

**GATEWAY DEVELOPMENT COMMISSION
PUBLIC RECORDS ACCESS POLICY**

I. RECORDS ACCESS ADMINISTRATOR

The Chief Executive Officer or General Counsel of the Commission shall designate a Records Access Administrator (“Records Access Administrator”) to receive and respond to written requests to inspect and/or copy records in the possession of the Commission. References herein to Records Access Administrator shall mean such individual or their designee(s).

The Records Access Administrator shall also be responsible for ensuring that:

- (a) The public has notice of the process to request public records, including record request form(s), on the Commission’s website and through any other appropriate means;
- (b) A subject matter list of Commission records is maintained, which shall be updated annually and posted on the Commission’s website;

II. REQUESTS FOR PUBLIC ACCESS TO RECORDS

A. Requests for Commission records must contain sufficient information to enable the Commission to identify and locate the particular records sought. Such requests must not be overly broad, must be as detailed as possible, and must provide, at a minimum, a clear description of the record, the type of record or information being sought.

B. Requests for records shall be made to the Records Access Administrator of the Commission in writing, and may be submitted:

1. by electronic means, such as electronic mail (“e-mail”) at the e-mail address designated for this purpose, or through a website form, which shall be posted on the Commission’s website;
2. by postal or private delivery, at the Commission's office, to the attention of the Records Access Administrator; or
3. in person, by appointment.

III. COMMISSION RESPONSE

A. Except for those records to which immediate access must be granted in compliance with law, the Records Access Administrator shall give a response to a request within 5 business days of receipt of such request by:

1. Granting or denying access to records, in whole or in part, pursuant to this Policy;
or

2. Informing the requester that the request or portion of the request does not reasonably describe or identify the records sought and including direction, to the extent possible, that would enable that person to reasonably describe the records sought; or

3. Acknowledging the receipt of a request in writing, including when the request will be granted or denied, in whole or in part, which date shall be reasonable under the circumstances of the request. If the Records Access Administrator determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within 20 business days from the date of the acknowledgement of the receipt of the request, the Commission shall state, in writing, both the reason for the inability to grant the request within 20 business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part.

B. Upon locating any records responsive to the request, the Records Access Administrator shall take one of the following actions:

1. Make a copy of any public record available upon payment or offer to pay established fees as soon as practical or required by law or this Policy;

2. Permit the requester to make an appointment to inspect and copy any public record in person; or

3. Upon identifying responsive Commission records that fit in at least one exclusion and/or exemption category in the New York Freedom of Information Law and at least one exclusion and/or exemption category in the New Jersey Open Public Records Act, deny access to such records, in whole or in part, and explain in writing the reasons therefor.

C. In determining a reasonable time for granting or denying a request under the circumstances of a request pursuant to subsection (A)(3) above, the Records Access Administrator shall consider: the volume of the request; the ease or difficulty in locating or retrieving records; the complexity of the request; the need to review records to determine the extent to which they must be disclosed; the number of requests received by the agency; whether the request is for records to which immediate access shall be ordinarily granted by law; and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

D. A failure to comply with the time limitations described herein shall constitute a denial of a request, except that the Commission's communication within such time limitations regarding any deposit or estimated fee required to be paid before access is provided shall not be considered a denial.

IV. APPEALS

A. Any denial of a request for access to records by the Records Access Administrator may be appealed by the requester to the General Counsel within 30 days of a denial.

B. Pursuant to the New York Freedom of Information Law, a requester must first exhaust the appeals process under this Section before the requester may bring a proceeding for review of any denial of a request for access to records in the courts of the State of New York, in accordance with New York Public Officers Law Section 89(4)(b).

C. Pursuant to the New Jersey Open Public Records Act, a requester may institute a proceeding to challenge the denial of a request for access to records by the Commission by filing an action in New Jersey Superior Court or a complaint with the Government Records Council, as set forth in N.J.S.A. Section 47:1A-6 of Title 47, without first filing an appeal with the General Counsel under this Section. If, however, such person elects to file an appeal under this Section in lieu of first proceeding by filing an action in New Jersey Superior Court or a complaint with the Government Records Council, as set forth in N.J.S.A. Section 47:1A-6 of Title 47, the Commission hereby agrees that the limitations period applicable to any claim under Section 47:1A-6 arising out of a denial of a request for access to records shall be tolled and suspended until such time as the appeal is decided.

D. A requester may institute a proceeding under either Part IV.B or IV.C, but a requester cannot institute proceedings under both sections for denial of the same request for access to records by the Commission.

E. The Commission shall immediately forward to the New York State Committee on Open Government a copy of such appeal when received by the agency and the ensuing determination thereon, pursuant to Section 89 of the New York Public Officers Law.

F. The time for deciding an appeal to the General Counsel under this section shall commence upon the General Counsel's receipt of a written appeal identifying:

1. the date and location of the denied requests for records;
2. a description, to the extent possible, of the records that were denied; and
3. the legal and/or factual basis upon which the requester alleges that the Records Access Administrator's denial violated applicable law or this Policy.

G. The General Counsel's failure to determine an appeal within 10 business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

V. FEES

A. The General Counsel may determine whether, and in what amount, fees may be charged for the fulfillment of requests for access to records. All fees shall be reasonable and reflect or estimate the costs to the Commission to fulfill the request.

B. The Records Access Administrator shall require payment of any fee charged under this Part V before copies of records are provided or access to records is granted to the requester.

C. For any fee charged under this Part V, the Records Access Administrator shall inform the requester of the estimated fee before the charge is incurred.

D. Any fee schedule used by the Records Access Administrator shall be posted on the Commission's website, and the Records Access Administrator shall be responsible for maintaining it in updated form.

E. For any fee that is calculated, in whole or in part, based on the agency's actual cost, the Records Access Administrator shall perform and document such calculation.

VI. ENFORCEMENT

The provisions of Article 78 of the Civil Practice Law and Rules of the State of New York or P.L. 1963, c. 73 (C. 47:1A-1, et seq.) of the laws of the State of New Jersey, as applicable, shall apply to enforce the provisions of this Policy.

VII. INTENT AND INTERPRETATION; ACCESS TO PERSONAL INFORMATION

This Policy is intended to be consistent with both the New York Freedom of Information Law and the New Jersey Open Public Records Act. To the extent any person who makes a request for records contends that this Policy is in any way inconsistent with the New York Freedom of Information Law or the New Jersey Open Public Records Act, this Policy shall be interpreted in a way that renders it consistent with those laws. When there is an inconsistency between the law of the State of New York and the law of the State of New Jersey, the law of the state that provides the greatest rights of access shall apply.

The Commission shall be deemed an "agency" and treated as such under the laws of New York, for all purposes under articles 6 and 6-A of the public officers law, and shall be deemed a "public agency" and treated as such under New Jersey, P.L.1963, c.73 (C.47:1A-1, et seq.), pertaining to the disclosure of government records.

The Commission acknowledges that it is subject to Article 6-A of the New York public officers law, which is known as the Personal Privacy Protection Law. To meet certain requirements of the Personal Privacy Protection Law, the Commission hereby directs and authorizes the Chief Ethics and Compliance Officer to develop a set of rules regarding access to personal information that will be published on the Commission's website, and will, at a minimum, address the following: (1) procedures by which a person about whom personal information has been collected by the Commission (a "data subject") can learn if a system of records contains any records pertaining to him or her; (2) reasonable times, places and means for verifying the identity of a data subject who requests access to his or her record; (3) procedures for providing access, upon the data subject's request, to the data subject's record; and (4) procedures for reviewing a request from a data subject for access to, and for correction or amendment of his or her record, for making a determination on such request, and for an appeal within the agency of an initial adverse agency determination.

Public Records Access Policy
Adopted – July 12, 2021

For purposes of this policy, the address of the Commission’s office, and a link for making a records request (including instructions for making an in-person appointment) will be published on the Commission’s website.