

You Only Have 45 Days to Sue for an OPRA Violation - NJ OPRA Blog

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Perhaps the most important thing to remember about OPRA is that there is a very, very short statute of limitations period. This means that if you receive a denial, you need to act very quickly or you may lose your rights to gain access to the record you seek.

What do you do if you receive a denial from an agency or if the agency unlawfully redacts information from government records?

The best course of action is to immediately speak to an attorney, who can work with you to gain access to the records. This frequently requires a lawsuit filed in Superior Court. Again, the most important thing to remember is that your action must be filed within the statute of limitations, which is only 45 calendar days. The process for filing in Superior Court is as follows:

- You will sign a retainer agreement with an attorney, which likely agrees to represent you on a fee-shifting basis (meaning, there will be no charge to you—the agency will pay the fees if and when you prevail)
- A Verified Complaint and Order to Show Cause is filed. These will be drafted by the requestor's attorney, though the requestor must sign the complaint to verify it is accurate.
- The judge will review and sign the order, which sets for a briefing schedule and a hearing date.
- The pleadings are then served upon the public agency and they will submit an opposition brief. Sometimes, an agency may opt to release the records and settle the attorney fee amount rather than proceed with the litigation.
- The requestor's attorney has an opportunity to file a reply brief

- A hearing is held, wherein the judge will hear arguments from both sides. For simple cases, the judge will usually enter a ruling that day. More complex cases may require a little more time for an opinion to issue. The requestor need not be present for the hearing.
- If the requestor is declared a prevailing party, the Court will order the agency to pay the requestor's attorney fees.

Again, the most important thing to remember is that there is a very short timeline for filing the initial Verified Complaint – 45 days from the date your request was denied.