

PUBLIC NOTICE

COMMUNITY AFFAIRS

GOVERNMENT RECORDS COUNCIL

Notice of Receipt of Petition for Rulemaking

Complaint Adjudication and Open Public Records Act (OPRA) Information Inquiry

Procedures

Proposed Amendments: N.J.A.C. 5:105-2.1 and 2.3

Petitioner: Thomas Paciorkowski, Esq.

Take notice that on November 24, 2025, the Government Records Council (Council) received a petition for rulemaking from Thomas Paciorkowski, Esq., seeking an amendment at N.J.A.C. 5:105-2.1, General Provisions, and 2.3, Complaint document submissions to the Council. The petitioner requests that the Council make the following amendment at N.J.A.C. 5:105-2.1(a) (new language in **bold**):

“If the Council concludes that the complaint is within its jurisdiction and is neither frivolous nor without factual basis, the Council shall proceed with the adjudication process **and transmit the complaint to the custodian of record, and such transmittal shall constitute official service of the complaint.**”

The petitioner requests that the Council make the following amendment at N.J.A.C. 5:105-2.3(e) (deletion in [brackets]):

“The complaint submitting a completed denial of access complaint on the form required pursuant to (c) below to the Council [and custodian] initiates the complaint process.”

The petitioner proposes these changes to cure alleged inconsistencies between the Council’s rules, informal practices, and guidance provided on the Council’s website. Specifically, the petitioner asserts that the Council’s rules at N.J.A.C. 5:105-2.3(a) state that the

complaint process commences upon submission of a denial of access complaint to both the Council and the custodian, and that the Council's submission form requires a complainant to certify under threat of perjury that they have simultaneously provided the denial of access complaint to both the Council and the records custodian. However, the petitioner notes that the Council's website indicates that service upon the custodian is advised, but not required. Moreover, the petitioner claims that the Council has established an "informal practice" of providing a copy of the complaint to the records custodian. The petitioner claims that this confusion has led to at least one municipality refusing to accept service of denial of access complaints from complainants. Accordingly, the petitioner requests that the Council undertake amendments to its rules to eliminate the requirement that complainants serve the custodian and instead designate the Council as the entity responsible for service of denial of access complaints.

In accordance with N.J.A.C. 1:30-4.2, the Council shall subsequently mail to the petitioner, and file with the Office of Administrative Law, a notice of action on the petition.