



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

FINAL DECISION

May 31, 2022 Government Records Council Meeting

Jeffrey Goodwin
Complainant

Complaint No. 2020-172

v.

Borough of Woodlynne (Camden)
Custodian of Record

At the May 31, 2022 public meeting, the Government Records Council (“Council”) considered the May 24, 2022 Supplemental Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that the Council dismiss the complaint because the Complainant voluntarily withdrew it in writing via e-mail to the GRC on May 2, 2022. Thus, no further adjudication is required.

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. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the
Government Records Council
On The 31st Day of May 2022

Robin Berg Tabakin, Esq., Chair
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: June 2, 2022



**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Supplemental Findings and Recommendations of the Executive Director
May 31, 2022 Council Meeting**

Jeffrey Goodwin¹
Complainant

GRC Complaint No. 2020-172

v.

Borough of Woodlynne (Camden)²
Custodial Agency

Records Relevant to Complaint: Copies via e-mail of the “job application and resume for Ryan Dubiel showing his prior job history, any other information can be redacted.”

Custodian of Record: Luis Pastoriza

Request Received by Custodian: June 18, 2020

Response Made by Custodian: September 3, 2020

GRC Complaint Received: September 16, 2020

Background

April 26, 2022 Council Meeting:

At its April 26, 2022 public meeting, the Government Records Council (“Council”) considered the April 19, 2022 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian’s response was insufficient because he failed to address the Complainant’s preferred method of delivery, which was via e-mail. N.J.S.A. 47:1A-5(g); Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).

¹ No legal representation listed on record.

² No legal representation listed on record.

3. Notwithstanding the Custodian's "deemed" denial, the Custodian lawfully denied access to the Complainant's request for Ryan Dubiel's job application because same is not subject to disclosure under OPRA. N.J.S.A. 47:1A-6. See Toscano v. N.J. Dep't of Human Serv., Div. of Health Serv., GRC Complaint No. 2010-147 (May 2011). See also Deutsch v. N.J. Civil Serv. Comm'n, GRC Complaint No. 2011-361 (March 2013).
4. The Custodian unlawfully denied access to Ryan Dubiel's résumé. Therefore, the Custodian must disclose the résumé to the Complainant pursuant to the provisions of Executive Order No. 26 (Gov. McGreevey, 2002), applicable to OPRA by operation of N.J.S.A. 47:1A-9(a) or certify that the record is nonexistent. N.J.S.A. 47:1A-6. See Krryda v. Pinelands Reg'l School Dist. (Camden), GRC Complaint No. 2012-285 (Interim Order December 18, 2012).
5. **The Custodian shall comply with paragraph #3 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4, to the Executive Director.**
6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Procedural History:

On April 27, 2022, the Council distributed its Interim Order to all parties. On May 2, 2022, the Custodian disclosed records to the Complainant, copying the Government Records Council ("GRC"). On the same day, the Complainant e-mailed the GRC stating that he was withdrawing the complaint.

Analysis

No analysis required.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council dismiss the complaint because the Complainant voluntarily withdrew it in writing via e-mail to the GRC on May 2, 2022. Thus, no further adjudication is required.

Prepared By: John E. Stewart
Staff Attorney

May 24, 2022



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

INTERIM ORDER

April 26, 2022 Government Records Council Meeting

Jeffrey Goodwin
Complainant

Complaint No. 2020-172

v.

Borough of Woodlynne (Camden)
Custodian of Record

At the April 26, 2022 public meeting, the Government Records Council (“Council”) considered the April 19, 2022 Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian’s failure to respond in writing to the Complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the Complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian’s response was insufficient because he failed to address the Complainant’s preferred method of delivery, which was via e-mail. N.J.S.A. 47:1A-5(g); Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).
3. Notwithstanding the Custodian’s “deemed” denial, the Custodian lawfully denied access to the Complainant’s request for Ryan Dubiel’s job application because same is not subject to disclosure under OPRA. N.J.S.A. 47:1A-6. See Toscano v. N.J. Dep’t of Human Serv., Div. of Health Serv., GRC Complaint No. 2010-147 (May 2011). See also Deutsch v. N.J. Civil Serv. Comm’n, GRC Complaint No. 2011-361 (March 2013).
4. The Custodian unlawfully denied access to Ryan Dubiel’s résumé. Therefore, the Custodian must disclose the résumé to the Complainant pursuant to the provisions of Executive Order No. 26 (Gov. McGreevey, 2002), applicable to OPRA by operation of N.J.S.A. 47:1A-9(a) or certify that the record is nonexistent. N.J.S.A. 47:1A-6. See Krzywda v. Pinelands Reg’l School Dist. (Camden), GRC Complaint No. 2012-285 (Interim Order December 18, 2012).

5. **The Custodian shall comply with paragraph #3 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver¹ certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,² to the Executive Director.³**
6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Interim Order Rendered by the
Government Records Council
On The 26th Day of April 2022

Robin Berg Tabakin, Esq., Chair
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: April 27, 2022

¹ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

² "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

³ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
April 26, 2022 Council Meeting**

Jeffrey Goodwin¹
Complainant

GRC Complaint No. 2020-172

v.

Borough of Woodlynne (Camden)²
Custodial Agency

Records Relevant to Complaint: Copies via e-mail of the “job application and resume for Ryan Dubiel showing his prior job history, any other information can be redacted.”

Custodian of Record: Luis Pastoriza

Request Received by Custodian: June 18, 2020

Response Made by Custodian: September 3, 2020

GRC Complaint Received: September 16, 2020

Background³

Request and Response:

On June 18, 2020, the Complainant submitted an Open Public Records Act (“OPRA”) request to the Custodian seeking the above-mentioned records. On September 3, 2020, the fifty-fourth (54th) business day following receipt of said request, the Custodian responded in writing, denying the Complainant’s request by referencing N.J.S.A. 47:1A-3(a).

Denial of Access Complaint:

On September 16, 2020, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant stated that he submitted his OPRA request to the Custodian on June 18, 2020. The Complainant stated that in his request he stated that any information other than job history could be redacted. The Complainant further stated that on September 3, 2020, he received a voicemail message on his cell phone informing him the response to his request was ready. The Complainant stated that between the date he submitted his request and the date the voicemail message was left on his cell phone, the Custodian failed to

¹ No legal representation listed on record.

² No legal representation listed on record.

³ The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

acknowledge receipt of the Complainant's request, seek an extension of time to respond, or otherwise attempt to communicate with him.

The Complainant stated that in the response the Custodian denied his request by referencing N.J.S.A. 47:1A-3(a). The Complainant asserted that the Custodian had approximately eleven (11) weeks to respond to his request, and that it should not have taken that much time to respond if the Custodian intended to use an on-going investigation as the reason for denial.

Statement of Information:

On September 29, 2020, the Custodian filed a Statement of Information ("SOI"). The Custodian certified that he was represented by legal counsel; however, no letter of representation was received by the GRC. The Custodian certified that he received the Complainant's OPRA request on June 18, 2020, and prepared a written response to the request on August 26, 2020. The Custodian certified that the Complainant "picked up" the response on September 3, 2020. The Custodian certified that the records responsive to the request are a résumé and job application for a police officer who is under investigation by the local police department and the Camden County Prosecutor's Office for a police involved shooting.

The Custodian certified that he did not search for the requested records because the records are related to an ongoing investigation pursuant to N.J.S.A. 47:1A-3(a). The Custodian further certified that the requested records are also personnel records, exempt from access under N.J.S.A. 47:1A-10.

Analysis

Timeliness

Unless a shorter time period is otherwise provided, a custodian must grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian's failure to respond accordingly results in a "deemed" denial. Id. Further, a custodian's response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).⁴ Thus, a custodian's failure to respond in writing to a complainant's OPRA request, either granting access, denying access, seeking clarification, or requesting an extension of time within the statutorily mandated seven (7) business days, results in a "deemed" denial of the complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order dated October 31, 2007).

Here, the Custodian certified that he received the Complainant's OPRA request on June 18, 2020, and prepared a written response on August 26, 2020. The Custodian further certified that the Complainant picked up the response on September 3, 2020. Although the Complainant asked for an e-mail response, there is nothing in the evidence of record to indicate that the Custodian attempted to e-mail, or otherwise deliver the response to the Complainant prior to September 3,

⁴ A custodian's written response, either granting access, denying access, seeking clarification, or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency's official OPRA request form, is a valid response pursuant to OPRA.

2020, which was the fifty-fourth (54th) business day following the Custodian's receipt of the request.

Therefore, the Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley, GRC 2007-11.

Insufficient Response

The GRC previously adjudicated complaints in which a custodian did not address the preferred method of delivery. In Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014), the complainant identified his preferred method of delivery as "electronic copies on compact disc or USB drive." The custodian timely responded but did not address the complainant's preferred method of delivery. The Council, relying on its past decision in O'Shea v. Twp of Fredon (Sussex), GRC Complaint Number 2007-251 (February 2008) (stating "[a]ccording to [the] language of N.J.S.A. 47:1A-5(g), the [c]ustodian was given two ways to comply and should have, therefore, responded acknowledging the [c]omplainant's preferences with a sufficient response for each."), held that the custodian's response was insufficient. See also Paff v. Borough of Sussex (Sussex), GRC Complaint Number 2008-38 (July 2008) (holding that although the custodian timely responded granting access to the requested record, the custodian's response was insufficient because she failed to address the preferred method of delivery); Wolosky v. N.J. Dep't of Env'tl. Prot., GRC Complaint No. 2009-194 (Interim Order dated August 24, 2010) (holding that the custodian's response was insufficient because he did not address the complainant's preferred method of delivery).

Here, the Complainant sought access to the responsive records via e-mail. However, the Complainant stated that on September 3, 2020, he received a voicemail message on his cell phone from the Custodian informing him the response to his request was ready. The Custodian certified that the Complainant "picked up" the response on September 3, 2020. There is nothing in the evidence of record to indicate that the Custodian attempted to e-mail the response to the Complainant. Moreover, at no point in the Custodian's response does he address the Complainant's preferred method of delivery. Therefore, consistent with the Council's decision in Delbury, GRC 2013-240, the Custodian's response was insufficient.

Accordingly, the Custodian's response was insufficient because he failed to address the Complainant's preferred method of delivery, which was via e-mail. N.J.S.A. 47:1A-5(g); Delbury, GRC 2013-240.

Unlawful Denial of Access

OPRA provides that government records made, maintained, kept on file, or received by a public agency in the course of its official business are subject to public access unless otherwise exempt. N.J.S.A. 47:1A-1.1. A custodian must release all records responsive to an OPRA request

“with certain exceptions.” N.J.S.A. 47:1A-1. Additionally, OPRA places the burden on a custodian to prove that a denial of access to records is lawful pursuant to N.J.S.A. 47:1A-6.

OPRA also provides that:

[w]here it shall appear that the record or records which are sought to be inspected, copied, or examined shall pertain to an investigation in progress by any public agency, the right of access provided for in [OPRA] may be denied if the inspection, copying or examination of such record or records shall be *inimical to the public interest*; provided, however, that this provision shall not be construed to allow any public agency to prohibit access to a record of that agency that was open for public inspection, examination, or copying before the investigation commenced.

[N.J.S.A. 47:1A-3(a) (emphasis added).]

OPRA further provides that:

The provisions of this act . . . shall not abrogate any exemption of a public record or government record from public access heretofore made pursuant to . . . *Executive Order of the Governor* . . .

[N.J.S.A. 47:1A-9(a) (emphasis added).]

Executive Order No. 26 (McGreevey) (“EO 26”) provides in relevant part:

No public agency shall disclose the résumés, applications for employment or other information concerning job applicants while a recruitment search is ongoing. The résumés of successful candidates shall be disclosed once the successful candidate is hired. The résumés of unsuccessful candidates may be disclosed after the search has been concluded and the position has been filled, but only where the unsuccessful candidate has consented to such disclosure.

[Id.]

OPRA additionally provides that:

[T]he personnel or pension records of any individual in the possession of a public agency . . . shall not be considered a government record and shall not be made available for public access, except that an individual’s name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of any pension received shall be a government record[.]

[N.J.S.A. 47:1A-10.]

Here, the Custodian certified that the records responsive to the request were a job application and a résumé for a police officer under investigation. The Custodian certified that the

records were denied in their entirety because the records are related to an ongoing investigation pursuant to N.J.S.A. 47:1A-3(a) and as personnel records, pursuant to N.J.S.A. 47:1A-10.

The Custodian first asserts N.J.S.A. 47:1A-3(a) as the reason for denying access to the requested records. However, this provision only allows denial of access if the requested records are inimical to the public interest. The Custodian failed to certify that disclosure of the requested records would jeopardize the ongoing investigation(s) or were otherwise inimical to the public interest if disclosed. Additionally, the Custodian failed to successfully argue that the records were not “open for public inspection, examination, or copying” prior to the commencement of the investigation. Therefore, the Custodian cannot rely upon N.J.S.A. 47:1A-3(a) to deny access to said records.

While N.J.S.A. 47:1A-10 operates to exempt access to personnel records, EO 26 directly addresses the disclosability of resumes and employment applications. Here, there is no question that Ryan Dubiel was a successful candidate for employment with the Borough of Woodlynne because the Custodian certified that he is a police officer in the municipality. And EO 26 requires résumés of successful candidates to be disclosed. Id. However, EO 26 is less clear on applications and “other information concerning job applicants.” To this end, the Council has previously held that employment applications are not disclosable, reasoning that the executive order made no mention of employment applications being disclosed after the completion of the recruitment search. See Toscano v. N.J. Dep’t of Human Serv., Div. of Health Serv., GRC Complaint No. 2010-147 (May 2011). The Council further equated applications to “personnel records” not among the enumerated list of releasable records set forth in N.J.S.A. 47:1A-10 (allowing for limited disclosure of certain specific information). See also Deutsch v. N.J. Civil Serv. Comm’n, GRC Complaint No. 2011-361 (March 2013).

Therefore, notwithstanding the Custodian’s “deemed” denial, the Custodian lawfully denied access to the Complainant’s request for Ryan Dubiel’s job application because same is not subject to disclosure under OPRA. N.J.S.A. 47:1A-6. See Toscano, GRC 2010-147. See also Deutsch, GRC 2011-361.

With respect to Ryan Dubiel’s résumé, EO 26 expressly provides that under OPRA, résumés of successful candidates must be disclosed at the end of the recruitment process. In Krrywda v. Pinelands Reg’l School Dist. (Camden), GRC Complaint No. 2012-285 (Interim Order dated December 18, 2012), the complainant requested the résumés of “active employees.” The Council concluded that as active employees the persons whose résumés the complainant requested were successful candidates; therefore, their résumés were subject to disclosure pursuant to EO 26. Similarly, here Ryan Dubiel was a successful candidate based upon the Custodian’s certification that he is a Borough of Woodlynne police officer. Therefore, the evidence of record supports a finding that the Custodian unlawfully denied access to the requested résumé.

Thus, the Custodian unlawfully denied access to Ryan Dubiel’s résumé. Therefore, the Custodian must disclose the résumé to the Complainant pursuant to the provisions of EO 26, applicable to OPRA by operation of N.J.S.A. 47:1A-9(a) or certify that the record is nonexistent. N.J.S.A. 47:1A-6. See Krrywda, GRC 2012-285 (Interim Order December 18, 2012).

Knowing & Willful

The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The Custodian did not bear his burden of proof that he timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-6. As such, the Custodian's failure to respond in writing to the Complainant's OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a "deemed" denial of the Complainant's OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order October 31, 2007).
2. The Custodian's response was insufficient because he failed to address the Complainant's preferred method of delivery, which was via e-mail. N.J.S.A. 47:1A-5(g); Delbury v. Greystone Park Psychiatric Hosp. (Morris), GRC Complaint No. 2013-240 (Interim Order dated April 29, 2014).
3. Notwithstanding the Custodian's "deemed" denial, the Custodian lawfully denied access to the Complainant's request for Ryan Dubiel's job application because same is not subject to disclosure under OPRA. N.J.S.A. 47:1A-6. See Toscano v. N.J. Dep't of Human Serv., Div. of Health Serv., GRC Complaint No. 2010-147 (May 2011). See also Deutsch v. N.J. Civil Serv. Comm'n, GRC Complaint No. 2011-361 (March 2013).
4. The Custodian unlawfully denied access to Ryan Dubiel's résumé. Therefore, the Custodian must disclose the résumé to the Complainant pursuant to the provisions of Executive Order No. 26 (Gov. McGreevey, 2002), applicable to OPRA by operation of N.J.S.A. 47:1A-9(a) or certify that the record is nonexistent. N.J.S.A. 47:1A-6. See Krzywda v. Pinelands Reg'l School Dist. (Camden), GRC Complaint No. 2012-285 (Interim Order December 18, 2012).
5. **The Custodian shall comply with paragraph #3 above within five (5) business days from receipt of the Council's Interim Order with appropriate redactions, including a detailed document index explaining the lawful basis for each redaction, if applicable. Further, the Custodian shall simultaneously deliver⁵**

⁵ The certified confirmation of compliance, including supporting documentation, may be sent overnight mail, regular mail, e-mail, facsimile, or be hand-delivered, at the discretion of the Custodian, as long as the GRC physically receives it by the deadline.

certified confirmation of compliance, in accordance with N.J. Court Rules, R. 1:4-4,⁶ to the Executive Director.⁷

6. The Council defers analysis of whether the Custodian knowingly and willfully violated OPRA and unreasonably denied access under the totality of the circumstances pending the Custodian's compliance with the Council's Interim Order.

Prepared By: John E. Stewart
Staff Attorney

April 19, 2022

⁶ "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

⁷ Satisfactory compliance requires that the Custodian deliver the record(s) to the Complainant in the requested medium. If a copying or special service charge was incurred by the Complainant, the Custodian must certify that the record has been *made available* to the Complainant but the Custodian may withhold delivery of the record until the financial obligation is satisfied. Any such charge must adhere to the provisions of N.J.S.A. 47:1A-5.