



**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**  
**December 18, 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, December 18, 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. 2019 Officer Elections**

**III. 2019 Proposed Council Meeting Dates – Final Review**

**IV. Communications Specialist/Resource Manager’s Report**

**V. Closed Session**

- Matthew Drange v. Camden County Office of Archives and Records Management (2015-265)
- Luis Rodriguez v. Kean University (2017-90)

**VI. Approval of Minutes of Previous Meetings:**

November 13, 2018 Open Session Meeting Minutes  
November 13, 2018 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 Council Staff’s recommendation of dismissal based on jurisdictional,



procedural or other defects of the complaint. The Council Staff's recommended reason for the Administrative Disposition is under each complaint below.

**A. Administrative Disposition Adjudications with Recusals (Consent Agenda):**

1. Scott Madlinger v. Township of Toms River (Ocean) (2018-284) (SR Recusal)
  - This complaint cannot be adjudicated due to lack of quorum.

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

1. Charles P. McCoy v. Cumberland County Prosecutor's Office (2016-266)
  - No Correspondence Received by the Custodian.
2. Luis F. Rodriguez v. Kean University (2016-279)
  - Duplicate Complaint Filed With the GRC.
3. Randall and Lynda Burns v. Atlantic/Cape May County Court (2018-301)
  - Not Within Council's Jurisdiction.
4. Randall and Lynda Burns v. Somerset County Court (2018-302)
  - Not Within Council's Jurisdiction.
5. Yusuf Abdullah Muhammad v. NJ Department of Corrections (2018-305)
  - Not a Valid OPRA Request.

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

1. Rebecca Coll v. Borough of Glen Rock (Bergen) (2016-297)
  - Complaint Voluntarily Withdrawn.
2. NJ Foundation for Open Government, Inc. v. Princeton Public Schools (Mercer) (2017-88)
  - Complaint Voluntarily Withdrawn.
3. Ed Lesser v. East Newark Board of Education (Hudson) (2018-118)
  - Complaint Voluntarily Withdrawn.
4. Fox Rothschild LLP (o/b/o CM3 Buildings Solutions, Inc.) v. NJ Department of Treasury (2018-230)
  - Complaint Voluntarily Withdrawn.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute (AADARI) and Baffi Simmons) v. Borough of Swedesboro (Gloucester) (2018-245)
  - Complaint Voluntarily Withdrawn.
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute (AADARI) and Baffi Simmons) v. Penns Grove Police Department (Salem) (2018-250)
  - Complaint Voluntarily Withdrawn.
7. Patrick Wall v. Newark Public Schools (Essex) (2018-258)
  - Complaint Voluntarily Withdrawn.
8. Joseph Sarno v. Township of Scotch Plains (Union) (2018-267)
  - Complaint Voluntarily Withdrawn.

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

The Council Staff's recommended action is under each complaint below.

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

1. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2011-323) **(SR Recusal)**
  - This complaint cannot be adjudicated due to lack of quorum.
2. Vesselin Dittrich v. Hudson County (2017-66) **(SR Recusal)**
  - This complaint cannot be adjudicated due to lack of quorum.
3. Duggan L. Salley v. City of Newark (Essex) (2018-158) **(SR Recusal)**
  - This complaint cannot be adjudicated due to lack of quorum.
4. Sacha Pouliot v. NJ Department of Education (2015-281) **(CH Recusal)**
  - This complaint cannot be adjudicated due to lack of quorum.
5. Arnav Sood v. West Windsor-Plainsboro Regional School District (Mercer) (2016-241) **(JM Recusal)**
  - This complaint cannot be adjudicated due to lack of quorum.

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

1. Richard Rivera v. Passaic County Sheriff's Office (2010-181)
  - The Council should accept the Administrative Law Judge's November 23, 2018 Initial Decision dismissing this complaint with prejudice.
2. Matthew Drange v. Camden County Office of Archives and Records Management (2015-265)
  - The Custodian complied with the Council's June 26, 2018 Interim Order.
  - The Custodian unlawfully denied access to certain redacted information and must redisclose the responsive record to the Complainant based on the Council's *In Camera* Examination Findings.
  - The knowing and willful analysis is deferred pending compliance.
3. Luis F. Rodriguez v. Kean University (2015-338)
  - The Custodian complied with the Council's October 30, 2018 Interim Order.
  - There is no knowing and willful violation.
4. Sean Patrick Vandy v. Newfield Police Department (Gloucester) (2016-166)
  - The Custodian complied with the Council's November 13, 2018 Interim Order.
  - There is no knowing and willful violation.
5. Libertarians for Transparent for Government v. Borough of Westwood (Bergen) (2016-214)
  - The Custodian complied with the Council's October 30, 2018 Interim Order.
  - 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.

6. Lewis J. DeEugenio, Jr. v. Borough of Glassboro (Gloucester) (2016-254)
  - The Council must conduct an *in camera* review of the seven (7) responsive records to determine whether their denial was proper under the ACD material exemption.
  - The knowing and willful and prevailing party analyses are deferred pending compliance.
7. Kafele Bomani v. Atlantic County Prosecutor's Office (2016-257)
  - The Custodian timely sought clarification and the Complainant failed to provide same. Thus, no unlawful denial of access occurred.
8. Louis Hall v. Rowan University (2016-259)
  - The Custodian did not unlawfully deny access to the OPRA request because all responsive records were provided.
9. Louis Hall v. Borough of Glassboro (Gloucester) (2016-260)
  - The Custodian bore her burden of proof that she timely responded to the subject OPRA request. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Custodian did not unlawfully deny access to the OPRA request because all responsive records were provided.
10. Luis F. Rodriguez v. Kean University (2016-264)
  - The Custodian's extensions were warranted and substantiated.
11. Luis F. Rodriguez v. Kean University (2016-272)
  - The Custodian's extension was warranted and substantiated.
12. Scott DiRoma v. NJ State Parole Board (2016-278)
  - The Custodian's failure to timely respond within the statutory time frame resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Custodian unlawfully denied access to the redacted portions of the e-mail responsive to OPRA request item No. 1. However, the GRC declines to order disclosure of the unredacted e-mail because the Custodian already provided it to the Complainant.
  - The Council must conduct an *in camera* review of the unredacted record responsive to OPRA request item No. 2 to determine whether the redactions were proper under the security and surveillance exemption.
  - The knowing and willful analysis is deferred pending compliance.
13. William A. Goode, Jr. v. Little Ferry Board of Education (Bergen) (2016-284)
  - The Custodian's search was insufficient.
  - There is no knowing and willful violation.
14. Susan M. Vandy v. Burlington County Board of Social Services (2016-319)
  - The Custodian complied with the Council's November 13, 2018 Interim Order.
  - There is no knowing and willful violation.

15. *Ranjeet Singh v. Borough of Carteret (Middlesex) (2017-28)*
  - The Complainant’s request item Nos. 1, 2, 3, 5, and 6 were invalid because they required research or asked questions.
  - The Custodian lawfully denied access to OPRA request item No. 4 because no records existed.
16. *Michael I. Inzelbuch, Esq. v. NJ Office Administrative Law (2017-53)*
  - The Custodian bore his burden of proof that he timely responded to the subject OPRA request. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
17. *Luis F. Rodriguez v. Kean University (2017-90)*
  - The Custodian complied with the Council’s November 13, 2018 Interim Order.
  - The *In Camera* Examination revealed that the Custodian lawfully denied access to the redacted portion of the responsive e-mail chain.
  - The Council should decline to address the knowing and willful issue.

18. <i>Eric Petr v. Town of Morristown (Morris) (2017-97)</i>
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19. <i>Eric Petr v. Town of Morristown (Morris) (2017-98)</i> <b>Consolidated</b>
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- The Custodian’s failure to respond to the April 6, 2017 OPRA request immediately resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(e).
- The Custodian’s failure to timely respond to the March 30, 2017 OPRA request within the statutory time frame resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- There is no knowing and willful violation.

20. *Edward Stevens v. New Horizons Community Charter School (Essex) (2018-166)*

- The Custodian complied with the Council’s October 30, 2018 Interim Order advising that no record existed at the time that the Complainant submitted the subject OPRA request.
- There is no knowing and willful violation.
- The Complainant is not a prevailing party entitled to an award of reasonable attorney’s fees.

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

- Moawad v. City of Bayonne Police Dep’t (Hudson), 2018 N.J. Super. Unpub. LEXIS 2487 (App. Div. 2018)

**X. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None**

**XI. Complaints Adjudicated in Federal Court:**

- Edouard v. City of Long Branch, 2018 U.S. Dist. LEXIS 204884 (D.N.J. Dec. 4, 2018)

**XII. 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.\*

### **XIII. 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.