



**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**  
**September 24, 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, September 24, 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. Executive Director’s Report**

**III. Closed Session**

- Arnav Sood v. West Windsor-Plainsboro Regional School District (Mercer) (2016-241) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Scott DiRoma v. NJ State Parole Board (2016-278) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

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

August 27, 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 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):**

1. David Weiner v. County of Essex (2018-206) **(SR Recusal)**
  - No Records Responsive to the Request Exist.
2. Christopher A. Lombardi v. Paterson Police Department (Passaic) (2019-171) **(SR Recusal)**
  - Duplicate Complaint Filed With the GRC.
3. David Nash v. NJ Department of Community Affairs, Division of Fire Safety (2019-148) **(TB Recusal)**
  - No Records Responsive to the Request Exist.

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

1. Christopher Masi v. NJ Department of Corrections (2019-120)
  - No Records Responsive to the Request Exist.
2. David Nash v. Jackson Township Fire District No. 2 (Ocean) (2019-147)
  - No Correspondence Received by the Custodian.

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

1. Dr. Kelly William Sundberg v. Stockton University (2018-259)
  - Complaint Settled in Mediation.
2. Chris Placitella, Esq. (o/b/o Estate of Brian Holland) v. NJ Transit (2019-107)
  - Complaint Voluntarily Withdrawn.
3. Thomas Dello Russo v. Millburn Police Department (Essex) (2019-136)
  - Complaint Settled in Mediation.
4. Luis F. Rodriguez v. Kean University (2019-144)
  - Complaint Voluntarily Withdrawn.
5. Tyshammie L. Cooper v. City of Orange Township (Essex) (2019-177)
  - Complaint Voluntarily Withdrawn.
6. Daniel W. Conard v. Borough of Runnemede (Camden) (2019-182)
  - Complaint Voluntarily Withdraw.

**VI. 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. Mark L. Tompkins v. Essex County Prosecutor's Office (2017-182) **(SR Recusal)**
  - The Complainant's request is invalid because it seeks generic records supporting a claim and information rather than identifiable government records. MAG Entm't, LLC. v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005).

2. Richard E. Salkin v. City of Hackensack (Bergen) (2017-191) (**SR Recusal**)
  - The GRC must conduct an *in camera* review to determine whether the redacted information is exempt as “inter-agency or intra-agency advisory, consultative, or deliberative [(“ACD”)] material.”
  - The knowing and willful analysis is deferred.
  
3. Michael Doss v. Borough of Bogota (Bergen) (2017-217) (**SR Recusal**)
  - The Custodian failed to prove that the assessed special service charge of \$53.25 was warranted and reasonable. N.J.S.A. 47:1A-5(c). The Custodian must refund the applicable payment to the Complainant.
  - The GRC must conduct an *in camera* review to determine whether the redacted information is exempt under the attorney-client privilege exemption.
  - The Custodian did not unlawfully deny access to the Complainant’s two (2) OPRA requests on the basis that she disclosed all responsive records. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint Nos. 2009-156, 2009-157, 2009-158 (Interim Order dated April 28, 2010).
  - The knowing and willful and prevailing party analyses are deferred.
  
4. Krzysztof Golas v. Essex County Department of Corrections (2018-12) (**SR Recusal**)
  - The GRC must conduct an *in camera* review to determine whether the redacted information is exempt as ACD material.
  - The knowing and willful analysis is deferred.
  
5. Steven Schnitzer, Esq. (o/b/o Vito’s Trattoria, Inc.) v. NJ Transit (2016-140) (**SR and RBT Recusal**)
  - This case cannot be adjudicated due to lack of quorum.

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

1. Lisa D. Taylor, Esq. v. NJ Department of Treasury, Division of Purchase and Property (2015-395)
  - The Custodian complied with the Council’s August 28, 2018 Interim Order.
  - The Custodian lawfully denied access to the responsive Cmty. Access Unlimited bid submissions. Bart v. City of Paterson Hous. Auth., 403 N.J. Super. 609, 619 (App. Div. 2008).
  - The Custodian lawfully denied access to the bid evaluation records under the ACD exemption. N.J.S.A. 47:1A-1.1; Verry v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2013-287 (Interim Order dated June 30, 2015).
  - The GRC must conduct an *in camera* review to determine whether portions of the responsive proposals were exempt from access under OPRA.
  - The Custodian did not unlawfully deny access to the remaining records at issue on the basis that he disclosed them to the Complainant between December 3, and 17, 2015. Danis, GRC 2009-156, *et seq.*
  - The knowing and willful and prevailing party analyses are deferred.

2. Golda D. Harris v. NJ Department of Corrections (2016-172)
  - The Complainant's request item Nos. 1 through 4 and 6 are invalid. MAG, 375 N.J. Super. 534.
  - The Custodian lawfully denied access to OPRA request item No. 5 seeking disciplinary reports. N.J.S.A. 47:1A-10; Alexander v. N.J. Dep't of Corr., GRC Complaint No. 2014-268 (June 2015).
  - The Custodian lawfully denied access to OPRA request item No. 7 because no responsive records existed. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
  - The Custodian lawfully denied access to OPRA request item Nos. 8 and 10 because he timely sought clarification and never received such. Herron v. N.J. Dep't of Educ., GRC Complaint No. 2011-363 (December 2012).
  - The Custodian lawfully denied access to OPRA request item Nos. 11 through 14 and 16 because he disclosed the responsive records upon receipt of payment for copy costs. N.J.S.A. 47:1A-5(b); Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).
3. Scott M. Halliwell and Anthony G. Pennant v. Borough of Brooklawn (Camden) (2016-201)
  - The Custodian complied with the Council's August 27, 2019 Interim Order.
  - The Custodian bore his burden of proving a lawful denial of access to e-mail correspondence from 2013 and 2014. Pusterhofer, GRC 2005-49.
  - The Custodian complied with the Council's April 30, 2019 Interim Order.
  - There is no knowing and willful violation.
4. Arnav Sood v. West Windsor-Plainsboro Regional School District (Mercer) (2016-241)
  - The Council should table this complaint for further review.
5. Scott DiRoma v. NJ State Parole Board (2016-278)
  - The Custodian did not comply fully with the Council's December 18, 2018 Interim Order.
  - The Custodian shall comply with the Council's *In Camera* Examination Findings.
  - The knowing and willful analysis is deferred.
6. Jeffrey J. Gural v. Cinnaminson Township (Burlington) (2016-282)
  - The Custodian proved that a special service charge was warranted. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-5(c).
  - The first component of the special service charge (\$96.00) was reasonable; however, the second component (\$175.00 an hour) was not. The Custodian must thus recalculate the total special service charge and provide the Complainant an opportunity to accept or reject it.
  - The knowing and willful and prevailing party analyses are deferred.
7. Shamsiddin Abdur-Raheem v. NJ State Police (2016-291)
  - The Council should table this complaint for further review based on legal advice.

8. John Sexton v. Middlesex County (2016-293)
  - Both parties complied with the Council’s March 26, 2019 Interim Order.
  - The Custodian lawfully denied access to Symposium attendee contact information contained within the registration forms. N.J.S.A. 47:1A-1; Burnett v. Cnty. of Bergen, 198 N.J. 408, 422-23, 427 (2009); Schechter v. Thomas Edison State Coll., GRC Complaint No. 2013-174 (January 2014). The GRC thus declines to conduct an *in camera* on the responsive forms.
  - The Council should decline to address the knowing and willful issue because no violation occurred.
  
9. Jesse Wolosky v. Township of Jefferson (Morris) (2017-61)
  - The Custodian failed to prove that the assessed special service charge of \$94.10 was warranted and reasonable. N.J.S.A. 47:1A-5(c). The Custodian must disclose the responsive records without the imposition of a special service charge.
  - The knowing and willful and prevailing party analyses are deferred.
  
10. Ronald Williams v. NJ Department of Corrections (2017-141)
  - The Custodian’s failure to address each OPRA request item individually resulted in an insufficient response. Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008). However, the Council should decline to order disclosure of two (2) of the rosters because the Custodian disclosed them on August 1, 2017.
  - The Custodian lawfully denied access to the New Jersey State Prison roster under the safety and security exemption. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-1.1.
  - There is no knowing and willful violation.
  

11. Pamela Macek v. Bergen County Sheriff’s Office (2017-156)

12. Pamela Macek v. Bergen County Sheriff’s Office (2017-157)

13. Pamela Macek v. Bergen County Sheriff’s Office (2017-158) **Consolidated**

  - The Council should deny the Complainant’s request for reconsideration.

  
14. Richard B. Costigan v. Cape May County Prosecutor’s Office (2017-184)
  - The Custodian unlawfully denied access to the responsive autopsy report and must disclose same. N.J.S.A. 47:1A-6; N. Jersey Media Grp., 229 N.J. 541; Schulz v. N.J. State Police, GRC Complaint No. 2014-390 (Interim Order dated June 30, 2015).
  - The Custodian lawfully denied access to the remaining reports under the criminal investigatory exemption.
  - The Custodian lawfully denied access to the responsive photographs under N.J.S.A. 47:1A-1.1, N.J.S.A. 47:1A-9(a), and Executive Order No. 69 (Gov. Whitman, 1997). Leak v. Union Cnty. Prosecutor’s Office, GRC Complaint No. 2007-148 (Interim Order dated February 25, 2009).
  - The knowing and willful analysis is deferred.
  
15. Shaun Clifton-Short v. East Orange Police Department (Essex) (2019-192)
  - The Custodian’s failure to timely respond resulted in a “deemed” denial. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).

- The Custodian lawfully denied access to the requested “charge(s)/complaint(s).” N.J.S.A. 47:1A-10; Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (March 2004).
  - There is no knowing and willful violation.
16. David Gerson v. Township of Springfield (Union) (2017-197)
- The Complainant’s request is invalid because it sought information to justify an action and asked questions. MAG, 375 N.J. Super. 534; LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Vance v. Sussex Cnty. Sheriff’s Office, GRC Complaint No. 2012-188 (June 2013).
17. Tara Park v. Township of Monroe (Gloucester) (2017-200)
- The Custodian timely responded to the Complainant’s OPRA request based on reasonable extensions of time. Ciccarone v. N.J. Dep’t of Treas., GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014).
  - The Complainant’s August 23, 2017 OPRA request item No. 2 was valid under Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010). Thus, the Custodian unlawfully denied access to responsive records and must either disclose them or calculate a special service charge.
  - The knowing and willful analysis is deferred.
18. Stacie Percella v. City of Bayonne (Hudson) (2017-201)
- The Custodian lawfully denied access to the Complainant’s OPRA request because no responsive records exist. Pusterhofer, GRC 2005-49.
19. Stacie Percella v. City of Bayonne (Hudson) (2017-202)
- The portion of the Complainant’s request asking multiple questions was invalid. Percella v. City of Bayonne (Hudson), GRC Complaint No. 2017-203 & 2017-204 (June 2019).
  - The Custodian unlawfully denied access to the portion of the August 14, 2017 OPRA request seeking Mr. Greaves’ “step,” because it is part of a “payroll record.” N.J.S.A. 47:1A-10; Jackson v. Kean Univ., GRC Complaint No. 2002-98 (February 2004). However, the Council need not order disclosure because the Custodian did so on November 21, 2017.
  - There is no knowing and willful violation.
20. Milton P. Durham v. NJ Department of Corrections (2017-209)
- The Complainant’s request item No. 1 seeking records, as well as the various amendments to it, were invalid. MAG, 375 N.J. Super. 534.
  - The Custodian lawfully denied access to the Complainant’s OPRA request item No. 2 because no records existed. Pusterhofer, GRC 2005-49.
  - The Custodian did not unlawfully deny access to the Complainant’s OPRA request item No. 3 on the basis that he disclosed all responsive records. Danis, GRC 2009-156, *et seq.*
21. Stacie Percella v. City of Bayonne (Hudson) (2017-210)
- The Custodian’s failure to provide a specific lawful basis for redactions resulted in an insufficient response. 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 Custodian lawfully denied access to the redacted portions of the Mayor’s meeting calendar. N.J.S.A. 47:1A-9(b); Gannett N.J. Partners, LP v. Cnty. of Middlesex, 379 N.J. Super. 205, 2017-18 (App. Div. 2005); McDonald v. City of Jersey City, GRC Complaint No. 2015-274 (January 2017).
  - There is no knowing and willful violation.
22. Judy Faulkner v. Hillsborough Bureau of Fire Safety (Somerset) (2017-211)
- The Custodian lawfully denied access to the subject OPRA request because no records exist. Pusterhofer, GRC 2005-49.
23. Craig Thompson v. NJ Department of Corrections (2017-220)
- The Complainant’s request seeking a “classification file” was invalid. Bragg v. N.J. Dep’t of Corr., GRC Complaint No. 2010-145 (March 2011).
24. Scott Madlinger v. Berkeley Township (Ocean) (2017-224)
- The Custodian’s failure to provide a fully responsive e-mail log resulted in an insufficient response. N.J.S.A. 47:1A-5(g); Riley v. City of West Orange, GRC Complaint No. 2008-27 (April 2009). However, the Council should decline to order disclosure because the Custodian disclosed same on December 1, 2017.
  - There is no knowing and willful violation.
25. Nicholas Patrick DiFelice v. Monroe Township Public Schools (Gloucester) (2017-232)
- The Custodian complied with the Council’s August 27, 2019 Interim Order.
  - There is no knowing and willful violation.
26. Nicholas Patrick DiFelice v. Monroe Township Public Schools (Gloucester) (2017-233)
- The Custodian failed to fully comply with the Council’s August 27, 2019 Interim Order.
  - In accordance with Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2014-218, *et seq.* (Interim Order dated April 26, 2016), the Custodian shall have a final opportunity to comply with the Council’s Order.
  - The knowing and willful analysis is deferred.
27. Scott Madlinger v. Berkeley Township Board of Education (Ocean) (2017-243)
- The Complainant’s non-form OPRA request was valid and the Custodian improperly required him to complete the official OPRA request form. Renna v. Cnty. of Union, 407 N.J. Super. 230 (App. Div. 2009); Paff v. Bordentown Fire Dist. No. 2 (Burlington), GRC Complaint No. 2012-158 (Interim Order dated May 28, 2013). However, the Council should decline to order disclosure because the Custodian did so on January 15, 2018.
  - There is no knowing and willful violation.
28. Jennifer E. Lewis-Gallagher v. Monroe Township Public School District (Gloucester) (2018-8)
- 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).
  - The Complainant’s request seeking e-mails was invalid because it did not include senders and/or recipients. Elcavage; GRC 2009-07.

- There is no knowing and willful violation.
29. New Jersey Foundation for Open Government, Inc. v. Borough of Woodbine (Cape May) (2018-240)
- The Council should dismiss this complaint because Complainant’s Counsel withdrew the matter via letter to the GRC on September 4, 2019. No further adjudication is required.
30. NJ Foundation for Open Government, Inc. v. Pompton Lakes Board of Education (Passaic) (2018-263)
- The Custodian’s failure to submit a Statement of Information results in a violation of the GRC’s regulations. N.J.A.C. 5:105-2.4(a); Alterman, Esq. v. Sussex Cnty. Sheriff’s Office, GRC Complaint No. 2013-353 (September 2014).
  - The Custodian’s failure to provide a specific lawful basis for redactions resulted in an insufficient response. N.J.S.A. 47:1A-5(g); Morris v. Trenton Police Dep’t, GRC Complaint No. 2007-160 (May 2008).
  - The Custodian unlawfully denied access to the redacted portions of the responsive legal bills. N.J.S.A. 47:1A-6. However, the Council should decline to order disclosure because Custodian’s Counsel did so on August 5, 2019.
  - 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.

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

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

- State v. Somick, 2019 N.J. Super. Unpub. LEXIS 1799 (App. Div. 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.