

New Jersey – State Public Record Laws

Citations	<p>New Jersey Statutes Annotated, Title 47, Ch. 1A http://www.state.nj.us/grc/act.html</p>
Exemptions to Disclosure	<ul style="list-style-type: none"> • Agency deliberative material [does not include bid specifications, nor purely factual material, nor post-decisional material, nor property appraisals – if it doesn't include deliberations occurring during decision-making process, then not included in exemption]; deliberative process exemption can be overridden if need is so compelling as to outweigh the gov't's interest in confidentiality (burden on requestor); initial burden for deliberative process exemption falls on the custodian to show that the records are pre-decisional and deliberative in nature, and contain opinions/ recommendations/advice about governmental policies [Bozzi v. City of Atlantic City, 434 N.J.Super. 326, 84 A.3d 277 (A.D.2014)] • Trade secrets, proprietary/commercial or financial info (including data processing software obtained under licensing agreement prohibiting disclosure) • Privileged • Work product • "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; Pedagogical, scholarly and/or academic research records and/or the specific details of any research 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."
Access Rights	<ul style="list-style-type: none"> • Nonprofit entities representing State's municipalities = public entity for sake of disclosure of records [Fair Share Housing Center, Inc. v. New Jersey State League of Municipalities, 207 N.J. 489, 25 A.3d 1063 (2011)] • Corporate subcontractors do not qualify as public agencies subject to OPRA [Paff v. Community Education Centers, Inc., 2013 WL 6096513, Unreported (A.D.2013)] • Need not demonstrate any particularized public or private interest in the record • Any person • During regular business hours (or if entity is small or has small amount of assets, whichever is less of (a) at least 6 regular business hours over not less than 3 business days per week, or (b) the entity's regularly-scheduled business hours) [47:1A-5] • Free access to electronic/non-print records, though can be charged for needed supplies such as computer discs • Fee for print copies not to exceed actual cost of duplication, and charge cannot include cost of labor or other overhead expenses unless the record cannot be copied in the ordinary means or involves an extraordinary expenditure of time and effort, in which case may be charged reasonable special service charge based upon direct actual cost of duplication, provided that if custodian is a municipality, the rates must be established in advance by ordinance; requestor must have opportunity to review and object to charge prior to it being incurred • Can be charged for conversion into medium not already routinely maintained or used

	<ul style="list-style-type: none"> • Immediate access ordinarily for records that are budgets, bills, vouchers, contracts, collective negotiations agreements, individual employment contracts, and public employee salary and overtime info • Records to be provided in requested medium if they exist in that medium • Requests must be in writing and hand-delivered, mailed, e-mailed, or otherwise conveyed to the appropriate custodian • If recipient of request is not custodian, must forward request to custodian or direct requestor to custodian • Custodian will have forms to fill out for requests, which will also have allotted spaces for the custodian to fill out re: denials, delays, reasons, etc. (in other states, this information is not conveyed through a single form that goes back and forth between the requestor and custodian) • Responses must be “prompt”: if record is currently available/not in storage nor archived, response due no later than 7 business days after receiving request; failure to respond in that time constitutes a denial of the request, unless requestor chose to remain anonymous and has not provided means of contact – in which case, custodian not required to respond until requestor appears before custodian seeking response. • If record is in storage or archived, response saying this due w/in 7 business days of request, advising when record will be made available; if record not made available by that time, access deemed denied. • Notice of right to challenge denials of access must be posted prominently in public view in part(s) of the office that are open to or frequented by the public, and procedure for filing appeal, etc. • Requestors denied access can challenge by filing an action in superior court, or filing a complaint with the Government Records Council; agency bears burden of proving denial authorized by law; requestor prevailing in any proceeding entitled to access and to reasonable attorney’s fee – no fee for filing complaint
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Destruction of Public Records	<ul style="list-style-type: none"> • No destruction of records, per 47:1-14
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