

**State of New Jersey
Government Records Council
Statement of Information Form**

This form is to be used by Records Custodians as their response to a complaint filed with the Government Records Council ("GRC") alleging the unlawful denial of a request to access government records under the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq.

An offer to mediate this complaint has been denied by one or more of the parties, or mediation has not resolved the complaint, and the matter is now within the GRC's jurisdiction. The GRC will conduct an investigation as part of the adjudication of the matter. The Custodian or the Custodian's Legal Counsel may complete the Statement of Information. However, the Records Custodian (or alleged Records Custodian) must sign the Statement of Information. The GRC will also consider any legal briefs, additional documentation or information submitted with the Statement of Information.

The signed Statement of Information must be returned to:

Government Records Council
In care of [Samuel A. Rosado, Esq.]
101 South Broad Street
P.O. Box 819
Trenton, NJ 08625-0819
Phone: (609) [(609) 292-7932]
Fax: (609) 633-6337
E-mail: [Samuel.Rosado@dca.nj.gov]

The Statement of Information must be received no later than five (5) business days from your receipt of this form. Failure to comply with this deadline may result in the GRC adjudicating this complaint based only on the information submitted in the Denial of Access Complaint by the requestor of the records.

Please note that by signing the Statement of Information, the Custodian (or alleged Custodian) is certifying that a copy will be provided to the Complainant simultaneously with it being provided to the GRC.

IMPORTANT: Do not provide any records or excerpts of records that the Custodian claims is privileged or not accessible to the public under OPRA. A general description of the records' content will be sufficient.

DEFINITIONS: "Records request" or "request" refers to the formal OPRA request on which the complaint is based; "Requestor" or "Complainant" refers to the person who made the request on which this complaint is based; "Agency" refers to the public agency or subdivision of that agency to which the records request was directed; and "Records Custodian" or "Custodian" refers to the individual charged by the agency with the responsibility for fulfilling the request for records on which this complaint is based.

PART 1: CONTACT INFORMATION

1. GRC Complaint Number: 2015-365
2. Name of Complaint: John Paff
3. Name of (Alleged) Custodian: Karen Eastman
Job Title of Custodian: Secretary
4. Custodian's Public Agency: Port Authority of New York and New Jersey
Address: 4 World Trade Center
150 Greenwich Street
New York, New York 10007
Phone: (212) 435-6528
Fax: (212) 435-7555
E-mail: keastman@panynj.gov
5. Name of Custodian's Legal Counsel: Margaret Taylor-Finucane, Esq.,
Attorney for the Port Authority, by
Noelle Robinson, Esq.
Stephen Marinko, Esq.
Address: 4 World Trade Center, 24th Fl.
150 Greenwich Street
New York, New York 10007
Phone: (212) 435-3410
Fax: (212) 435-3834
E-mail: nrobinson@panynj.gov

5. PART 2: ABOUT THE DENIAL OF ACCESS COMPLAINT

- 6. Attach a copy of the OPRA records request upon which this Complaint is based. Please mark this attachment "Item 6."
- 7. Indicate the date on which the Custodian received the OPRA records request upon which this complaint is based. (If the Custodian did not receive an OPRA records request, simply indicate "None received.")

October 14, 2015

- 8. Indicate the date on which the Custodian responded to the OPRA records request upon which this complaint is based. Provide all written documentation supporting the Custodian's response. If you use additional pages to respond, please mark each page "Item 8." (If the Custodian did not respond to the OPRA records request, simply indicate "No response was given.")

October 21, 2015

- 9. In keeping with the GRC's statutory mandate to investigate alleged denial of access complaints pursuant to N.J.S.A. 47:1A-7.e. and the court's instruction that all Custodians responding to denial of access complaints provide a document index containing certain information to the GRC pursuant to its decision in John Paff v. NJ Department of Labor, 392 N.J. Super. 334 (App.Div. 2007), the Custodian **must** provide the document index table below. The document index table is **required** in the table format presented below. Please mark the table "Item 9."

An example of the **required** document index in table format is as follows:

(A) List of all records responsive to Complainant's OPRA request (include the number of pages for each record).	(B) List the Records Retention Requirement and Disposition Schedule for each records responsive to the Complainant's OPRA request	(C) List of all records provided to Complainant, in their <u>entirety</u> or <u>with redactions</u> (include the <u>date</u> such records were provided).	(D) If records were disclosed with redactions, give a general nature description of the redactions.	(E) If records were denied in their entirety, give a general nature description of the record.	(F) List the legal explanation and statutory citation for the denial of access to records in their <u>entirety</u> or <u>with redactions</u> .
Settlement Agreement and dismissal order resolving <i>Hannah Shostack v. Port Authority of NY & NJ</i> , Civil Action No. 11-0177 (9 pages)	15 years after case is closed, then review	Settlement Agreement and dismissal order resolving <i>Hannah Shostack v. Port Authority of NY & NJ</i> , Civil Action No. 11-0177 (9 pages)	N/A	N/A	N/A

		(provided in entirety on December 16, 2015)			

For more clarification of the information required in the document index in table format:

- A. An itemized list of all records responsive to the Complainant’s OPRA request that were made, maintained, kept on file or received by your agency on the date of the request, regardless of whether you deem such records are exempt from disclosure.
 - B. State the agency’s Records Retention Period (in years) and Destruction Schedule (in years) for each record responsive to the request as established and approved by the New Jersey Department of Treasury, Records Management Services.
 - C. Of the records responsive to the request, indicate which records, if any, were provided to the Complainant, in their entirety or with redactions, and the dates such records were provided.
 - D. Of the records responsive to the request and provided to the Complainant with redactions, give a general nature description of the redactions.
 - E. Of the records responsive to the request, and *not* provided to the Complainant in their entirety, give a general nature description of the record.
 - F. Specifically state the legal explanation and statutory citation (to OPRA or other law that applies) for such denial based on a public agency’s burden of proving that all denials of access are authorized by law pursuant to N.J.S.A. 47:1A-6 and the court’s instruction to provide same in John Paff v. NJ Department of Labor, 392 N.J. Super. 334 (App.Div. 2007).
10. Specifically describe the search undertaken to satisfy the records request upon which this complaint is based.
 11. Specifically state the last date on which documents that may have been responsive to the request were destroyed in accordance with the Records Destruction Schedule established and approved by New Jersey Department of Treasury, Records Management Services.
 12. Provide all facts and legal arguments in support of the Custodian’s actions with regard to the handling of the OPRA records request upon which this complaint is based on an attached written statement marked “Item 12.”

If the Custodian fails to complete this form completely and accurately (responding to each numbered item specifically as directed and providing a document index in table

Custodian** Statement of Information
John Paff v. Port Authority of New York and New Jersey GRC Complaint No. 2015-365

*If the Custodian** fails to complete this form completely and accurately (responding to each numbered item specifically as directed and providing a document index in table format), this form will be returned to the Custodian** for proper completion thus prolonging the adjudication of the complaint.*

By signing this Statement of Information, I certify that:*

- I am the Custodian** charged by the public agency with the responsibility for responding to the request for records on which this complaint is based; or
- ~~I am the alleged custodian of an organization I do not believe to be a public agency obliged under the provisions of OPRA;~~
- The documents attached hereto are true copies of all documents sent or received by the Custodian** or the Custodian's** staff (records the custodian** claims are privileged or not accessible to the public under OPRA are not included);
- A copy of this Statement of Information will be provided to the Complainant simultaneously with it being provided to the GRC; and
- 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 pursuant to the New Jersey Court Rule 1:4-4.

Signature: _____

Karen E Eastman

Printed Name: _____

KAREN E. EASTMAN

Job Title: _____

Secretary of the Port Authority

Date: _____

12-16-15

*As the Secretary of The Port Authority of New York and New Jersey, I am responsible, under the By-Laws of the Port Authority, for administering the agency's Freedom of Information Code, which provides for access by the public to records of the Port Authority. For information regarding anticipated future action by the Board of Commissioners of the Port Authority to implement policy measures consistent with the agency's procedural obligations under bi-state legislation that refers to both OPRA and the State of New York's Freedom of Information Law, please refer to Item #12 of the attached Statement of Information.

**All references above to the "Custodian" shall refer to the Secretary of the Port Authority, for purposes of this certification.

Item 6

FOI #16400

Olivencia, Mildred

From: paff@pobox.com
Sent: Wednesday, October 14, 2015 12:23 PM
To: Olivencia, Mildred
Cc: Torres-Rojas, Genara; Van Duyne, Sheree; Ng, Danny
Subject: Freedom of Information Online Request Form

Information:

First Name: John
Last Name: Paff
Company: none
Mailing Address 1: 1605 Amwell Rd
Mailing Address 2:
City: Somerset
State: NJ
Zip Code: 08873
Email Address: paff@pobox.com
Phone: 732-873-1251
Required copies of the records: Yes

List of specific record(s):

1. Settlement agreement that resolved Hannah Shostack v. Port Authority, Federal Case No. 2:11-cv-00177.
2. The Open Public Records Act OPRA request form adopted by the Authority in accordance with N.J.S.A. 47:1A-5f.
3. The writing that memorializes the Authority's formal action through which the Open Public Records Act OPRA custodian was officially designated in accordance with N.J.S.A. 47:1A-1.1.

Item 8

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

October 21, 2015

Mr. John Paff
1605 Amwell Rd
Somerset, NJ 08873

Re: Freedom of Information Reference No. 16400

Dear Mr. Paff:

We are processing your request of October 14, 2015 for records of The Port Authority of New York and New Jersey under the Port Authority's Freedom of Information Code (the "Code") for Request for copies of the following records: "1. Settlement agreement that resolved Hannah Shostack v. Port Authority, Federal Case No. 2:11-cv-00177. 2. The Open Public Records Act OPRA request form adopted by the Authority in accordance with N.J.S.A. 47:1A-5f. 3. The writing that memorializes the Authority's formal action through which the Open Public Records Act OPRA custodian was officially designated in accordance with N.J.S.A. 47:1A-1.1."

Based on the nature of your request, we anticipate that it will take at least three weeks for us to review your request and respond to you. We will respond to your request as expeditiously as possible and to the extent that our review would permit us to provide you with responsive documents while the review is ongoing, we will endeavor to do so.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Sincerely,



Danny Ng
FOI Administrator

Enclosure

4 World Trade Center, 18th Floor
150 Greenwich Street
New York, NY 10007
T: 212 435 7348 F: 212 435 7555

ITEM 10

Freedom of Information Request No. 16400 was sent to the Law Department, which handled the subject matter of the settlement. The search was conducted by staff of the Law Department for the requested record, the settlement agreement that resolved *Hannah Shostack v. Port Authority of New York and New Jersey*, Civil Action No. 11-cv-0177. Staff of the Law Department located the settlement agreement.

ITEM 11

N/A.

ITEM 12

In response to Complainant's request of October 14, 2015 seeking three items, the Port Authority of New York and New Jersey (Port Authority) is providing Complainant with the attached settlement agreement that resolved *Hannah Shostack v. Port Authority of New York and New Jersey*, Civil Action No. 11-cv-0177, which is responsive to Item #1 of the request.

The Port Authority does not possess records that are responsive to Items #2 and #3 of Complainant's request, seeking "[t]he Open Public Records Act OPRA request form adopted by the Authority in accordance with N.J.S.A. 47:1A-5f" and "[t]he writing that memorializes the Authority's formal action through which the Open Public Records Act OPRA custodian was officially designated in accordance with N.J.S.A. 47:1A-1.1."

The Port Authority's procedural obligations pursuant to the bi-state legislation, Chapter 12 of the Laws of New York of 2015 and Chapter 64 of the Laws of New Jersey of 2015, which refer to both the Open Public Records Act (N.J. OPRA) and the New York Freedom of Information Law (N.Y. FOIL), have been under close review by the agency. It is anticipated that at the next meeting of the Board of Commissioners of the Port Authority, the Board will vote on an action to implement policy measures consistent with the agency's procedural obligations under this bi-state legislation. The bi-state legislation, a copy of which is appended hereto, deems the Port Authority an "agency," as defined by N.Y. FOIL, and a "public agency," as defined by N.J. OPRA.

Accordingly, it is respectfully submitted that the Complaint should be dismissed in its entirety.