



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
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TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

NOTICE OF MEETING
Government Records Council
July 30, 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, July 30, 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

- Michael Ehrenreich v. NJ Department of Transportation (2019-192) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Ronald Williams v. NJ Department of Corrections (2017-141) Attorney Advice (N.J.S.A. 10:4-12(b)(7)).

IV. Approval of Minutes of Previous Meetings:

June 25, 2019 Open Session Meeting Minutes
June 25, 2019 Closed 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):

1. Scott Madlinger v. Township of Toms River (Ocean) (2018-286) **(SR Recusal)**
 - All Records Responsive Provided in a Timely Manner.

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

1. Joel Diaz v. County of Union (2019-117)
 - No Correspondence Received by the Custodian.
2. Russell Smith v. Moorestown Township (Burlington) (2019-135)
 - Unripe Cause of Action.

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

1. Luis F. Rodriguez v. Kean University (2017-208)
 - Complaint Voluntarily Withdrawn.
2. Patrick D. MacAvoy, Esq. (o/b/o Eric Davidson) v. Maple Shade Police Department (Burlington) (2017-216)
 - Complaint Voluntarily Withdrawn.
3. Y.B. v. Eastern Camden County Regional School District (2019-83)
 - Complaint Voluntarily Withdrawn.
4. Tanya Greene v. City of Newark (Essex) (2019-96)
 - Complaint Voluntarily Withdrawn.
5. Kelvyn Anderson v. City of Trenton (Mercer) (2019-105)
 - Complaint Voluntarily Withdrawn.
6. Perrault Jean-Paul v. City of Bayonne (Hudson) (2019-111)
 - Complaint Voluntarily Withdrawn.
7. Luis F. Rodriguez v. Kean University (2019-112)
 - Complaint Voluntarily Withdrawn.
8. Perrault Jean-Paul v. City of Bayonne (Hudson) (2019-126)
 - Complaint Voluntarily Withdrawn.
9. Anonymous v. Borough of Haledon (Passaic) (2019-128)
 - Complaint Voluntarily Withdrawn.
10. Sean Benoit v. City of Elizabeth (Union) (2019-137)
 - Complaint Voluntarily Withdrawn.
11. Luis F. Rodriguez v. Kean University (2019-143)
 - 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. Sacha Pouliot v. NJ Department of Education (2015-281) **(CH Recusal)**
 - The Council shall determine the reasonable amount of attorney's fees to award because the parties failed to settle the issue.
 - Counsel is awarded \$1,249.00 representing 5.9 hours of work at a cumulative hourly rate of \$211.69. No enhancement should be awarded.
2. Robert S. Daniel v. NJ Transit (2017-164) **(SR Recusal)**
 - The Custodian's extensions were unwarranted and unreasonable.
 - The GRC must conduct an *in camera* review of the four (4) redacted meeting minutes.
 - The knowing and willful analysis is deferred.
3. David Weiner v. County of Essex (2017-189) **(SR Recusal)**
 - The current Custodian complied with the Council's June 25, 2019 Interim Order.
 - There is no knowing and willful violation.
4. Stephen Schnitzer, Esq. (o/b/o Vito's Trattoria, Inc.) v. NJ Transit (2016-140) **(RBT and SR Recusal)**
 - This case cannot be adjudicated due to lack of quorum.

B. Individual Complaint Adjudications with no Recusals:

1. Shawn G. Hopkins v. Borough of Manasquan (Monmouth) (2014-36)
 - The Custodian complied with the Council's June 25, 2019 Interim Order.
 - There is no knowing and willful violation.
2. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2014-187)
 - This complaint is dismissed because the Complainant withdrew it on June 27, 2019. No further adjudication is required.
3. Dudley Burdge v. NJ Office of Information Technology (2014-338)
 - The Custodian complied with the Council's May 21, 2019 Interim Order.
 - There is no knowing and willful violation.
4. Robert J. Chester v. Pleasantville Housing Authority (Atlantic) (2015-50)
 - The Council should accept the ALJ's Initial Decision dismissing this complaint with prejudice. No further adjudication is required.
5. Jeff Carter v. Borough of Paramus (Bergen) (2015-104)
 - Complainant Counsel's request for reconsideration should be denied.
6. Michael Ehrenreich v. NJ Department of Transportation (2016-192)
 - The Custodian complied with the Council's April 24, 2018 Interim Order.
 - The Custodian shall comply with the Findings of the *In Camera* Examination.

- The Custodian shall disclose all other portions of the responsive e-mails as prescribed in 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. Rhonda Peters v. Township of Mansfield (Warren) (2017-33)
 - The Custodian failed to comply with the Council’s April 30, 2019 Interim Order.
 - The Council’s Order is enforceable in the Superior Court. N.J.A.C. 5:105-2.9(c).
 - This complaint should be referred to the OAL for a hearing to determine whether the Custodian knowingly and willfully violated OPRA. N.J.S.A. 47:1A-11.
 - For administrative ease, the OAL should determine whether the Complainant is a prevailing party and if so, the reasonable amount of fees.
 8. Carmen D. Parish v. City of Trenton (Mercer) (2017-125)
 - The Custodian’s failure to timely respond resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
 - No unlawful denial of access occurred because all responsive records were provided. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
 - There is no knowing and willful violation.
 9. Luis F. Rodriguez v. Kean University (2017-128)
 - The Custodian’s extensions were warranted and substantiated.
 10. Luis F. Rodriguez v. Kean University (2017-133)
 - The Complainant’s April 25, 2017 OPRA request is invalid because it would require research. Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015).
 11. Michael Nathaniel Bright v. NJ Department of Corrections (2017-138)
 - The Custodian’s search was insufficient. Schnebel v. N.J. Dep’t of Env’tl. Protection, GRC Complaint No. 2007-220 (April 2008).
 - There is no knowing and willful violation.
 12. Ronald Williams v. NJ Department of Corrections (2017-141)
 - This complaint should be tabled for additional review.
 13. John Beggato v. Township of Hillsborough (Somerset) (2017-144)
 - The Custodian lawfully denied access to the requested e-mail newsletter list based on the privacy interest exemption. N.J.S.A. 47:1A-1; Burnett v. Cnty. of Bergen, 198 N.J. 408, 422-23, 427 (2009).
 14. Omari Shabazz v. NJ Office of the Public Defender (2017-145)
 - The Custodian lawfully denied access to the requested records pertaining to his criminal case. N.J.S.A. 47:1A-5(k); Lemon v. N.J. Office of the Public Defender, GRC Complaint No. 2015-297 (November 2015).

15. Scott Siegel v. Township of Franklin (Somerset) (2017-153)
- The Complainant’s request was invalid because it asked questions and failed to contain the criteria necessary to seek communications. Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010).
16. John Allen v. Borough of Stratford (Camden) (2017-155)
- The Custodian’s extensions were warranted and substantiated.
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| <p>17. Pamela Macek v. Bergen County Sheriff’s Office (2017-156)</p> <p>18. Pamela Macek v. Bergen County Sheriff’s Office (2017-157)</p> <p>19. Pamela Macek v. Bergen County Sheriff’s Office (2017-158) Consolidated</p> <ul style="list-style-type: none"> • The Custodian did not fully comply with the Council’s June 25, 2019 Interim Order. • There is no knowing and willful violation. |
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20. Gavin C. Rozzi v. Township of Lacey (Ocean) (2017-167)
- The Custodian’s response was insufficient. N.J.S.A. 47:1A-5(g); Paff v. Borough of Lavallette, GRC Complaint No. 2007-209 (Interim Order dated June 25, 2008).
 - The GRC must conduct an *in camera* review of the redacted correspondence.
 - The knowing and willful analysis is deferred.
21. Philip E. Shapiro v. NJ Civil Service Commission (2017-212)
- The Custodian lawfully denied access to the responsive “list of applicants.” N.J.S.A. 47:1A-10; N.J.S.A. 47:1A-9(a); N.J.A.C. 4A:4-2.16(b); Toscano v. N.J. Dep’t of Human Serv., Div. of Health Serv., GRC Complaint No. 2010-147 (May 2011).
22. Michael Ranallo v. City of Trenton (Mercer) (2017-222)
- The Custodian’s failure to timely respond 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.
23. Stacie Percella v. City of Bayonne (Hudson) (2017-226)
- No unlawful denial of access occurred because all responsive records were provided. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
24. Scott Madlinger v. Berkeley Township (Ocean) (2018-130)
- The Custodian did not fully comply with the Council’s June 25, 2019 Interim Order.
 - There is no knowing and willful violation.
25. Scott Madlinger v. Monmouth County (2019-123)
- This complaint should be dismissed because the Complainant failed to state a claim. Loigman v. Monmouth Cnty. Prosecutor’s Office, GRC Complaint No. 2013-342 (July 2014).

VII. Court Decisions of GRC Complaints on Appeal:

VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:

- Twp. of Teaneck v. Jones, 2019 N.J. Super. Unpub. LEXIS 1606 (App. Div. 2019)
- L.R. v. Camden City Pub. Sch. Dist., 2019 N.J. LEXIS 988 (2019)

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.