA Request Forms & Information

Dear Requestors,

Attached please find the updated County of Union Open Public Records Act (OPRA) request forms. As per Advisory Opinion 2006-1, "What Constitutes a Valid Open Public Records Request", issued by the NJ Government Records Council on February 17, 2006, OPRA requests are required to be submitted on the public agency's official OPRA request forms.

Kindly submit your request on Part B. The remaining pages are for your information.

Please also be advised that there is a new dedicated e-mail account to send OPRA requests and correspondence: opra@ucnj.org. Going forward, kindly use this e-mail address for OPRA matters. Also, if you opt to submit your request electronically, kindly attach Part B to your e-mail.

If you have any questions, please contact me. Thank you for your attention to this matter.

Marlena M. Russo
Office of the County Manager
Union County Administration Bldg., 6th Floor
10 Elizabethtown Plaza
Elizabeth, NJ 07207
Phone: 908-527-4178
Fax: 908-558-0915
mrusso@ucnj.org



COUNTY OF UNION

Office of the Clerk of the Board, 6th floor
Union County Administration Building
Elizabethtown Plaza
Elizabeth, New Jersey 07207



Part A - DIRECTIONS AND PROCEDURES FOR REQUESTING ACCESS TO GOVERNMENT RECORDS

All requests for access to government records will be processed in accordance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. [hereinafter “OPRA”]. All requests for access to, or for copies of, “Government Records” must be submitted in writing on the attached portion of this form entitled “Part B - Request For Access to Government Records” adopted by the County of Union. Some records, as defined by the statute, will be immediately available during normal business hours; however, if any redaction to these records is necessary it may take longer to complete your request. Requestors will be notified, in writing that their records request has been received and is being processed by the County. Most records will require additional time to either compile or make the copies requested, but will generally be available during normal business hours within seven (7) business days of the request. If any government record that has been requested is either exempt from public access or cannot be obtained within the seven (7) business days, you will be provided with a response explaining the reason within the seven (7) business days. Some records requested have specific fees or other response times established by another statute that specifically governs those records. There will be no fee to simply inspect a document during normal business hours. Any request may also be filed electronically if made on the County’s form.

In general:

- Immediate access is ordinarily available for budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.
- Minutes of public meetings will be generally available immediately after the minutes have been approved.
- Records which are not readily available (archived records) or which will require a detailed search and compilation will be made available as soon as possible and the requestor will be provided with an interim report within seven (7) business days indicating the anticipated date that the records will be made available. The fee for the retrieval of records located off-site in archive is **\$5.50** per box containing the desired records.
- Except as otherwise provided by law, regulation, or ordinance the fee assessed for the duplication of a government record or for the transmission of requested records by facsimile shall be: first page to tenth page, **\$0.75** per page; eleventh page to twentieth page, **\$0.50** per page; all pages over twenty, **\$0.25** per page;
- Where a request is made for a copy in a format other than a photocopy, reasonable efforts will be made to provide the information in the format requested. This office may impose a reasonable service charge for producing a document in the format requested or if the request involves an extraordinary expenditure of time and effort, in accordance with N.J.S.A. 47:1A-5(c).
- A deposit will be required for all special service charge requests. Prior to incurring any charges, a requestor shall be informed when a special service charge will be applicable and the estimated amount of the charge. Payment of the estimated charge amount will be required prior to the production of any documents.

The terms “Government Records” or “Public Records” generally include those records determined to be accessible by the public in accordance with the OPRA. The term does *not* include: employee personnel or pension files; criminal investigation records; records of any investigation-in-progress; information that may jeopardize security; inter-agency or intra-agency advisory, consultative, or deliberative material; victim’s records; other matters in which there is a reasonable expectation of privacy or confidentiality; or other material specifically exempted by law. This list is not exhaustive.



COUNTY OF UNION

Office of the Clerk of the Board, 6th floor
Union County Administration Building
Elizabethtown Plaza, Elizabeth, New Jersey 07207
Tel. (908) 527-4140 Fax. (908) 558-0915
E-mail: opra@ucnj.org

Date Stamp

Part B - REQUEST FOR ACCESS TO GOVERNMENT RECORDS

FOR COUNTY USE ONLY

Date Received: _____

Date of Response: _____

Please see "Part A - DIRECTIONS AND PROCEDURES" prior to filling out this form.

*Name: _____

*Address: _____

*Telephone (Day): _____ Unlisted / Listed [circle one]

*Facsimile: _____ *E-Mail: _____

* Indicates helpful information in processing your request, but NOT required to be provided by law.

- Type of Request: Inspect / View documents *only* (during normal business hours)
 Prepare photocopies of all requested documents for purchase
 E-Mail documents (if available) to the above address
 Documents by Fax (see Part A for cost – faxes limited to a maximum of 25 pages)

Information Requested:

- Copy of Minutes** [Please specify board or entity, date, or other identifying info.]

- Copy of Ordinance or Resolution** [Please specify date, number, or other identifying info.]

- Copy of a Bill, Voucher or Contract** [Please specify the vendor or service provided]

- Other** [Please specify]

The Requestor, by signing below, hereby certifies that he or she has NOT been convicted of any indictable offense (felony) under the laws of this State, any other state, or the United States and is not seeking government records containing personal information pertaining to the victim of a crime or the victim's family as provided by N.J.S.A. 47:1A-1 et seq.

The Requestor, by signing below, hereby acknowledges receipt of a copy of this form with the date on which the information is expected to be available and the estimated cost. This form, when signed by a County official shall constitute a receipt for any deposit received.

The information requested will be ready on (anticipated date): _____

Cost of Duplication or Special Service Charge: _____

Deposit: (if required) _____

[Required for anonymous requests, where the anticipated cost of reproduction exceeds \$5.00]

Requestor's Signature _____
Date: _____

County Official _____
Date: _____



COUNTY OF UNION

Part C - GOVERNMENT RECORDS REQUEST RESPONSE

Requestor: _____ Request Date: _____

- Document(s) provided: _____ pages, at a total cost of: _____
- Special Service Charge imposed - Reason: _____, cost: _____
- Document(s) have been inspected by the requestor on the date shown below: _____ documents, _____ total pages
- Document(s) not provided (see below)

The document(s) you have requested that are checked below are NOT being provided because the document(s) are considered privileged or are otherwise exempt from public access, as provided by applicable law:

Privileged or Protected Category

- Advisory, Consultative or Deliberative material
- Autopsy Photos / Video
- Attorney-Client Privilege Information
- Computer Security Information
- Criminal Investigatory Records
- Credit Card Numbers
- Domestic Security (Sabotage or Terrorism)
- Grievance Information with public employer
- Drivers' License Numbers
- Electronic Surveillance Materials
- Emergency or Security Information or Procedures
- Employee Sexual Harassment Complaints
- Fingerprint Cards
- Individual's Medical, Financial, or Tax records
- Insurance Communications
- Investigation in Progress
- Labor Negotiation Information (strategy or positions)
- Personnel or Pension Records
- Photographs of Crime Scene
- Proprietary Information
- Reasonable Expectation of Privacy
- Resumes of unsuccessful applicants
- Safety of persons or the public
- Security Measures and Surveillance Techniques
- Social Security Numbers
- Test Questions, Scoring Keys, or other Exam Data
- Victim records
- Record has been destroyed/not retained pursuant to:
- Other

Authority for Denial or Redaction

- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- Executive Order 21 (McGreevey)
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 2A:156A-19
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- Executive Order 9 (Hughes)
- Executive Order 26 (McGreevey)
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-3.a
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-10
- Executive Order 9 (Hughes)
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- Executive Order 26 (McGreevey)
- Executive Order 69 (Whitman)
- N.J.S.A. 47:1A-1.1, et seq.
- N.J.S.A. 47:1A-1.1, et seq.
- Executive Order 26 (McGreevey)
- N.J.S.A. 47:1A-1.1; N.J.S.A. 2A:82-46b
- Records Retention and Disposition Schedule

You have a right to appeal this decision that the documents requested are not accessible. You may take your appeal to the Government Records Council (GRC) or to the New Jersey Superior Court as provided by N.J.S.A. 47:1A-6 and 7. Please see the attached "Part D - Procedures to Challenge Denial of Access to Government Records" and GRC information.

Date: _____
County Official

ACKNOWLEDGMENT

I hereby acknowledge that I have received copies of, or have been permitted to view/inspect, the documents requested except for any documents specifically listed above on which a determination has been made that the documents could not be provided in accordance with applicable law. If any documents have not been provided, I have received information as to the procedures for an appeal of the determination.

Date: _____
Requestor's Signature

Part D - PROCEDURES TO CHALLENGE DENIAL OF ACCESS TO A GOVERNMENT RECORD

Any person denied access to a government record by the custodian of the record, has the option to either:

1. *File an action in Superior Court* to challenge the custodian's decision. This proceeding shall be heard in the vicinage (county) where it is filed by a Superior Court Judge (Law Division) 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
2. *File a complaint with the Government Records Council (GRC)* established pursuant to N.J.S.A. 47:1A-7, in lieu of filing an action in Superior Court. You may contact the Government Records Council, by phone toll free at 866-850-0511, or by e-mail at grc@dca.nj.state.us for more information regarding Complaint Forms and procedures. You may also obtain further information regarding the GRC at their web site, www.nj.gov/grc.

The right to institute any proceeding to challenge the denial of access to a government record shall be solely at the discretion 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 GRC shall order that access be allowed. A requestor who prevails in any proceeding shall be entitled to apply for reasonable attorney's fees.

1. Procedures for filing a complaint in Superior Court

Pleadings must be prepared for filing with the Clerk of the Superior Court. Pleadings consist of a Complaint and an Order to Show Cause. A \$200 filing fee is also required. Please contact the Union County Superior Court, Civil Division for further details.

Union County Courthouse
2 Broad Street
Elizabeth, NJ 07036
(908) 659-3844 (Civil Division)

2. Procedures for filing a complaint with the Government Records Council:

If you believe that your request for a government record has been improperly denied you may contact the Government Records Council (GRC) staff for guidance. You may contact the GRC by calling (866) 850-0511. Council staff may be able to clarify the reasons for the denial, or may be able to resolve the matter with the records custodian. If the GRC staff can't resolve the dispute, the requestor has the option to file a formal complaint with GRC. Complaint forms are available to be downloaded from the GRC website at www.nj.gov/grc. The complaint must allege that a record custodian has improperly denied that person access to a government record.

Upon receipt of the written complaint signed by requestor, mediation shall be offered through the State's Office of Dispute Settlement. Mediation shall enable a person who has been denied access to a government record and the 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, acts to encourage and facilitate the resolution of the dispute. Mediation shall be an informal, non-adversarial process having the objective of helping the parties to reach a mutually acceptable and voluntary agreement. The mediator shall assist the parties in identifying issues, foster joint problem solving, and explore settlement alternatives. Issues raised during mediation shall remain confidential.

If either party declines mediation or if mediation fails to resolve the matter to the satisfaction of all parties, the GRC staff shall initiate an investigation concerning the facts and circumstances set forth in the complaint. The GRC shall make a determination as to whether the complaint is within its jurisdiction, frivolous, or without any reasonable factual basis. If the GRC concludes that the complaint is outside its jurisdiction, frivolous, or without factual basis, it shall inform the parties of this conclusion in writing. Otherwise, the GRC shall notify the records custodian against whom the complaint was filed of the nature of the complaint and the facts and circumstances alleged. The custodian shall be required to complete a Custodian Response, and may present any other information concerning the complaint to the GRC.

If the GRC is able to make a determination as to a record's accessibility based upon the complaint and the Custodian Response it shall inform the parties of this conclusion in writing. If the GRC is unable to make a determination as to a record's accessibility based upon the complaint and the custodian's response, it may request further information or conduct a hearing on the matter. The hearing shall conform to the rules and regulations provided for hearings by a state agency in contested cases under the "Administrative Procedure Act" P.L. 1968, c.410 (52:14B-1 et seq.), insofar as they may be applicable and practicable.

GRC shall, by a majority vote of its members, render a Final Decision on the complaint stating whether the record which is the subject of the complaint is a government record which must be made available for public access pursuant to the Open Public Records Act. Further, if the GRC determines, by a majority vote of its members, that a custodian has knowingly and willfully violated the Act and is found to have unreasonably denied access under the totality of the circumstances, a penalty may be assessed. A requestor who prevails in any proceeding shall be entitled to a reasonable attorney's fee. All proceedings of the GRC pursuant to this subsection shall be conducted as expeditiously as possible. No fee shall be charged to either party in regard to actions filed.

A decision of the GRC may be appealed by either party to the Appellate Division of the Superior Court. A decision of the GRC shall not have value as a precedent for any case initiated in Superior Court.