



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Administrative Complaint Disposition – Motion to File Within Time Denied

David Wyche
Complainant

GRC Complaint No. 2024-216

v.

N.J. Department of Law & Public Safety,
Division on Civil Rights
Custodial Agency

Custodian of Record: Laura Miller
Request Received by Custodian: November 3, 2023
GRC Complaint Received: September 3, 2024

Complaint Disposition: The Complainant verified the instant complaint on September 2, 2024, alleging he was denied access to his OPRA request on November 9, 2023, or 297 days prior. The Complainant contended that his complaint was filed out of time because he chose to file with New Jersey Superior Court, who eventually dismissed his complaint based on procedural grounds on July 31, 2024. Custodian’s Counsel submitted a brief in opposition of the motion, including multiple exhibits. Upon review of all submissions, the GRC does not agree the Complainant’s failure to adhere to Superior Court’s process shows good cause to accept the instant complaint out of time.¹ Based on the forgoing, the Complainant failed to show good cause to permit the complaint to proceed out of time. Therefore, this complaint shall be dismissed.

Applicable OPRA Provision: “Any requestor who is denied access, in whole or in part, to a government record by a custodian, at the option of the requestor, may file a complaint with the Council pursuant to N.J.S.A. 47:1A-6. Such filing shall be made within 60-calendar days or, if the last day of the period is a Saturday, Sunday, or legal holiday, within the next business day, pursuant to N.J.A.C. 1:1-1.4, after the requestor receives a response from the custodian that grants or denies access or, if the custodian does not respond within seven business days of the request, within 60-calendar days following the expiration of such seven-business-day period, whichever is later, unless accompanied by a motion to file within time, showing good cause.” N.J.A.C. 5:105-2.1(a).²

¹ The GRC notes that confusing language exists in the court orders issued in Docket No. ESX-L-7545-23 that suggest the court may have ultimately treated the complaint as moot partly due to a January 17, 2024 disclosure. Also, the Complainant already chose a forum to review the denial at issue: a plain reading of OPRA does not support a requestor’s ability to “forum shop” their complaints. See Nichols v. Housing Auth., 2014 N.J. Super. Unpub. LEXIS 2884, 14-17 (December 12, 2014); McCall, Esq. v. N.J. Dep’t of Cmty. Affairs, GRC Complaint No. 2016-10 (February 2016); Sudhakar v. N.J. State Police, GRC Complaint No. 2023-49 (May 2023).

² The Complainant submitted his complaint via e-mail on September 2, 2024, one (1) day before the enactment of P.L. 2024, c.16 which superseded N.J.A.C. 5:105-2.1(a) by setting the statute of limitation for filings with the courts or GRC at forty-five (45) calendar days. Thus, the GRC addresses this complaint under the statute of limitation set forth under N.J.A.C. 5:105-2.1(a) because P.L. 2024, c.16 was not yet in effect at the time of submission.



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: December 10, 2024

Prepared By: Frank F. Caruso
Executive Director

Date: December 3, 2024

Distribution Date: December 12, 2024