



**State of New Jersey**  
DEPARTMENT OF COMMUNITY AFFAIRS  
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**PHILIP D. MURPHY**  
*Governor*

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

**NOTICE OF MEETING**  
**Government Records Council**  
**March 26, 2019**

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, March 26, 2019, 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. Acting Executive Director’s Report**

**III. Closed Session**

- Edwin Sheppard
- Matthew Drange v. City of Plainfield Police Department (Union) (2015-229)
- Luis F. Rodriguez v. Kean University (2016-86)

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

February 26, 2019 Open Session Meeting Minutes

**V. 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): None**



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

1. Jeremiah Jackson v. Atlantic County Prosecutor's Office (2017-11)
  - No Correspondence Received by the Custodian.
2. Kafele K. Bomani v. South Jersey Transportation Authority (2017-172)
  - No Records Responsive to the Request Exist.
3. Adam C. Miller v. Township of Howell (Monmouth) (2018-235)
  - No Correspondence Received by the Custodian.
4. Angel Llerena v. Town of West New York (Hudson) (2019-36)
  - Unripe Cause of Action.
5. Chris G. Alevras v. NJ Office of Attorney Ethics (2019-50)
  - Not Within the Council's Jurisdiction.

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

1. Robert Cathcart v. Township of Barnegat (Ocean) (2018-287)
  - Complaint Voluntarily Withdrawn.
2. Adolphus Downs v. County of Passaic (2018-317)
  - Complaint Settled in Mediation.
3. Kathleen Pavese v. Mount Olive Police Department (Morris) (2019-07)
  - Complaint Voluntarily Withdrawn.
4. Louis Shockley v. City of Newark (Essex) (2019-09)
  - Complaint Voluntarily Withdrawn.
5. David Weiner v. County of Essex (2019-43)
  - Complaint Voluntarily Withdrawn.
6. Robert J. Smith, Esq. v. NJ Pinelands Commission (2019-51)
  - Complaint Voluntarily Withdrawn.
7. Jeffrey R. Merlino v. Prospect Park Board of Education (Passaic) (2019-53)
  - Complaint Voluntarily Withdrawn.
8. Jeffrey R. Merlino v. Borough of Prospect Park (Passaic) (2019-54)
  - Complaint Voluntarily Withdrawn.

**VI. 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. Shawn G. Hopkins v. Borough of West Long Branch (Monmouth) (2014-40) **(SR Recusal)**
  - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
2. Matthew Drange v. Paterson Police Department (Passaic) (2015-252) **(SR Recusal)**
  - The Custodian's response was insufficient. Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
  - The Custodian failed to timely respond to the portion of the Complainant's OPRA request seeking a contract. N.J.S.A. 47:1A-5(e).

- The Custodian unlawfully denied access to a portion of the ShotSpotter data and applicable contract. The Custodian must disclose these records accordingly.
  - The Custodian may have unlawfully denied access to additional responsive records and must disclose them, if any exist.
  - The knowing and willful analysis is deferred.
3. Stephen Schnitzer, Esq. (obo Vito's Trattoria, Inc.) v. NJ Transit (2016-140) (**SR and RBT Recusal**)
    - This case cannot be adjudicated due to lack of quorum.
  4. Thomas Caggiano v. NJ Office of the Governor (2015-276) (**RBT Recusal**)
    - The Complainant's request for reconsideration should be denied.
  5. Thomas Caggiano v. NJ Office of the Governor (2016-68) (**RBT Recusal**)
    - The Complainant's request for reconsideration should be denied.
  6. Thomas Caggiano v. NJ Office of the Governor (2016-83) (**RBT Recusal**)
    - The Complainant's request for reconsideration should be denied.
  7. Thomas Caggiano v. Township of Wantage (Sussex) (2016-202) (**RBT Recusal**)
    - The Township erred by denying the Complainant's OPRA request on the basis that he was an out-of-state requestor. Scheeler, Jr. v. Alt. Cnty. Mun. Joint Ins. Fund, 454 N.J. Super. 621 (App. Div. 2018).
    - The Complainant's request comprising eleven (11) pages was invalid. Renna v. Cnty. of Union, 407 N.J. Super. 230 (App. Div. 2009). Thus, the Custodian did not unlawfully deny access to said request. Caggiano v. State of N.J. Office of the Governor, GRC Complaint No. 2014-166 (January 2015).

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

1. Shawn G. Hopkins v. Borough of Oceanport (Monmouth) (2014-42)
  - The Custodian complied with the Council's February 26, 2019 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.
2. Shawn G. Hopkins v. Township of Neptune (Monmouth) (2014-45)
  - The Custodian complied with the Council's February 26, 2019 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.

3. Shawn G. Hopkins v. Borough of Red Bank (Monmouth) (2014-46)
  - The Custodian and Mr. Elias unlawfully denied access to the Complainant's OPRA request on the basis that same was invalid. N.J.S.A. 47:1A-6.
  - Mr. Elias unlawfully denied access to the Complainant's OPRA request based on pending litigation. Paff v. City of Union City (Hudson), GRC Complaint No. 2013-195 (Interim Order dated January 28, 2014). Further, the OAL's decision in Hopkins v. Monmouth Cnty. Bd. of Taxation, et al, GRC Complaint No. 2014-01 *et seq.* (Interim Order dated July 26, 2016) supports that the responsive CAMA data should have been disclosed. Thus, the Custodian and/or Mr. Elias must disclose the CAMA data that existed at the time of the OPRA request.
  - The Custodian and/or Mr. Elias may have unlawfully denied access to the responsive property photographs and must either disclose them or certify if none exist.
  - The knowing and willful and prevailing party analyses are deferred.
  
4. Shawn G. Hopkins v. Borough of Sea Girt (Monmouth) (2014-47)
  - The Custodian unlawfully denied access to the Complainant's OPRA request on the basis that same was invalid. N.J.S.A. 47:1A-6.
  - The Custodian unlawfully denied access to the requested CAMA data. Specifically, she had an obligation to obtain same from the County of Monmouth and failed to do so. Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010; Michalak v. Borough of Helmetta (Middlesex), GRC Complaint No. 2010-220 (Interim Order dated January 31, 2012). The Custodian must disclose the responsive CAMA data that existed at the time of the OPRA request.
  - The Custodian may have unlawfully denied access to the responsive property photographs and must either disclose them or certify if none exist.
  - The knowing and willful and prevailing party analyses are deferred.
  
5. Shawn G. Hopkins v. Rockaway Township (Morris) (2014-146)
  - The Custodian unlawfully denied access to the Complainant's OPRA request on the basis that same was invalid. N.J.S.A. 47:1A-6.
  - The Custodian unlawfully denied access to the responsive CAMA data and photographs in accordance with the OAL's decision in Hopkins v. Monmouth Cnty. Bd. of Taxation, et al, GRC Complaint No. 2014-01 *et seq.* (Interim Order dated July 26, 2016). Thus, the Custodian must disclose the CAMA data and photographs that existed at the time of the OPRA request. If no photographs exist, the Custodian must certify to this fact.
  - The knowing and willful and prevailing party analyses are deferred.
  
6. Matthew Drange v. City of Plainfield Police Department (Union) (2015-229)
  - The Custodian complied with the Council's June 26, 2018 Interim Order.
  - The Custodian must comply with the Council's *In Camera* Examination. Additionally, the Custodian must disclose header information contained within responsive memos. Ray v. Freedom Acad. Charter Sch. (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).
  - The knowing and willful analysis is deferred.

7. Luis F. Rodriguez v. Kean University (2016-86)
  - The Custodian complied with the Council's April 24, 2018 Interim Order.
  - The Custodian unlawfully denied access to names of non-student employees listed in the payroll accounts. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-10. The Custodian must either 1) disclose the record without redactions for these employee names; or 2) propose a special service charge to the Complainant, if applicable.
  - The knowing and willful analysis is deferred.
8. Sean Patrick Vandy v. Newfield Police Department (Gloucester) (2016-166)
  - The Complainant's request for reconsideration should be denied.
9. Aakash Dalal v. NJ Office of Homeland Security and Preparedness (2016-169)
  - The current Custodian did not fully comply with the Council's January 31, 2019 Interim Order based on timeliness.
  - There is no knowing and willful violation.
10. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2016-190)
  - The Custodian complied with the Council's January 31, 2019 Interim Order.
  - There is no knowing and willful violation.
11. Ronald W. Yarbrough (o/b/o Pro-Spec Corporation) v. City of Trenton (Mercer) (2016-230)
  - The Custodian complied with the Council's January 31, 2019 Interim Order.
  - There is no knowing and willful violation.
12. John Sexton v. Middlesex County (2016-293)
  - The Council must conduct an *in camera* review of the responsive registration forms.
  - The Complainant and Custodian shall submit balancing test questionnaires to allow the GRC to conduct a proper analysis of whether the Custodian unlawfully denied access to the responsive registration forms.
  - The knowing and willful analysis is deferred.
13. LaShawn Fitch v. Monmouth County Prosecutor's Office (2017-06)
  - A portion of the Complainant's request was invalid because it failed to seek specific records and information. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); LaMantia v. Jamesburg Public Library (Middlesex), GRC Complaint No. 2008-140 (February 2009).
  - The Custodian denied access to the remainder of the Complainant's OPRA request based on several statutory exemptions. N.J.S.A. 47:1A-6.
14. Shamsiddin Abdur Raheem v. NJ Office of the Attorney General, Division of Criminal Justice (2017-10)
  - The Custodian timely responded to the Complainant's OPRA request. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
15. Luis F. Rodriguez v. Kean University (2017-16)
  - The Custodian's extensions were warranted and substantiated.

- The Complainant’s request was invalid because it required research. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Lagerkvist v. Office of the Governor of N.J., 443 N.J. Super. 230, 236-237 (App. Div. 2007).
16. Mustafa Minor v. NJ Department of Corrections (2017-18)
- The Custodian lawfully denied access to the requested visiting list in accordance with Corrections’ regulations. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(12).
17. Tory Tyler v. Passaic County Prosecutor’s Office (2017-30)
- The Custodian lawfully denied access to the requested “rap sheets.” N.J.S.A. 47:1A-6; Lewis v. Union Cnty. Prosecutor’s Office, GRC Complaint No. 2016-131 (Interim Order dated March 27, 2018).
18. Frank Hubbard v. NJ State Parole Board (2017-48)
- The Custodian lawfully denied access to the responsive parole document in accordance with the Parole Board’s regulations. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:71-2.2(a).
19. Larry Michael Welenc v. NJ State Police (2017-134)
- The Custodian complied with the Council’s February 26, 2016 Interim Order.
  - There is no knowing and willful violation.
20. Megan McNally v. City of Bayonne (Hudson) (2018-16)
- The Custodian failed to comply with the Council’s February 26, 2019 Interim Order.
  - The Council’s Order could have been enforceable in Superior Court had the records at issue still existed.
  - The Custodian and/or any other official may have knowingly and willfully violated OPRA. This complaint should be referred to the OAL for a proof hearing.
21. David Herron v. Paterson Board of Education (Passaic) (2018-160)
- The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
  - The Custodian’s failure to disclose the responsive report in the medium requested resulted in an unlawful denial of access. N.J.S.A. 47:1A-6; Scheeler, Jr. v. N.J. Dep’t of Educ., GRC Complaint No. 2014-172 (Interim Order dated September 30, 2014). Thus, the Custodian shall disclose the record to the Complainant in the medium requested.
  - The knowing and willful analysis is deferred.

## **VII. Court Decisions of GRC Complaints on Appeal:**

- Carter v. Franklin Fire Dist. No. 1, 2019 N.J. Super. Unpub. LEXIS 590 (App. Div. 2019)
  - Consolidated appeal of Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint Nos. 2014-137, 138 (January 2017) and Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2014-266, 267 (January 2017).

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

**IX. 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\*

**X. 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.