

OTHER AGENCIES

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Requests for Access to Government Records

Proposed New Rules: N.J.A.C. 19:33

Authorized By: New Jersey Schools Development Authority, Manuel M. DaSilva, Chief Executive Officer.

Authority: P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.) (enabling statutes); and N.J.S.A. 47:1A-1 et seq. (Open Public Records Act).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2020-056.

Submit written comments by July 31, 2020, to:

Cecelia Haney, Administrative Practice Officer

New Jersey Schools Development Authority

PO Box 991

Trenton, NJ 08625-0991

chaney@njsda.gov

The agency proposal follows:

Summary

The New Jersey Schools Development Authority (“SDA” or “Authority”), an independent State authority charged with the construction and funding of school facilities

projects pursuant to a school construction program authorized by the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72, N.J.S.A. 18A:7G-1 et seq., as amended by P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., proposes new rules governing the process for requesting government documents from the SDA under the Open Public Records Act (OPRA), P.L. 2001 c. 404 (N.J.S.A. 47:1A-1 et seq.), and defining certain categories of documents exempted from disclosure under OPRA. The new rules are proposed at N.J.A.C. 19:33.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Subchapter 1 establishes the process to be followed by members of the public who seek access to government records made, maintained, kept on file, or received in the ordinary course of business by the SDA. Subchapter 2 of the proposed new rules defines certain categories of documents that are excepted from disclosure under OPRA. A description of the proposed rules follows.

Proposed new N.J.A.C. 19:33-1.1 states the scope, applicability, and definitions of words and terms for the new rules. The new rules govern government record requests submitted to the New Jersey Schools Development Authority.

Proposed new N.J.A.C. 19:33-1.2 provides that the Chief Executive Officer of the SDA will designate a person to be the SDA records custodian. The records custodian shall be responsible for responding to requests directed to the Authority for access to government records. The contact information for the records custodian shall be made available to the public on the SDA's website.

Proposed new N.J.A.C. 19:33-1.3 provides that all requests for access to government records under OPRA must be submitted in writing on a form approved by the SDA, or in a

written document that includes the information specified at N.J.A.C. 19:33-1.3(b). The requestor will be required to provide certain information in the written request. Among other things, the required information would include: a description of the specific, identifiable government record sought, the method of access requested (inspection or copies), the format in which the requested documents are to be provided (for example, electronic or hard-copy), the preferred mode of delivery (for example, email or electronic access, mail, or in-person), a certification that the requestor has not been convicted of an indictable offense under the laws of the State of New Jersey, any other state, or of the United States, the maximum cost the requestor has authorized to pay, and the date of submission of the request. The requestor's certification concerning conviction of an indictable offense is required to ensure compliance with the provision of the law that prohibits a person convicted of an indictable offense under the laws of this State or any other state, or the United States, from receiving personal information concerning the victim of the offense, or the victim's family, as provided at N.J.S.A. 47:1A-2.2. A request form is available on the SDA's website, and copies of the form are available at the office of the SDA's records custodian.

Proposed new N.J.A.C. 19:33-1.4 establishes the procedure for submitting requests for access to government records under OPRA. Written requests shall be addressed or directed to the SDA's records custodian, and may be hand-delivered during normal business hours, mailed, faxed, or transmitted electronically through electronic mail. A written request for access to government records that is addressed to the SDA records custodian and mailed or delivered to the SDA's main address will constitute delivery to SDA's records custodian. A written request must be delivered to the SDA's records custodian in order for the request to be considered filed, and, thereby, trigger the requirements of OPRA. Sending a records request to the wrong officer or employee may result in a delay of the fulfillment of the request. If the request is delivered to

an SDA employee other than the records custodian, the employee shall advise the requestor that he or she is not authorized to accept the request and shall direct the requestor to the records custodian.

The custodian shall review the request for clarity and completeness and may deny a request that is unclear or incomplete. The records custodian will estimate the costs of providing the record, in accordance with the rates set forth at N.J.S.A. 47:1A-5, and shall require the prepayment of the estimated sum. A request is not complete until the required deposit is received by the records custodian. In the event the actual cost for reproduction of a government record exceeds the rates set forth at N.J.S.A. 47:1A-5, the records custodian is permitted to charge the actual costs of reproducing the record. The custodian will provide the requestor with a copy of the signed and dated written request, with the estimated fee and tracking number indicated.

The custodian may charge a special service charge whenever the nature, format, manner of collation, or volume of a government record or records to be inspected, examined, or reproduced is such that the record or records cannot be reproduced by ordinary document copying equipment in ordinary business size, or otherwise requires an extraordinary expenditure of time and effort to accommodate the request. The custodian will charge an additional fee representing the cost of postage or delivery, if applicable. The custodian will not provide access to, or copies of, the requested records until the custodian has received payment in full of all costs and fees associated with the request. The custodian can deny a request for failure or refusal to pay the required fees.

No fee may be charged for inspecting or examining a government record, except: 1. when a special service charge is permitted; 2. when redaction or copying of government records is necessary; and/or 3. when an employee is required to monitor the inspection of original records during an on-site inspection. If a request for access to government records would

substantially disrupt SDA operations, the records custodian may deny access to the record after attempting to reach a reasonable resolution with the requestor.

Proposed new N.J.A.C. 19:33-1.5 provides that the custodian will notify the requestor when the records are available and will collect all fees and charges due from the requestor prior to delivery of copies or providing access to records.

Proposed new N.J.A.C. 19:33-1.6 provides that, except where otherwise provided by law or this subchapter, the records custodian shall respond to a request within seven business days after the custodian's receipt of a complete request, or within such additional time as may be allowed by law, or as agreed to by the requestor. A failure to respond to a request is deemed a denial, except where the requestor has not provided contact information. In such a case, the records custodian is not required to respond until seven business days after the requestor reappears seeking a response to the request.

Proposed new N.J.A.C. 19:33-1.7 provides that if a requested record is in storage or unavailable because it is in active use, the custodian shall so advise the requestor within seven business days from receipt of the request, and will advise the requestor of the date when the record will be made available. If the record is not made available by the identified date, the request shall be deemed denied.

Proposed new N.J.A.C. 19:33-1.8 provides that copies of a record will be provided in printed form on business-sized paper, in the format in which the document is maintained, unless the requestor requests production of the record in a specific medium. If the record is normally maintained in the requested medium, then the record will be provided in such medium. If the SDA does not maintain the record in the requested medium, the records custodian shall convert the record to the medium requested, if reasonable, or provide a copy in another medium that the requestor finds meaningful -- presumably a medium that the requestor can access, read, or

otherwise use. The records custodian may assess a special charge for production in a requested medium if the requested medium is not one routinely used by the SDA, or which would require a substantial amount of manipulation or programming of information technology to fulfill. The special charge will be based upon the cost of the extensive use of information technology or the cost of labor required for programming, clerical, and supervisory assistance. The requestor may object to the special charge, and the records custodian will attempt to reach a reasonable resolution of that objection, but if after attempting to resolve the objection, the requestor continues to object to the charge and refuses to withdraw the request, the records custodian may deny the request.

Proposed new N.J.A.C. 19:33-1.9 addresses the computation of time for request deadlines. Consistent with statutes, court rules, and case law, this section provides that in computing time periods for granting access, the day the completed request is received is not counted, but the last day of the period so computed shall be included. This section also reiterates that a request is not complete until the requestor provides the information required by proposed new N.J.A.C. 19:33-1.3(b) and pre-pays all fees required by OPRA and this subchapter.

Proposed new N.J.A.C. 19:33-1.10 addresses the computation of fees for requests under OPRA and refers to the allowable fees listed in the OPRA statute at N.J.S.A. 47:1A-5.b. There is no cost for the emailing of records. This section further provides that the labor portion of any special service charges as described elsewhere in this subchapter shall be based on the hourly rate of the lowest-paid qualified employee performing the services in question.

Proposed new N.J.A.C. 19:33-1.11 provides that to the extent that records of the SDA are held by the Records Management Service of the Division of Revenue and Enterprise Services (DORES) in the Department of the Treasury, such records shall remain the property of the SDA and can only be accessed by a request submitted to the SDA. By contrast, if the record has

reached an age at which it was required to be sent to the State Archives and was sent to the State Archives for storage, that record has become the property of the State Archives and can only be accessed through a request submitted directly to the State Archives.

Proposed new N.J.A.C. 19:33-1.12 provides that where a requestor fails to pay the required fees, fails to pick up or schedule delivery of requested records, or fails to schedule or keep an appointment to inspect the requested records within 45 days of the issuance of an OPRA response by the records custodian to the requestor, the request shall be administratively closed upon notice to the requestor, and the requestor shall remain liable for all costs and fees associated with the request, despite its administrative closure.

Proposed new N.J.A.C. 19:33-2.1 addresses the applicability of the subchapter to the SDA.

Proposed new N.J.A.C. 19:33-2.2 provides that, in addition to records designated as confidential pursuant to OPRA and other applicable State and Federal sources of law, the following categories of documents are designated as confidential and not subject to disclosure under OPRA:

- Portions of records containing advisory, consultative, or deliberative information or otherwise protected by a recognized privilege;
- Records relating to mediation or alternative dispute regulation (ADR) proceedings, except that final agreements resulting from mediation or ADR proceedings shall be accessible under OPRA;
- Notes of mediators or other persons participating in ADR proceedings involving the SDA;
- Portions of records containing personally identifiable information, such as: Social Security numbers; home addresses; personal telephone numbers and email addresses;

- medical or psychological history, diagnosis, treatment, or evaluation; and financial, credit, or tax return information;
- Other information regarding individuals, the disclosure of which might reasonably be expected to endanger the safety of any person;
 - Notices, orders, reports, and decisions not yet served on the interested party;
 - Unapproved minutes of public meetings;
 - Minutes of closed sessions of public meetings, until the issues discussed in closed session are resolved or completed, or until the rationale for the closed session is no longer applicable;
 - Documents relating to pending contract negotiations, proposed change orders, or pending contract claims, until such time that the relevant contract negotiation, change order, or contract claim is resolved through a final agreement, is withdrawn, or is otherwise terminated or finally adjudicated;
 - Plans and specifications for any school facilities project, whether construction of such facility is completed, including drawings, diagrams, renderings, or plans of various types, specifications, photographs, or operational and maintenance manuals, showing: critical systems or infrastructure; operational parameters or vulnerabilities of critical systems or equipment; emergency or security information or procedures; alarm, security, or video surveillance systems; locking or access devices; or security cameras for any building or structure included in or ancillary to a school facilities project; or
 - Any other documents that could assist individuals or entities that wish to do harm to the occupants of school buildings.

Social Impact

The proposed new rules implement the requirements of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. The proposed new rules will have a positive social impact by establishing a procedure for public access to government records held or controlled by the SDA. The law requires that government records be readily accessible for inspection, copying, or examination by citizens of this State, unless exempt by law or rule. However, the law also calls upon a public agency to identify categories of documents to be safeguarded from public access to the extent such documents contain personally identifiable information entrusted to the public entity, and disclosure would violate the citizen's reasonable expectation of privacy, or such documents contain privileged or deliberative information, or contain information regarding building safety, security, and other systems that, if openly disclosed, could affect the safety and security of citizens utilizing such buildings. The proposed rules codify categories of such documents to be exempted from disclosure under OPRA.

Economic Impact

The proposed new rules will not have any economic impact on the public in excess of fees imposed by statute. Persons requesting access to government records will be required to pay the fees authorized by the statute for copies of records. The proposed new rules do not impose any additional costs. The costs incurred by a citizen under this subchapter will depend on the type and volume of records requested and the medium of delivery. The SDA will incur staff and administrative costs in processing requests for access to government records in the time set by OPRA.

Federal Standards Statement

A Federal standards analysis is not required because the proposed new rules implement the requirements of a State statute, the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. There are no Federal standards or requirements applicable to this subchapter. The Federal Freedom of Information Act, 5 U.S.C. §§ 550a et seq., does not apply to records of State government and does not constitute a Federal standard.

Jobs Impact

The proposed new rules will not have an impact on the number of jobs generated or lost in New Jersey.

Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The proposed new rules do not impose reporting or recordkeeping requirements on small businesses, as such the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed new rules impose compliance requirements on all persons seeking access to government records pursuant to N.J.S.A. 47:1A-1 et seq. All persons, including small businesses, will be required to submit requests for access to government records on a form approved by the SDA. The statute requires the custodian of records to adopt a form for access to records. There is no exception for small businesses. The statute authorizes fees for copies of government records. There is no exception for small businesses. The cost depends on the type and size of the copies requested. Professional services are not required for compliance with these requirements.

Housing Affordability Impact Analysis

The proposed new rules govern the process by which citizens can seek access to government records made, maintained, or kept on file by the SDA, and, thus, the proposed new rules will not evoke a change in the average costs of housing in the State of New Jersey and have nothing to do with the affordability of housing.

Smart Growth Development Impact Analysis

The proposed new rules govern the process by which citizens can seek access to government records made, maintained, or kept on file by the SDA, and, thus, the proposed new rules will have no impact on Smart Growth Development because the scope of the proposed new rules will not evoke a change in the average price or availability of housing in the State of New Jersey, and will not affect new construction in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal and Public Safety Impact

The proposed new rules govern the process by which citizens can seek access to government records made, maintained, or kept on file by the SDA, and, thus, the proposed new rules will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the new rules follows:

CHAPTER 33

REQUESTS FOR ACCESS TO GOVERNMENT RECORDS

SUBCHAPTER 1. GENERAL PROVISIONS

19:33-1.1 Scope, applicability, and definitions

(a) The rules in this subchapter apply to requests under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., for access to government records of the New Jersey Schools Development Authority.

(b) The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Access” means the inspection, examination, or provision of records to the requestor.

“Custodian” or “records custodian” means as set forth at N.J.A.C. 19:33-1.2.

“Government record,” “record,” or “records” shall have the same meaning as defined at N.J.S.A. 47:1A-1.1.

“OPRA” means the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

“SDA” means the New Jersey Schools Development Authority.

19:33-1.2 Custodian of records

(a) Pursuant to P.L. 2001, c. 404, the Chief Executive Officer of the SDA shall designate a records custodian who shall be responsible for responding to OPRA requests directed to the SDA for access to government records.

(b) The address and other contact information for the records custodian shall be made available to the public by posting on the SDA website at www.njsda.gov.

19:33-1.3 Requests for government records

(a) All requests under OPRA for access to government records made, maintained, kept on file, or received in the ordinary course of business by the SDA, shall be in writing, either on a form approved by the SDA, or in a written document that contains the information set forth at (b) below.

(b) The requestor shall provide the following information in his or her OPRA request:

1. The name, address, and telephone number of the requestor;
2. A description of the specific, identifiable government record sought, a preferred method of access (inspection or copies) and, if copies are sought, the requested medium and mode of delivery;
3. The maximum cost the requestor is willing to pay to obtain access and/or copies of the requested government record;
4. A certification by the requestor that the requestor has not been convicted of an indictable offense under the laws of this State, any other state, or the United States; and
5. The date that the requestor submits the request.

(c) A form for requesting access to government records is available on the SDA website at:

<https://www.njsda.gov/NJSDA/Public/Opra>. Copies of the request form shall also be available at the office of the SDA's records custodian.

19:33-1.4 Procedures for requesting records in the custody of the SDA

(a) A requestor's written OPRA request shall be addressed or directed to the SDA records custodian (either by name or as "Records Custodian") and may be delivered by any of the following methods:

1. By hand-delivery during the SDA's normal business hours;
2. By regular mail;

3. By facsimile transmission; or

4. By electronic mail.

(b) All requests must be delivered to the SDA's records custodian in order to trigger the requirements of the public access to government records law. A written request for access to government records that is addressed to the SDA records custodian and mailed or delivered to the SDA's main address will constitute delivery to SDA's records custodian. The time frame to fulfill a request for access to government records under OPRA does not begin until the request form or other form of written request has been delivered to the records custodian. A records request sent to the wrong officer or employee may result in a delay of the fulfillment of the request. An officer or employee of the SDA who receives a request for access to a government record shall advise the requestor that he or she is not authorized to accept the request and shall direct the requestor to the records custodian.

(c) Upon receipt of the written OPRA request, the records custodian shall sign and date the written request, enter the estimated fee, assign an applicable tracking number, and provide the requestor with a copy of the same.

(d) The records custodian shall review the request for clarity and completeness. The records custodian shall deny a request for access to a record if the request is unclear or incomplete.

(e) Upon receipt of a written OPRA request, the records custodian shall estimate the cost of providing the record pursuant to N.J.A.C. 19:33-1.10, and if costs are applicable, shall require the pre-payment of the estimated sum and of any special mailing or delivery costs. Payment shall be made by cash, check, or money order payable to the SDA. Except as otherwise provided by law or regulation, costs shall be consistent with those set forth at N.J.S.A. 47:1A-5. In the event that the actual cost for reproduction of a government record exceeds this rate, the records custodian shall be permitted to charge the actual costs of reproducing the record. If a deposit or

pre-payment is required, the request shall not be deemed complete until any required deposit or pre-payment has been received by the records custodian.

(f) Whenever the nature, format, manner of collation, or volume of a government record to be inspected, examined, or reproduced is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size, or accommodation of the request involves an extraordinary expenditure of time and effort, the records custodian may, in addition to the actual cost of reproducing the record, assess a special service charge on the requestor that shall be reasonable and based on the actual direct cost of providing the copy or copies, including the labor and overhead costs of locating, collating, compiling, reviewing, redacting, reproducing, and delivering the requested record. The requestor shall be provided an opportunity to review and object to the special service charge prior to it having been incurred. If the requestor attempts to object to the special service charge and refuses to withdraw the request, the custodian may deny the request after attempting to reach a reasonable solution that accommodates the interests of the requestor and the SDA.

(g) The records custodian shall charge an additional fee representing the cost of postage on a record to be delivered to the requestor by mail or the cost of any other method of delivery identified by the requestor. The records custodian shall not provide access to, or copies of, a requested government record until the custodian has received, from the requestor, payment in full of all costs and fees associated with the record request. The custodian shall deny the request in the event that the requestor fails, or refuses, to pay the costs and fees associated with a record request.

(h) No fee shall be charged for inspecting or examining a government record, except in situations where:

1. A special service charge is permitted pursuant to N.J.S.A. 47:1A-5.c and this subchapter;

2. Redaction and/or copying of government records is necessary; and/or

3. An employee is required to monitor an inspection of original records by a requestor during an on-site inspection.

(i) If a request for access to a government record would substantially disrupt SDA operations, the records custodian may deny access to the record after attempting to reach a reasonable resolution with the requestor that accommodates the interests of the requestor and the SDA.

19:33-1.5 Delivery of records

The records custodian shall notify the requestor when the records are available and shall, if applicable, collect any outstanding fees and charges prior to providing access to, or copies of, a requested government record.

19:33-1.6 Failure to respond

Except as provided at N.J.A.C. 19:33-1.8 or 1.9, the records custodian shall grant or deny access to a requested record within seven business days after receiving a completed request in accordance with N.J.A.C. 19:33-1.4, or within such additional time as may be allowed by law or this subchapter, or as may be agreed to by the requestor. A records custodian's failure to respond to a request shall be deemed a denial of the request, unless the requestor has elected not to provide a name, address, telephone number, or other means of contact. If the requestor has elected not to provide contact information, the records custodian shall not be required to respond until seven business days after the requestor reappears before the records custodian seeking a response to the original request.

19:33-1.7 Requests for records stored offsite

If the requested record is located in an offsite storage facility outside of the regular business offices of the SDA, or is unavailable because it is in active use, the records custodian shall so advise the requestor within seven business days after the records custodian receives the request. The records custodian shall advise the requestor of the date when the record will be made available. If the record is not made available by the identified date, the request shall be deemed denied.

19:33-1.8 Requests for copies of a government record in a specified medium

(a) Unless otherwise specifically requested, copies of a record shall be provided in printed form on ordinary business size paper or in the format in which the document is maintained. The requestor may request that the SDA provide a copy of a record in a specific medium. If the SDA maintains the government record in the requested medium, the custodian shall provide the record in the medium sought.

(b) If the SDA does not maintain the government record in the medium requested, the records custodian shall convert the record to the medium requested, if reasonable, or provide a copy in another medium meaningful to the requestor. If a requestor asks for copies of a record in a medium not routinely used, developed, or maintained by the SDA, or in a medium that would require a substantial amount of manipulation or programming of information technology, the records custodian may assess, in addition to the actual cost of duplication, a special charge that shall be based upon the cost of the extensive use of information technology and/or the cost of labor required for programming, clerical, and supervisory assistance. The requestor shall be given the opportunity to review and object to the charge prior to its being assessed. If the

requestor objects to the charge and refuses to withdraw the request, the records custodian may deny the request after attempting to reach a reasonable solution that accommodates the interests of the requestor and the SDA.

19:33-1.9 Computation of time

(a) In computing any period of time pursuant to N.J.S.A. 47:1A-1 et seq., and this subchapter, the business day upon which a completed written request for access to government records is received shall not be included. The last business day of the period shall be included in the calculation.

(b) For purposes of N.J.S.A. 47:1A-1 et seq., and this subchapter, a request for access is deemed to be complete when the requestor provides information required at N.J.A.C. 19:33-1.3(b) and pre-pays the fees required at N.J.S.A. 47:1A-1 et seq., and this subchapter.

19:33-1.10 Computation of fees

(a) The cost for copies of a government record shall be as indicated at N.J.S.A. 47:1A-5.b. There is no cost for the emailing of records.

(b) Special service charges will be based on the hourly rate of the lowest paid qualified employee when calculating the labor portion of the special service charge pursuant to N.J.S.A. 47:1A-5.c and d.

19:33-1.11 Records held offsite

SDA records held by the Records Management Service of the Division of Revenue and Enterprise Services (DORES) in the Department of the Treasury or in an offsite storage facility outside of the regular business offices of the SDA shall remain the legal property of the SDA and

requests for access to such records must be submitted directly to the SDA's records custodian. In the event that records of the SDA have reached the age at which they are required to be sent to the State Archives in DORES and were, in fact, sent to the State Archives for storage, such records have become the legal property of the State Archives, and requests for access to such records must be submitted directly to the State Archives.

19:33-1.12 Administrative closure

When a requestor has failed to provide payment in full for requested records, has failed to pick up or otherwise schedule delivery of requested records, or has failed to schedule or keep an appointment with the records custodian to inspect the requested records within 45 days of the issuance of an OPRA response by the records custodian to the requestor, the custodian shall administratively close the request upon providing written notice to the requestor. The requestor remains liable for all costs and fees associated with the request when such request has been administratively closed by the custodian.

SUBCHAPTER 2. CONFIDENTIALITY OF RECORDS

19:33-2.1 Scope and applicability

The rules in this subchapter shall apply to the New Jersey Schools Development Authority.

19:33-2.2 Records designated as confidential not subject to disclosure

(a) In addition to records designated as confidential pursuant to the provisions of N.J.S.A. 47:1A-1 et seq., any other statute, resolution of either or both Houses of the Legislature, an Executive Order of the Governor, rule promulgated under the authority of any statute or Executive Order of

the Governor, Rules of Court, any Federal law, Federal regulation, or Federal order, the following records shall not be considered government records subject to public access pursuant to N.J.S.A. 47:1A-1 et seq.:

1. All portions of records, including electronic communications, that contain advisory, consultative, or deliberative information or other records protected by a recognized privilege;

2. Records relating to mediation or other alternative dispute resolution (ADR) proceedings conducted by, or on behalf of, the SDA, except that any records that were open for public inspection, examination, or copying prior to mediation or other ADR proceeding shall continue to be available for public inspection, examination, or copying, during, and after, mediation or other ADR proceeding. Final agreements resulting from mediation or other ADR proceeding shall be available for public inspection, examination, or copying;

3. Notes of mediators or other persons involved in any ADR proceedings involving the SDA;

4. Information concerning individuals as follows:

i. Social Security numbers;

ii. Home addresses, home telephone numbers, personal cellphone numbers, or personal email addresses;

iii. Information relating to medical, psychiatric, or psychological history, diagnosis, treatment, or evaluation;

iv. Information in an income or other tax return;

v. Information describing a natural person's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or credit worthiness, except as otherwise required by law to be disclosed; and

vi. Any other information, the disclosure of which might reasonably be expected to endanger the safety of any person;

5. Notices, orders, reports, and decisions not yet served upon the person(s) to whom they are addressed;

6. Unapproved minutes of public meetings;

7. Minutes of closed sessions at public meetings, for such time as the issue that warranted the closed session discussion remains unresolved or uncompleted, or until the rationale for the closed session is no longer applicable;

8. Documents relating to pending contract negotiations, proposed change orders, or pending contract claims. Such documents shall be confidential and exempt from disclosure until such time that the contract negotiation, change order, or contract claim in question is resolved through a final agreement executed by the parties, is withdrawn by the claimant, or is otherwise terminated or finally adjudicated;

9. Plans and specifications for any schools or school facilities projects, whether construction of the facility depicted in such documents has been commenced or completed, including, but not limited to, drawings, diagrams, renderings, site plans, photographs, video recordings, and/or operational, training, or maintenance manuals that:

i. Show or describe means of ingress and/or egress for such school facilities;

ii. Show parking areas, driveways, access areas, and the like, for school facilities, and/or that identify a securable perimeter;

iii. Describe details of doors, windows, skylights, access hatches, and the like, for school facilities;

iv. Show or describe the location, configuration, or operational parameters of critical systems or infrastructure of a school facility;

v. Show or describe the location, configuration, or operational parameters of alarm, security, or video surveillance systems, including, but not limited to, the location, orientation, and type of access devices, locking devices, and security cameras;

vi. Show or describe the operational parameters, configurations, or vulnerabilities of critical systems or equipment, or components of such critical systems;

vii. Show or describe emergency or security information or procedures for any building or structure comprising or ancillary to a school facility; or

viii. Any other documents that could assist individuals or entities that wish to do harm to the occupants of school buildings;

10. Portions of records identifying the author of scoresheets and/or evaluations prepared as part of the selection committee process for any SDA procurement. This exclusion shall not preclude the disclosure of the scoresheets or evaluations if redacted to remove the exempted information, nor shall it preclude the identification of the names and qualifications of selection committee members for a particular procurement, as required by law;

11. Bid submissions and evaluative documents associated with a procurement subject to negotiations on price or other terms, prior to any Notice of Award for such procurement;

12. Any documents related to the SDA's acquisition or disposition of property, identifying properties and lands to be acquired or disposed of, by the SDA, including estimates, appraisals, environmental assessments, surveys, or costs of obtaining any right-of-way, until such time as the closing of title is concluded; and

13. Records of another department or agency, which are in the possession of the SDA, when such records are made confidential by a regulation of that department or agency adopted pursuant to N.J.S.A. 47:1A-1 et seq., and Executive Order No. 26 (McGreevey 2002), or

pursuant to another law authorizing the department or agency to make records confidential or exempt from disclosure.

(b) For the purposes of (a)9 above, the provision of such documents to a pool of prequalified bidders for procurement purposes shall not constitute a “release” or “display” to the “general public” and shall not result in a loss of confidentiality of such documents.