

CHAPTER 82**EXAMINATION AND DUPLICATION
OF NJ TRANSIT RECORDS****Authority**

N.J.S.A. 47:1A-2 and 27:25-20.

Source and Effective Date

R.2000 d.111, effective March 20, 2000.
See: 31 N.J.R. 4226(a), 32 N.J.R. 1039(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 82, Examination and Duplication of NJ TRANSIT Records, expires on September 16, 2005. See: 37 N.J.R. 1011(a).

Chapter Historical Note

Chapter 82, Examination and Duplication of NJ TRANSIT Records, was adopted as R.1989 d.462, effective September 5, 1989. See: 21 N.J.R. 284(b), 21 N.J.R. 2804(b). Pursuant to Executive Order No. 66(1978), Chapter 82 expired on September 5, 1994.

Chapter 82, Examination and Duplication of NJ TRANSIT Records, was adopted as new rules by R.1994 d.534, effective October 17, 1994. See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a). Pursuant to Executive Order No. 66(1978), Chapter 82 expired on October 17, 1999.

Chapter 82, Examination and Duplication of NJ Transit Records, was adopted as new rules by R.2000 d. 111, effective March 20, 2000. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**16:82-1.1 Purpose**

The New Jersey Transit Corporation (NJ TRANSIT) and its subsidiaries are responsible for provision of rail and bus services in the State of New Jersey. As a State instrumentality, NJ TRANSIT must make its public records available, for examination and duplication, to requesting members of the public. This chapter governs the issuance and sale of copies of NJ TRANSIT public records.

16:82-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Fee” means the assessment of administrative costs plus any applicable costs of record duplication.

“NJ TRANSIT” means the New Jersey Transit Corporation or any of its subsidiaries.

“NJ TRANSIT public records” means “public records” as defined in N.J.S.A. 47:1A-2 and 27:25-20, except as excluded in N.J.A.C. 16:82-2.2 maintained by NJ TRANSIT.

SUBCHAPTER 2. REQUIREMENTS**16:82-2.1 Examination of NJ TRANSIT public records**

(a) All NJ TRANSIT public records may be examined by members of the public either by appointment during the regular business hours of the Senior Director, Corporate Affairs or by demanding the right to inspect such records during the regular business hours maintained by a particular custodian of any such records. Every citizen of the State also has the right to purchase copies of these public records. The Senior Director, Corporate Affairs will determine the appropriate office where the records may be examined or obtained unless the member of the public demands that the records be made available at the exact location where the records are maintained.

(b) The right of examination of public records pursuant to N.J.S.A. 47:1A-3 may be denied in cases where the records being sought for examination pertain to any investigation by NJ TRANSIT in progress, if the inspection, copying, or publication of these records is not in the best interest of the public.

Amended by R.1994 d.534, effective October 17, 1994.
See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a).

16:82-2.2 Non-public records

(a) Certain records are not considered “NJ TRANSIT public records,” and may be made available for examination and purchase only by an individual who demonstrates to the Senior Director, Corporate Affairs that the person has a legitimate beneficial interest in such a record or the protection of his or her property rights or the protection of any interest the citizen may have in any matter affecting the citizen to which said record is relevant. Such non-public records include those pertaining to:

1. Future construction projects in terms of specific amounts, locations, or design criteria.

2. Qualifications and classifications, questionnaires and other documentation required of contractors, consultants, and appraisers. The actual qualification or classification will be made available.

3. Research and tests required in the development of materials, design and construction. At the completion of any such project, the results except for proprietary information will be made available upon request.

4. Consultants' draft and final reports, NJ TRANSIT draft and final preliminary planning and engineering studies prior to disclosure at public hearing.

5. Engineering cost estimates prior to contract execution.

6. Proprietary information developed by NJ TRANSIT or submitted by vendors and bidders/proposers.

7. Current and prior labor negotiation documents. Final labor contracts will be made available upon request.

8. All negotiation documents pertaining to real estate transactions, procurement, change order, or other contract negotiations. Final agreements and change orders will be made available upon request.

9. Preliminary accident and safety investigation reports. All accident reports required by agencies regulating NJ TRANSIT shall be made available when final and if not prohibited by the regulatory agency.

10. Personnel and pension records, except that the following can be made "public":

i. An individual's name, town of residence, title, position, salary, payroll record, length of service, employment history, date of separation from agency, and the amount and type of pension the individual is receiving.

ii. Data which disclose conformity with specific experimental, educational or medical qualifications required for agency employment or receipt of a public pension, but under no circumstances will detailed medical or psychological information be released.

11. All records pertaining to Workers' Compensation, Temporary Disability, and Federal Employer Liability Act matters.

12. All records which are part of any workpapers, memoranda, or reports which are made, maintained or kept by the Office of Internal Audit in NJ TRANSIT, including audits or reports made by outside auditors. The audit or report required by N.J.S.A. 27:25-20(d) shall be made available upon request.

13. Research documents pertaining to ongoing studies for the operational areas of NJ TRANSIT prior to disclosure to the public.

14. All materials, procedures, and related documents regarding the security of employees, the public, and NJ TRANSIT property and funds. This includes, but is not limited to, documents pertaining to the collection and deposit of fare-box revenue.

15. Disadvantaged Business Enterprises and Women's Business Enterprises classification questionnaires submitted as part of Federal and State goal and set-aside programs. Any document indicating that a particular company is or is not a Disadvantaged Business Enterprise or Women's Business Enterprise will be made available.

(b) The records listed below are also not considered NJ TRANSIT public records and are not subject to the provisions of N.J.S.A. 20:3-12(c) and (d) and the New Jersey Court Rules.

1. Estimates, appraisals and costs of acquiring property prior to the completion of a project.

2. For the preservation of the "attorney-client privilege," all records which are part of any case file maintained by a Deputy Attorney General or Special Counsel representing NJ TRANSIT.

(c) Board items contained in the minutes of closed executive sessions, and all material forming the background for such board items, may be withheld from disclosure until the reason for discussing the item in closed session no longer exists.

(d) Portions of "non-public" records may be made available for examination or copying at the discretion of the Senior Director, Corporate Affairs where the interests of NJ TRANSIT or its employees are not otherwise negatively affected by such disclosure.

Amended by R.1994 d.534, effective October 17, 1994.
See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a).

16:82-2.3 Administrative fees

(a) The citizen requesting to examine NJ TRANSIT public records shall pay fees established by NJ TRANSIT as set forth in this section.

(b) Costs are as follows:

1. For copies of 8½ inch by 11 inch and 11 inch by 14 inch:

- i. First page to 10th page, \$0.75 per page;
- ii. Eleventh page to 20th page, \$0.50 per page;
- iii. All pages over 20, \$0.25 per page.

2. For magnetic tapes, computer-sized paper, maps, charts, etc., costs are vendor's charge, that is, fees charged by an outside firm to make copies.

(c) If the Senior Director, Corporate Affairs finds that there is no risk of damage, mutilation, or loss of such records, and that it will not be incompatible with the economic and efficient operation of NJ TRANSIT and the transaction of its public business, he or she may permit any citizen who is seeking to copy more than 100 pages of records to use his or her own photographic process, approved by the Senior Director, Corporate Affairs, upon the payment of a reasonable fee, considering the equipment and the time involved, of not less than \$10.00 or more than \$50.00 per day.

(d) When the Senior Director, Corporate Affairs makes available records that involve a significant amount of research and investigation, additional charges may be imposed to reimburse NJ TRANSIT for the cost of conducting this research and investigation. Cost will be calculated on a worker/hour basis. These charges will be in addition to the charges in (b) and (c) above.

Amended by R.1994 d.534, effective October 17, 1994.
See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a).

16:82-2.4 Procedure for copy request or record examination

A private citizen may request a copy of a NJ TRANSIT public record, or make an appointment to examine such a record, by contacting:

NJ TRANSIT
Senior Director, Corporate Affairs
One Penn Plaza East
Newark, NJ 07105
Telephone: (973) 491-7453

Amended by R.1994, d.534, effective October 17, 1994.
See: 26 N.J.R. 2871(b), 26 N.J.R. 4210(a).