



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Reconsideration¹

**Administrative Complaint Disposition – No correspondence received by the
Custodian regarding this request**

GRC Complaint No.: 2012-18

Complainant: Keith A. Werner
Public Agency: New Jersey Department of Health
Custodian of Record: Andrea Mahon

Date of Request: December 6, 2011
Date of Complaint: January 18, 2012²

Complaint Disposition:

The Custodian certifies that she did not receive a records request from the Complainant for the records relevant to the complaint. Although the Complainant attached a completed OPRA request form dated December 6, 2011 to his Denial of Access Complaint, he has failed to provide any credible evidence to contradict the Custodian's certification that she never received such a request. Therefore, this complaint is without any reasonable factual basis to pursue.

Applicable OPRA Provision:

"The custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following: (1) specific directions and procedures for requesting a record; (2) a statement as to whether prepayment of fees or a deposit is required; (3) the time period within which the public agency is required by [OPRA], to make the record available; (4) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal; (5) space for the custodian to list reasons if a request is denied in whole or in part; (6) space for the requestor to sign and date the form; (7) space for the custodian to sign and date the form if the request is fulfilled or denied. The custodian may require a deposit against costs for reproducing documents sought through

¹ This is a reconsideration of a previous Administrative Complaint Disposition with an effective date of February 28, 2012. The Complainant's Denial of Access Complaint was dismissed because the Complainant asserted in the complaint that he filed an action in the New Jersey Superior Court concerning the record request that was the subject of the complaint. Subsequently, by certification dated March 26, 2012, the Complainant averred that he checked the wrong box on the complaint form and that he did not file an action in the New Jersey Superior Court concerning the record request that was the subject of the complaint.

² The GRC received the Denial of Access Complaint on said date.



an anonymous request whenever the custodian anticipates that the information thus requested will cost in excess of \$5 to reproduce.” N.J.S.A. 47:1A-5.f.

“A request for access to a government record shall be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian.” N.J.S.A. 47:1A- 5.g.

"The council shall make a determination as to whether the complaint is within its jurisdiction or frivolous or *without any reasonable factual basis*. (Emphasis added)." N.J.S.A. 47:1A-7.e.

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St. PO Box 006, Trenton, NJ 08625-0006.

Effective Date of Disposition: January 29, 2013

Prepared By: John E. Stewart, Esq.

Approved By: Karyn Gordon, Esq.
Acting Executive Director

Date: January 22, 2013

Distribution Date: January 29, 2013