

New Jersey Government Records Council Denial of Access Complaint

Please read these instructions before completing this form:

- This form is to be used only for claims of denial of access to government records that you want the Government Records Council (GRC) to decide. Your request must have been made on or after July 8, 2002 under "OPRA," the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).
- Please print or type your responses, and provide ALL information requested. Incomplete forms will delay processing. This form is available in downloadable format from the GRC web site at www.nj.gov/grc.
- Only one complaint is required for each OPRA request form, regardless of the number of documents sought in the request.
- *The GRC recommends that you keep a copy of this complaint for your own files.*
- **MAIL, FAX, OR E-MAIL THIS COMPLAINT AND ALL SUPPORTING DOCUMENTATION TO:**

Government Records Council
 PO Box 819
 Trenton, NJ 08625-0819

Fax: (609) 633-6337
 E-mail: grc@dca.state.nj.us

1. About the Requester of the Records:

Full Name: _____

Mailing Address: _____

City: _____ State: _____ ZIP _____

Please provide a phone number at which GRC staff can contact you between 8 A.M.-5 P.M., Monday-Friday: _____

Fax Number: _____

E-Mail Address: _____

If you are represented by an attorney in this matter, please provide:

Name: _____ Phone Number: _____

Address: _____ Fax Number: _____

E-mail Address: _____

If you are an attorney who requested records and are filing this complaint **on behalf of a client**, please state the client's name:

2. About the Custodian of Records:

Name of the public agency from which records were requested: _____

Name of custodian on whom records request was submitted: _____

Telephone Number: _____ E-Mail address (if used): _____

Name of custodian who denied records request (if different from above): _____

Telephone Number: _____ E-Mail address (if used): _____

Fax Number: _____

3. About the Record Request:

Date your records request was provided to the custodian: _____

Did you receive a reply to your request? Yes No

If so, state the date your request was denied: _____

Have you previously filed a complaint with the GRC concerning the record request that is subject of this complaint?

Yes No

If yes, provide the GRC complaint number and a copy of the GRC decision in the matter.

Date: _____ Complaint No.: _____

Have you spoken with or written to the GRC about the record request that is subject of this complaint?

Yes Date: _____ No

Have you filed an action in the N.J. Superior Court concerning the record request that is subject of this complaint?

No Yes If Yes, Docket Number: _____

4. Offer of Mediation (please refer to the attached documents for details):

Are you interested in participating in mediation? Yes No

5. Documents to submit with this Form:

- Complete** the attached **Records Denied List** to describe the records to which you were denied access.
- Attach** a copy of the OPRA Records Request form you filed with the public agency and any correspondence between you and the record custodian(s) or custodial agency staff that concern the portion of your OPRA request that was denied. Be sure to include any e-mail, memoranda, phone messages, or any other documents such as affidavits, or certifications related to the request and the denial.
- Summarize** the facts of this complaint by writing the content, time and date of any interaction you had with the custodian regarding the OPRA records request that is the subject of this complaint. Use the attached **Detail Summary** for this purpose.
- Provide** any legal arguments, allegations or other information you would like the GRC to consider in deciding this complaint. Use the attached **Detail Summary** for this purpose.
- Sign** the Agreement to Mediate if you wish to participate in the mediation process.

6. Verification of Complaint:

By signing this complaint, I affirm that:

- I am the person who submitted the OPRA request for records which is the subject of this Complaint;
- The information I have provided is true to the best of my knowledge and belief;
- The documents submitted with this Complaint are true copies of material which I believe is relevant to my claim;
- I am not seeking disclosure of any personal information pertaining to the victim of any crime committed by me, which is an indictable offense under the laws of the State of New Jersey, or any other State, or pertaining to the family of that victim; and
- I am simultaneously providing a copy of this complaint to the Custodian of Records.

Signature (required)

Date

**New Jersey Government Records Council
Denial of Access Complaint - Detail Summary**

Use this form to summarize the content, time and date of any conversations regarding this complaint, along with the names of the participants and any witnesses.

**New Jersey Government Records Council
Denial of Access Complaint – Records Denied List**

Name of Complainant: _____

This is page _____ of _____.

Please fill out this form describing the record (or portion of it) to which access has been denied, the response to your request, including the reason given for denial of access. Submit additional pages if necessary.

Item #	Description of record (or portion)	Response to request

Using Mediation to Resolve Complaints

❖ The Mediation Option

The New Jersey Government Records Council offers mediation to resolve disagreements arising from a request for government records. A trained, neutral mediator is available to assist the parties – the person who was allegedly denied access to a government record and the custodian who allegedly denied access -- reach a mutually acceptable resolution to their differences.

❖ What is Mediation?

Mediation is an informal, non-adversarial, voluntary problem-solving process. The purpose of the mediation is to:

- i. Promote discussion between the parties,
- ii. Assist parties to develop and exchange pertinent information and data concerning the issues in dispute, and
- iii. Assist parties to develop proposals that will enable them to arrive at a mutually acceptable outcome.

The mediator is an impartial, third party whose purpose is to help frame the issues, focus discussion, clarify points of agreement and disagreement, and assist parties in considering options to resolve the dispute. The mediator is not a judge and has no authority to determine the merits of the complaint or the outcome of the mediation, nor does a mediator act as an advocate for any party to the dispute. Ultimately, the parties control whether and how the dispute is resolved.

❖ Features of Mediation:

Voluntary - Both parties must agree to participate in mediation. Any party to the mediation may withdraw at any time by notifying the mediator and all other parties involved. The mediator can also terminate the process at any point if it appears that further mediation would be unproductive. Settlement, too, is entirely voluntary. If a settlement is reached, however, the mediator will assist the parties in putting their agreement into written form. Once all parties sign a Mediation Settlement Agreement, it becomes binding and all parties are obligated to fulfill the promises made in the Agreement.

Confidential - Information that is disclosed in the course of mediation and not otherwise obtainable is confidential, for settlement purposes only, and cannot be used in any future proceeding unless expressly agreed to by the parties. Records of the proceeding - stenographic, electronic or otherwise - will be maintained in a confidential file pursuant to the Uniform Mediation Act (N.J.S.A. 2A:23C-1 et seq.). Parties will not be bound by anything said or done in mediation unless and until there is a written Mediation Settlement Agreement.

Informal - Mediation is not a legal proceeding. There will be no testimony or witnesses, and rules of evidence do not apply. Rather, mediation is informal and aimed at reaching terms agreeable to both parties.

❖ Why Consider Mediation?

No cost - Mediation is free to both parties. If both parties agree to try mediation, there is no obligation for the custodian to formally respond to the complaint, or for the person requesting records to prepare testimony.

Prompt, convenient and private - Mediation takes place at a mutually agreed upon time and place; the mediation session is a private, informal discussion.

No representation necessary - Although the parties may each bring a legal representative. It is essential however, that participants in the mediation have decision-making authority, that is, the ability to commit to a settlement, or in the case of the custodian, to obtain such authority by telephone.

Parties control the outcome - Parties negotiate the terms that meet their interests. Parties will not be bound by anything said or done at the mediation unless a Mediation Settlement Agreement is signed. In addition, parties do not waive any of their rights by coming to mediation, nor will they be sanctioned for not participating or not reaching agreement.

❖ **How does Mediation Work?**

Once both parties sign the **Agreement to Mediate**, a mediator will contact the parties to conduct an initial conference call to describe the mediation process, to identify the people with decision-making authority who need to be present at the mediation session, to provide the mediator with a brief overview of the issues, and to schedule the mediation. It is the responsibility of each party to notify their legal representative, if any, of the pending mediation session.

The mediator opens the mediation session by describing his or her role as an impartial, third party and explaining the mediation procedure. Each party then will have an opportunity to discuss issues of concern. The mediator will meet jointly and separately with the parties to further the exchange of information, to help parties understand one another's perspective, and to explore settlement options.

If settlement is reached, the terms of the agreement will be reduced to writing and signed by the parties. A copy of the Mediation Settlement Agreement is given to each party. If there is no agreement, the matter will be referred for adjudication by the GRC.

❖ **Who is the Mediator?**

The GRC provides mediation services to promote the use of means other than litigation to resolve disputes affecting the public interest. The Mediator is an attorney well versed in the Open Public Records Act and is professionally trained in dispute resolution.

❖ **For more information**

For more information about mediation or if you have any questions please contact:

New Jersey Government Records Council
101 South Broad Street
PO Box 819
Trenton, NJ 08625-0819
Phone: (609) 292-6830
Fax: (609) 633-6337
Web: www.nj.gov/grc

**New Jersey Government Records Council
 Agreement to Mediate
 GRC Complaint No. 20XX-XX**

By participating in mediation, I/we agree:

1. To engage in a good faith effort to resolve the above referenced complaint filed with the Government Records Council (“GRC”) concerning access to records or related matters described in the Complaint;
2. That I will abide by any procedural rules set forth by the mediator. Such rules may include the establishment of a timetable for completion of mediation and/or phases of the mediation, a requirement that the parties periodically reduce settled issues to writing, a requirement that the parties personally meet with the mediator at a mutually convenient time and place and such other reasonable procedural rules deemed by the mediator to facilitate the mediation process.
3. That all discussions and documents arising during mediation are confidential unless otherwise legally obtainable. Documents provided in mediation cannot be used in a GRC hearing or appeal from a GRC determination unless those documents are public records or the party with control over the documents consents to their use in such a proceeding. Conversations with the mediator or with the other party during mediation will not constitute statements that can be used in a later GRC hearing or appeal from a GRC determination;
4. That I will not subpoena the mediator to testify or to produce any mediation materials whatsoever following the mediation. I acknowledge that the mediator will not testify on behalf of any party in any pending or future administrative or judicial proceeding, or disclose any information obtained during mediation unless the parties expressly consent to such disclosure, or unless law or court order requires disclosure. I further agree that the mediator will be held harmless for any claim arising from the mediation process;
5. That the mediation session will not be recorded (either video or audio) and that no transcript of the session will be produced;
6. That the mediator will not decide who is right or wrong, and that I shall not ask the mediator to act as my advocate. I acknowledge that the mediator will try to help the parties reach their own resolution of this dispute by encouraging discussion; however, if the mediator determines that the mediation process is no longer productive the mediator may unilaterally terminate said mediation and refer the matter back to the GRC for further processing;
7. That when a settlement is reached, it shall be put in writing and signed, and shall be binding upon all parties to the agreement. A copy shall be provided to the GRC. If the complaint is not resolved during mediation, the complaint will be transferred to the GRC for further processing.

The parties to this agreement, whose names and signatures appear below, are the only persons authorized to participate in the mediation process. The principal’s representative, if any, affirms that he/she is authorized to act by, and on behalf of, the principal.

<input type="checkbox"/> YES, I want to participate in mediation.	<input type="checkbox"/> NO, I do not want to participate in mediation.
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Name of Principal (Please Print)	Signature	Date
<input type="checkbox"/> I am the Complainant <input type="checkbox"/> I am the Custodian		

Name of Legal Representative (Please Print)	Signature	Date
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Name of Representative (Please Print)	Signature	Date
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