

Access Begins With A Valid OPRA Request - NJ OPRA Blog

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Each month, we receive dozens of inquiries from people who are upset that their OPRA requests were denied. The most frequent basis for denial is that the request is invalid as written. Although there are records custodians who will happily work with the requestor to fulfill a less-than-perfect request, other custodians will quickly deny any request that does not strictly comply with OPRA's requirements. A valid OPRA request is thus the critical first step to obtaining public records and it is important to draft a request that follows some basic guidelines.

Guideline 1: Do not ask questions in an OPRA request. Although people usually file OPRA requests because they have questions about some public issue, an agency has no obligation to answer those questions. An agency's only obligation under OPRA is to produce non-exempt public records. Although elected public officials may answer questions via email or at a public meeting, an OPRA request must stick to requesting documents.

Guideline 2: Provide a reasonable timeframe. Public agencies are permitted to impose special service charges where a request requires an "extraordinary" amount of time to fulfill. Requestors must be mindful of how many documents will be responsive to the request and keep the timeframe relatively narrow.

Guideline 3: Seek identifiable records. A valid OPRA request seeks identifiable documents. A request that seeks "any and all records relating to the town's animal control services" is overbroad because it leaves the custodian not knowing what the requestor wants. Instead, requestors must identify specific, such as "I seek the following records relating to the town's animal control services: shared services agreements for 2018, the health inspection report for the animal

shelter for 2018, and all settlement agreements involving the animal shelter for 2018-2019.”

Tip: There are several ways to learn about what types of records might exist:

1. **Look for statutes, regulations and ordinances on the topic.** Many government operations must comply with specific provisions of law. Animal control, for example, is highly-regulated and there are state statutes and regulations that require animal shelters to maintain certain paperwork. Looking at the statutes and regulations will help identify some records that might exist.
2. **Look at records retention schedules.** All agencies must comply with the State’s records retention laws. Although the records retention schedules do not list every record that must be maintained, they provide some information regarding the types of documents an agency might possess.
3. **Request agency policies.** An agency’s written policies, standard operating procedures, or operating handbooks might provide information regarding the types of written reports employees are required to generate or the types of records the agency must keep.
4. **Ask the agency.** Believe it or not, many government employees will happily help a requestor identify what record exists if they know what type of information the requestor is seeking.

Guideline 4: State the preferred format and method of delivery. A request should indicate if the requestor wants the records to be sent to them via email for free or if they want to receive hard copies, which cost 5 cents per page. The request should indicate the preferred format, such as an Excel file or a PDF. Stating these preferences up front in the OPRA request avoids confusion.

Following these general guidelines will help requestors overcome the first hurdle and send the records custodian on the hunt for responsive government records.