

State of New Jersey Government Records Council Statement of Information Form

This form is to be used by Records Custodians as their response to a complaint filed with the Government Records Council (“GRC”), alleging an unlawful denial of access to government records under the Open Public Records Act (“OPRA”), N.J.S.A. 47:1A-1, et seq.

GENERAL INSTRUCTIONS:

1. The Records Custodian or the Custodian’s Legal Counsel may complete the Statement of Information. **However, the *Records Custodian* must sign the Statement of Information.**
2. The GRC will also consider any legal briefs, additional documentation, or information submitted with the Statement of Information. **NOTE:** if an individual other than the Records Custodian handled/responded to the OPRA request at issue, that individual must also provide a separate certification.
3. If applicable, **DO NOT** include any communications that occurred during mediation regarding this matter. N.J.S.A. 2A:23C-2; N.J.A.C. 5:105-2.5(f) & (j).
4. Please do not staple the completed Statement of Information if returned by regular mail.
5. The signed Statement of Information shall be returned to:

Government Records Council
101 South Broad Street
P.O. Box 819
Trenton, NJ 08625-0819
Phone: (609) 292-6830
Fax: (609) 633-6337
Government.Records@dca.nj.gov

6. The Statement of Information must be completed and returned by no later than **five (5) business days** from receipt. Failure to comply with this deadline may result in the GRC adjudicating this complaint based only on the information submitted in the Denial of Access Complaint by the Requestor.
7. **A copy of this Statement of Information must be simultaneously provided to the Complainant.** N.J.A.C. 5:105-2.4(f).

DEFINITIONS: “Records request” or “request” refers to the formal OPRA request on which the complaint is based; “Requestor” or “Complainant” refers to the person who made the request at issue; “Agency” refers to the public agency or subdivision of that agency that is the subject of the OPRA request; and “Records Custodian” or “Custodian” refers to the individual officially designated to fulfill the OPRA request at issue.

PART 1: CONTACT INFORMATION

1. Name of Complainant: Adam Steinbaugh
2. Name of Custodian: Harold Wiener
 Job Title: Municipal Clerk
3. Custodian's Public Agency: Township of Irvington
4. Address: 1 Civic Square
Irvington, NJ 07111
- Phone: 973-399-6664
- Fax: 973-416-6417
- E-mail: hwiener@irvingtonnj.org
5. Name of Custodian's Legal Counsel: Samantha Mendenhall, Esq.
- Counsel's Title: Third Assistant Township Attorney
- Firm/Employer: Township of Irvington
- Address: 1 Civic Square, Legal Department
Irvington, NJ 07111
- Phone: 973-399-6604
- Fax: 973-399-6723
- E-mail: SMendenhall@irvingtonnj.org

*** Note: Until the Custodian's Counsel submits a formal letter of representation to all parties, the GRC will communicate exclusively with the Custodian. See N.J.A.C. 5:105-1.3 & 2.2.**

PART 2: THE DENIAL OF ACCESS COMPLAINT

6. Attach a copy of the OPRA request at issue. Please mark this attachment "Item 6."
7. Indicate the date on which the Custodian received the OPRA request at issue (if the Custodian did not receive an OPRA request, simply indicate, "None received").

11-3-2022

8. Indicate the date on which the Custodian responded to the OPRA request at issue. Provide all written documentation supporting the Custodian's response (if the Custodian did not respond to the OPRA request, simply indicate, "No response was given"). **IMPORTANT:** Do not provide any complete or excerpted records the Custodian claims are privileged or not accessible to the public under OPRA. A general description of the records' content will suffice. If additional pages are needed, please mark each page "Item 8."

11/7/2022-Sub-custodian- Extension until 11-30-2022

9. Pursuant to N.J.S.A. 47:1A-7(e) and the New Jersey Supreme Court's instruction in Paff v. N.J. Dep't of Labor, 392 N.J. Super. 334 (App. Div. 2007), the Custodian **must** provide a document index table containing the following information. The table **shall** be in the format presented below.

An example of the table format is as follows:

(A) List of all records responsive to Complainant's OPRA request (include # of pages for each record).	(B) List the Records Retention Period and Disposition Schedule for each responsive record to the Complainant's OPRA request.	(C) List of all records provided to Complainant, with redactions or in their entirety (include the date such records were provided).	(D) If records were disclosed with redactions, give a general nature description of the redactions.	(E) If records were denied in their entirety, give a general nature description of the record.	(F) List the legal explanation and statutory citation for the denial of access to records with redactions or in their entirety.
Closed session minutes for the May 15, 2006 Council Meeting.	Must be retained by agency permanently. Disposition Schedule: May be archived only (destruction not allowed).	Closed session minutes provided with redactions on June 20, 2007 (3 business days after receiving the OPRA request).	Redactions were made only to delete the discussion of the Council members regarding the personnel matter of Jane Doe.	N/A	<u>N.J.S.A. 47:1A-9(a)</u> (allows exemptions from disclosure contained in other state statutes to apply under OPRA) and <u>N.J.S.A. 10:4-12</u> (allows governing bodies to exclude the public from discussions of personnel matters).

The categories within the table above are described herein:

- A. An itemized list of all records responsive to the Complainant's OPRA request that were made, maintained, kept on file, or received by the Agency on the date of the request, regardless of whether the records were deemed exempt from disclosure.
 - B. State the Agency's Records Retention Period (in years) and Disposition Schedule (in years) for each responsive record as established and approved by the New Jersey Department of Treasury, Records Management Services ("RMS").
 - C. Indicate what records, if any, were provided to the Complainant, either in their entirety or with redactions, and the date(s) provided.
 - D. Of the responsive records provided to the Complainant with redactions, give a general nature description of the redactions.
 - E. Of the responsive records that were **not** provided to the Complainant at all, give a general nature description of the record.
 - F. Specifically state the legal explanation and statutory citation (to OPRA or any other law that may apply) for such denial pursuant to N.J.S.A. 47:1A-6 and Paff v. NJ Dep't of Labor, 392 N.J. Super. 334 (App. Div. 2007). **DO NOT** encapsulate the Custodian's entire justification for denying access within this column; such information instead should be provided under "Item 12" below.
10. Specifically describe the search undertaken to satisfy the OPRA request at issue:
- On 11/7/2022 Sub-custodian S Williams responded see "Item 8"
11. Specifically state the last date on which documents that may have been responsive to the request were destroyed in accordance with the Records Disposition Schedule established and approved by Records Management Services ("RMS"):

ITEM 9 TABLE

(A) List of all records responsive to Complainant's OPRA request (include # of pages for each record).	(B) List the Records Retention Period and Disposition Schedule for each responsive record to the Complainant's OPRA request.	(C) List of all records provided to Complainant, with redactions or in their entirety (include the date such records were provided).	(D) If records were disclosed with redactions, give a general nature description of the redactions.	(E) If records were denied in their entirety, give a general nature description of the record.	(F) List the legal explanation and statutory citation for the denial of access to records with redactions or in their entirety.
On 11/7/2022 Sub-custodian S Williams responded see "Item 8"		On 11/7/2022 Sub-custodian S Williams responded see "Item 8"			

12. Provide all facts and legal arguments in support of the Custodian's actions with regard to the handling of the OPRA request at issue herein and/or on an attached written statement marked "Item 12."

The Custodian did not unlawfully deny the Complainants OPRA request. On 11/7//2022, Sub-custodian S Williams responded see "Item 8".

As stated above, the Custodian in this matter did not unlawfully deny access to the Complainant. See N.J.S.A. 47:1A-5(c) and N.J.S.A.47:1A-5(g). See also Vessio v. NJ Dep't of Cmty, Affairs, Div. of Fire Safety, GRC Complaint No. 2007-63; Dittrich v. City of Hoboken (Hudson), GRC Complaint No. 2008-13 (June 2009); Karakashian v. NJ Dep't of Law & Pub. Safety, Div. of Consumer Affairs, Office Bd. of Medical Examiners, GRC Complaint No. 2013-121 et seq. (November 2013).

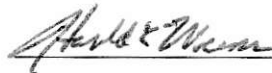
In light of the above, there was no evidence of bad faith, or evidence of unlawfulness.

If the Custodian fails to complete this form completely and accurately (responding to each numbered item specifically as directed and providing a document index in table format), this form shall be returned to the Custodian for proper completion, thus prolonging the adjudication of the complaint.

By signing this Statement of Information, I certify under penalty of perjury that:

- I am the Custodian charged by the public agency with the responsibility for responding to the request for records on which this complaint is based; *or*
- I am the alleged Custodian of an organization that I do not believe is subject to the provisions of OPRA;
- The documents attached hereto are true copies of all documents sent or received by the Custodian or the Custodian's staff (records the custodian claims are privileged or not accessible to the public under OPRA are **not** included);
- A copy of this Statement of Information will be provided to the Complainant and the GRC simultaneously; and
- The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment pursuant to the New Jersey Court Rule 1:4-4.

Signature:



Printed Name:

Harold Wiener

Job Title:

Municipal Clerk

Date:

December 30, 2022

SEE EXHIBIT A

Exhibit A GRC 2022-666

Pursuant to N.J.S.A. 47:1A-1 et seq., the Open Public Records Act requires that "government records be readily accessible for inspection, copying or examination by the *citizens of this State* . . ." (emphasis added). The Complainant ("Requestor") has certified by penalty of perjury that he or she is a resident of the State of Pennsylvania. Therefore, the Open Public Records Act does not apply to Requestor and access could not have been denied to Requestor.

Should Requestor wish to proceed with this matter under the common law right of access, the GRC lacks jurisdiction to hear this matter further. Accordingly, the instant Complaint and all future Complaints filed by the Requestor must be dismissed on their face and/or Requestor's perjury must be reported to law enforcement for prosecution under N.J.S.A. 2C:28-1. The Township should also be absolved from responding to any of Requestor's OPRA requests.

"Item 6"

Cancel Request /  Back To List (/Opra/Index)

Property Address:

Department: Legal, Payroll

Requested By : Adam Steinbaugh

Requested On : 11/03/2022

Contact E-Mail: adam@thefire.org

Mobile Number: (215) 717-3473


Address:

Describe the record(s) requested: This is a request for the following records pursuant to the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 et seq.) and the common law right of access. I am submitting this request to you in order to avoid contact with a represented party (namely the records custodian of Irvington Township). Please produce all records reflecting Irvington Township's efforts to search for records or otherwise respond to my March 29, 2022 OPRA request, which is the subject of Government Records Council Complaint No. 2022-372. Please also produce a copy of any document sufficient to identify the name, title, position, and length of service of any records custodian or sub-custodian, including specifically "S. Williams" and "S. Watson." If I can be of assistance in interpreting or narrowing this request, please don't hesitate to ask. Best, Adam B. Steinbaugh

Preferred methods to receive records: E-Mail

Submission Review

Application Status

Submission Complete 

Department

2 selected 

Submit

Documents

Fees and Payment

"Item 8"

Emails & Notes

Emails Notes

To*

CC

Subject*

Body*

[Empty email form fields for To, CC, Subject, and Body]

Send

To	CC	Subject	Body	Date	Sent By
adam@thefire.org	townclerk@irvingtonnj.org	OPRA Update	<p>11-7-2022</p> <p>Dear Adam,</p> <p>The Township of Irvington received your Open Public Records Act (OPRA) request on 11-3-2022. The official Records Custodian, Harold Wiener received your OPRA request on 11-3-2022. As such, the seven (7) business day deadline to respond to your request is 11-9-2022. This response to your request is being provided to you on the 3rd business day after the custodian's receipt of said request.</p> <p>Your OPRA request sought access to the following:</p> <p>Please produce all records reflecting Irvington Township's</p>	11/07/2022	S. Williams

"Item 8"

To	CC	Subject	Body	Date	Sent By
			<p>efforts to search for records or otherwise respond to my March 29, 2022 OPRA request, which is the subject of Government Records Council Complaint No. 2022-372. Please also produce a copy of any document sufficient to identify the name, title, position, and length of service of any records custodian or sub-custodian, including specifically "S. Williams" and "S. Watson."</p> <p>Your request requires additional time beyond the seven (7) business days to fulfill. OPRA allows custodians to seek extensions of time pursuant to N.J.S.A. 47:1A-5.i. Specifically, OPRA states that, "the requestor shall be advised by the custodian when the record can be made available. If the record is not made available by that time, access shall be deemed denied."</p> <p>Your request requires an extension of time until November 30, 2022.</p> <p>If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the [insert name of Agency] to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other</p>		

"Item 8"

To

CC

Subject Body

Date

Sent By

questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Sincerely,

OPRA Department
Township of Irvington

Application Details

"Item 8"

To	CC	Subject	Body	Date	Sent By
			<p data-bbox="959 142 1214 1896">This is a request for the following records pursuant to the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 et seq.) and the common law right of access. I am submitting this request to you in order to avoid contact with a represented party (namely the records custodian of Irvington Township). Please produce all records reflecting Irvington Township's efforts to search for records or otherwise respond to my March 29, 2022 OPRA request, which is the subject of Government Records Council Complaint No. 2022-372. Please also produce a copy of any document sufficient to identify the name, title, position, and length of service of any records custodian or sub-custodian, including specifically "S. Williams" and "S. Watson." If I can be of assistance in interpreting or narrowing this request, please don't hesitate to ask. Best, Adam B. Steinbaugh</p>		

Description:

Received
Record Method: E-Mail

"Items"

To	CC	Subject	Body	Date	Sent By
			Department: Legal, Payroll Submitted By: Submitted On: 11/03/2022		
			For more information, please login to online portal (https://irvingtonportal.us/) Thank You.		

Rejected

Inactive