



**State of New Jersey**  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
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**PHILIP D. MURPHY**  
*Governor*

**LT. GOVERNOR SHEILA Y. OLIVER**  
*Commissioner*

**NOTICE OF MEETING**  
**Government Records Council**  
**January 30, 2018**

Pursuant to the Open Public Meetings Act, notice is hereby given that the Government Records Council will hold a regular meeting, at which formal action may be taken, commencing at 1:30 p.m., Tuesday, January 30, 2018, at the Department of Community Affairs ("DCA") offices located at 101 South Broad Street in Trenton, New Jersey.

The agenda, to the extent presently known, is listed below. The public session and consideration of cases is expected to commence at 1:30 p.m. in Room 129 of the DCA.

- I. Public Session:**
  - Call to Order
  - Pledge of Allegiance
  - Meeting Notice
  - Roll Call
- II. 2018 Officer Elections**
- III. Resolution Regarding Designation of Staff to Accept In-Cameras/Certified Confirmation of Compliance**
- IV. Communications Specialist/Resource Manager's Report**
- V. Closed Session**
  - Michael Feaster v. Buena Borough (Atlantic) (2015-308)
  - Luis Rodriguez v. Kean University (2016-40)
  - Conley v. NJ Dep't of Corr., 2018 N.J. Super. LEXIS 6 (App. Div. 2018) (Approved for Publication)
- VI. Approval of Minutes of Previous Meetings:**
  - December 19, 2017 Open Session Meeting Minutes
  - December 19, 2017 Closed Session Meeting Minutes



**VII. New Business – Cases Scheduled for Consent Agenda Administrative Complaint Disposition Adjudication \***

An “Administrative Complaint Disposition” means a decision by the Council as to whether to accept or reject the Executive Director’s recommendation of dismissal based on jurisdictional, procedural or other defects of the complaint. The Executive Director’s recommended reason for the Administrative Disposition is under each complaint below.

**A. Administrative Disposition Adjudications with Recusals (Consent Agenda): None**

**B. Administrative Disposition Adjudications with no Recusals (Consent Agenda):**

1. Rachel White v. Camden City School District (Camden) (2016-213)
  - Not a Valid OPRA Request
2. Demetrius Minor v. NJ Department of Corrections (2017-49)
  - No Correspondence Received

**C. Administrative Disposition Uncontested, Voluntary Withdrawals by Complainant (No Adjudication of the Council is Required):**

1. James Capone v. Kean University (2017-62)
  - Settled in Mediation
2. James Capone v. Kean University (2017-63)
  - Settled in Mediation
3. Peter Chen v. NJ Department of Health, Division of Family Health Services (2017-194)
  - Settled in Mediation
4. Susan E. DiMaria, Esq. v. Township of Toms River (Ocean) (2017-223)
  - Complaint Voluntarily Withdrawn
5. Doreen Frega v. Township of Middletown (Monmouth) (2017-229)
  - Complaint Voluntarily Withdrawn
6. Louann Wonski, Esq. v. Middlesex County Medical Examiner’s Office (2018-2)
  - Complaint Voluntarily Withdrawn

**VIII. New Business – Cases Scheduled for Individual Complaint Adjudication**

The Executive Director’s recommended action is under each complaint below.

**A. Individual Complaint Adjudications with Recusals:**

1. Steven Hyman v. City of Jersey City (Hudson) (2007-118) **(SR Recusal)**
  - The Council should accept the ALJ’s Initial Decision as modified.
  - Because the ALJ dispensed of all issues, no further adjudication is required.

2. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-57) **(SR Recusal)**
  3. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-60) **(SR Recusal)**
  4. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-70) **(SR Recusal)**
- Consolidated**

- The Council should accept the ALJ’s Initial Decision dismissing GRC 2015-57.
- The Complainant is a prevailing party in GRC 2015-60 and GRC 2015-70. The parties shall confer on fees and advise the GRC within twenty (20) business days if

an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.

5. Robert A. Verry v. Township of Greenwich (Warren) (2015-126) (**SR Recusal**)
  - The Custodian failed to comply with the Council's December 15, 2015 Interim Order.
  - This complaint should be referred to the OAL to: 1) perform an *in camera* review; 2) determine whether the Custodian knowingly and willfully denied access; and 3) determine whether the Complainant is a prevailing party and, if so, the appropriate amount of fees.

#### **B. Individual Complaint Adjudications with no Recusals:**

1. Shawn G. Hopkins v. Colts Neck Township (Monmouth) (2014-21)
  - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby obviating the need for any further adjudication.
2. Shawn G. Hopkins v. Borough of Englishtown (Monmouth) (2014-23)
  - The Custodian did not fully comply with the Council's October 31, 2017 Order.
  - Neither Mr. Fitzpatrick or the Custodian knowingly and willfully violated OPRA.
  - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.
3. Michael Feaster v. Buena Borough (Atlantic) (2015-308)
  - The Custodian complied with the Council's June 27, 2017 Interim Order.
  - The Custodian lawfully denied access to the body of the e-mail and the draft report. However, the Custodian must disclose all other portions of the e-mail for which access was unlawfully denied.
  - The knowing and willful analysis is deferred pending compliance.
4. Christina Moreira v. Elizabeth Board of Education (Union) (2015-313)
  - This complaint should be tabled based on advice of Counsel.
5. Luis F. Rodriguez v. Kean University (2015-338)
  - The GRC must conduct an *in camera* review on the responsive records to validate the Custodian's claim that they were properly redacted under the ACD and attorney-client privilege exemptions.
  - The extension and knowing and willful analyses are deferred pending the conclusion of the *in camera* review.
6. Luis F. Rodriguez v. Kean University (2016-40)
  - The Custodian complied with the Council's March 28, 2017 Interim Order.
  - The Custodian shall comply with the *In Camera* Examination findings.
  - The knowing and willful analysis is deferred pending compliance.

7. Luis F. Rodriguez v. Kean University (2016-41)
  - The Custodian borne her burden of proving that the extensions sought were warranted and reasonable.
8. Talbot B. Kramer, Jr., Esq. (o/b/o William Juliana) v. Township of Washington (Gloucester) (2016-113)
  - The Custodian's failure to timely respond resulted in a "deemed" denial.
  - The Custodian's response was insufficient because she failed to respond to each individual OPRA request item.
  - The Custodian may have unlawfully denied access to responsive records and shall respond to each item: 1) identifying which disclosed records are responsive; 2) disclosing any outstanding items; and/or 3) certifying if records for a particular item do not exist.
  - The knowing and willful and prevailing party analyses are deferred pending compliance.
9. Marwin McKoy v. Atlantic County Justice Facility (2016-120)
  - The Custodian did not unlawfully deny access to any records because she timely responded.
10. Jason Harry Komis v. Camden County (2016-143)
  - This complaint should be tabled based on advice of Counsel.
11. Harold G. Paine v. Barrington Police Department (2016-197)
  - The Custodian's failure to timely respond resulted in a "deemed" denial.
  - The Custodian did not unlawfully deny access to the responsive records.
  - There is no knowing and willful violation.
12. Boris Boretsky v. Middlesex County Examiner's Office (2016-219)
  - The Custodian lawfully denied access to OPRA request item No. 1 under N.J.S.A. 47:1A-2.2(a) and item No. 3 under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1.
  - The Complainant's request item No. 2 was invalid because it sought information.
  - The Custodian lawfully denied access to OPRA request item Nos. 4 and 5 under N.J.S.A. 47:1A-1.1.
13. Carey Italiano v. County of Salem (2017-110)
  - The Custodian's failure to timely respond resulted in a "deemed" denial.
  - The Custodian disclosed records responsive to item Nos. 1 through 4 and 8 through 13; thus, the GRC declines to order disclosure.
  - The Custodian lawfully denied access to item Nos. 5 and 7 because he certified twice that no recordings could be located and the meetings were presumed not recorded.
  - There is no knowing and willful violation.
  - The Complainant is a prevailing party. The parties shall confer on fees and advise the GRC within twenty (20) business days if an agreement is reached. If not, Complainant's Counsel shall submit a fee application in accordance with N.J.A.C. 5:105-2.13.

14. Daniel Damigo v. Borough of Totowa (Passaic) (2017-124)
  - The Custodian's response was insufficient because it failed to provide a specific lawful basis for denying access to the requested records.
  - This complaint should be referred to the OAL to: 1) determine which records were requested; 2) determine if those records were subject to disclosure; and 3) determine whether the Custodian knowingly and willfully denied access.
15. Judy Faulkner v. Hillsborough Township (Somerset) (2017-215)
  - The Custodian's response was insufficient because she failed to respond to each individual OPRA request item.
  - The Custodian did not unlawfully deny access to the requested record, which did not include certain information sought by the Complainant.
16. Megan McNally v. City of Bayonne (Hudson) (2017-230)
  - This complaint is unripe for adjudication because the Complainant filed it before the expiration of the seven (7) business day time frame.

**IX. Court Decisions of GRC Complaints on Appeal:**

- Conley v. NJ Dep't of Corr., 2018 N.J. Super. LEXIS 6 (App. Div. 2018) (Approved for Publication)

**X. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:**

- Scheeler v. State Dep't of Children & Families, 2017 N.J. Super. Unpub. LEXIS 3154 (App. Div. 2017)
- Libertarians for Transparent Gov't v. Ocean Cnty. Prosecutor's Office, 2018 N.J. Super. Unpub. LEXIS 25 (App. Div. 2018)
- N. Jersey Media Grp., Inc. v. City of Clifton, 2018 N.J. Super. Unpub. LEXIS 70 (App. Div. 2018)

**XI. Public Comment:**

The public comment period is limited to providing an opportunity for speakers to present suggestions, views and comments relevant to the Council's functions and responsibilities. In the interest of time, speakers may be limited to **five (5) minutes**. Speakers shall not be permitted to make oral or written testimony regarding pending or scheduled adjudications.\*

**XII. Adjournment**

\*Neither attorneys nor other representatives of the parties are required to attend this meeting nor will they be permitted to make oral or written comment during the adjudication.