



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
June 30, 2020

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, June 30, 2020 via Microsoft Teams. Members of the public may attend the meeting by utilizing the following call-in information:

Telephone Number: 1-856-338-7074
Conference ID: 815 013 075

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. remotely.

I. Public Session:

Call to Order
Pledge of Allegiance
Meeting Notice
Roll Call

II. Executive Director's Report

III. Closed Session

IV. Approval of Minutes of Previous Meetings:

May 19, 2020 Open Session Meeting Minutes
May 19, 2020 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 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. Adam C. Miller v. Township of Lawrence (Mercer) (2018-237)
 - No Correspondence Received by the Custodian.
2. Scott Madlinger v. Berkeley Township (Ocean) (2020-92)
 - No Records Responsive to the Request Exist.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Downe Township (Cumberland) (2018-220)
 - Complaint Voluntarily Withdrawn.
2. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Maurice River Township (Cumberland) (2018-221)
 - Complaint Voluntarily Withdrawn.
3. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Township of Tabernacle (Cumberland) (2018-222)
 - Complaint Voluntarily Withdrawn.
4. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Shamong Township (Burlington) (2018-223)
 - Complaint Voluntarily Withdrawn.
5. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Greenwich Township (Cumberland) (2018-224)
 - Complaint Voluntarily Withdrawn.
6. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Hopewell Township (Cumberland) (2018-225)
 - Complaint Voluntarily Withdrawn.
7. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Deerfield Township (Cumberland) (2018-226)
 - Complaint Voluntarily Withdrawn.
8. Rotimi Owoh Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Upper Deerfield Township (Cumberland) (2018-227)
 - Complaint Voluntarily Withdrawn.
9. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Mannington Township (Salem) (2018-248)
 - Complaint Voluntarily Withdrawn.
10. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Knowlton Township (Warren) (2018-266)
 - Complaint Voluntarily Withdrawn.
11. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Frelinhuysen Township (Warren) (2018-275)
 - Complaint Voluntarily Withdrawn.
12. Rotmim Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Oxford Township (Warren) (2018-276)
 - Complaint Voluntarily Withdrawn.

13. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Quinton Township (Salem) (2018-277)
 - Complaint Voluntarily Withdrawn.
14. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Franklin Township (Warren) (2018-278)
 - Complaint Voluntarily Withdrawn.
15. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Hardwick Township (Warren) (2018-279)
 - Complaint Voluntarily Withdrawn.
16. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. White Township (Warren) (2018-280)
 - Complaint Voluntarily Withdrawn.
17. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Township of Harmony (Warren) (2018-282)
 - Complaint Voluntarily Withdrawn.
18. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Township of Kingwood (Hunterdon) (2019-52)
 - Complaint Voluntarily Withdrawn.
19. David Weiner v. County of Essex (2019-209)
 - Complaint Settled in Mediation.
20. Mario Drodz v. Township of Belleville (Essex) (2019-230)
 - Complaint Settled in Mediation.
21. Mario Drodz v. Township of Belleville (Essex) (2019-238)
 - Complaint Settled in Mediation.
22. Jessica Connors v. Evesham Township Police Department (Burlington) (2020-34)
 - Complaint Settled in Mediation.
23. Allan Tuttle v. NJ Department of Corrections (2020-58)
 - Complaint Settled in Mediation.
24. Perrault Jean-Paul v. Township of Commercial (Cumberland) (2020-71)
 - Complaint Voluntarily Withdrawn.
25. Denise Whiteside v. Borough of Butler (Morris) (2020-104)
 - Complaint Voluntarily Withdrawn.

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:

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| <ol style="list-style-type: none"> 1. Michael Doss v. Borough of Bogota (Bergen) (2013-315) (SR Recusal) 2. Michael Doss v. Borough of Bogota (Bergen) (2014-152) (SR Recusal) Consolidated <ul style="list-style-type: none"> • This consolidated complaint should be dismissed because the Complainant, through Counsel, withdrew same in writing while at the Office of Administrative Law (“OAL”) on June 5, 2020. |
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3. Michael Doss v. Borough of Bogota (Bergen) (2017-217) **(SR Recusal)**
 - This complaint should be dismissed because the Complainant, through Counsel, withdrew same in writing on June 5, 2020.

4. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Township of Edison (Middlesex) (2018-64) **(SR Recusal)**
 - This complaint should be dismissed because the Complainant withdrew his request for reconsideration of the Council’s February 26, 2020 Final Decision in writing on June 11, 2020.
5. Yolanda Dentley v. Township of Irvington (Essex) (2018-251) **(SR Recusal)**
 - 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 Custodian may have unlawfully denied access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. The Custodian must locate and disclose records or certify that none exist and must submit certifications from Mr. Holley and a Department of Housing and Building Construction staff member supporting the Township’s response.
 - The knowing and willful analysis is deferred.
6. Fred W. Snowflack v. NJ Transit (2018-308) **(SR Recusal)**
 - The Custodian lawfully denied access to the requested record because same constituted a criminal investigatory record under OPRA. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 556 (2017); Mella v. Passaic Cnty. Prosecutor’s Office, GRC Complaint No. 2016-217 (August 2018).
7. David Herron v. NJ Department of Education (2018-126) **(SC Recusal)**
 - The Custodian lawfully denied access to the responsive transcripts under OPRA’s privacy exemption. N.J.S.A. 47:1A-1.

B. Individual Complaint Adjudications with no Recusals:

1. Shawn G. Hopkins v. Rockaway Township (Morris) (2014-146)
 - This complaint should be dismissed because the parties settled this matter at the OAL on February 25, 2020.
2. John Paff v. City of Trenton (Mercer) (2016-95)
 - The Council should accept the Administrative Law Judge’s May 19, 2019 Initial Decision approving the parties’ settlement agreement and dismissing the complaint.
3. Luis F. Rodriguez v. Kean University (2018-112)
 - This complaint should be dismissed because the Complainant withdrew same in writing to the GRC on June 18, 2020.
4. Kevin Alexander v. NJ Department of Corrections (2018-136)
 - The Complainant’s request was invalid because it sought information and asked questions. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012).

5. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Borough of Fair Haven (Monmouth) (2018-146)
 - The Custodian did not fully comply with the Council’s May 19, 2020 Interim Order.
 - The Council should decline to address the knowing and willful analysis because no violation of OPRA occurred.
 - The Complainant is not a prevailing party.
6. Robert A. Verry v. Franklin District No. 1 (Somerset) (2018-147)
7. Robert A. Verry v. Franklin Fire District No. 1 (Somerset) (2018-204) **Consolidated**
 - The Custodian lawfully denied access to the Complainant’s two (2) OPRA requests seeking Millstone Valley Fire Department’s mortgages and utility/insurance checks. N.J.S.A. 47:1A-6; Verry v. Franklin Fire Dist. No. 1 (Somerset), 230 N.J. 285 (2017).
8. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Buena Borough (Atlantic) (2018-184)
 - The Custodian unlawfully denied access to responsive records, which were being held by the Township of Franklin pursuant to a shared services agreement. N.J.S.A. 47:1A-6; Michalak v. Borough of Helmetta (Middlesex), GRC Complaint No. 2010-220 (Interim Order dated January 31, 2012). The Custodian must obtain and disclose responsive records to the Complainant.
 - The knowing and willful and prevailing party analyses are deferred.
9. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Township of Shrewsbury (Monmouth) (2018-185)
 - The Custodian lawfully denied access to the subject OPRA request because she was not required to obtain records not made or maintained by, or on behalf of, the Township. Bent v. Stafford Police Dep’t, 381 N.J. Super. 30 (App. Div. 2005).
 - The Complainant is not a prevailing party.
10. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Egg Harbor City Police Department (Atlantic) (2018-190)
 - The Custodian did not bear her burden of proving that the proposed special service charge was warranted. N.J.S.A. 47:1A-5(c); N.J.S.A. 47:1A-6. However, the Custodian may charge the “actual cost” for the CD provided to the Complainant.
 - The knowing and willful and prevailing party analyses are deferred.
11. Rotimi Owoh, Esq. (o/b/o Baffis Simmons and African American Data and Research Institute) v. Township of Upper (Cape May) (2018-199)
 - The Custodian lawfully denied access to the subject OPRA request because she was not required to obtain records not made or maintained by, or on behalf of, the Township. Bent, 381 N.J. Super. 30.
 - The Complainant is not a prevailing party.

12. Rotimi Owoh, Esq. (o/b/o Baffis Simmons and African American Data and Research Institute) v. Borough of Woodbine (Cape May) (2018-200)
 - The Custodian lawfully denied access to the subject OPRA request because she was not required to obtain records not made or maintained by, or on behalf of, the Township. Bent v. Stafford Police Dep't, 381 N.J. Super. 30 (App. Div. 2005).
 - The Complainant is not a prevailing party.
13. Jessica Bishop v. County of Salem (2018-214)
 - The Custodian failed to comply with the Council's April 28, 2020 Interim Order.
 - The Council should provide the Custodian a final opportunity to locate and disclose all records responsive to the Complainant's OPRA request item No. 3. Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2014-218, *et seq.* (Interim Order dated April 26, 2016).
 - The knowing and willful and prevailing party analyses are deferred.
14. Jonathan DeFossa-Bearsa v. NJ Office of the Public Defender (2018-242)
 - 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 lawfully denied access to the Complainant's OPRA request because it sought case file records maintained by the Office of the Public Defender. N.J.S.A. 47:1A-5(k); N.J.S.A. 47:1A-6; Lemon v. N.J. Office of the Pub. Defender, GRC Complaint No. 2015-297 (November 2015).
15. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute and Baffis Simmons) v. Elsinboro Township (Salem) (2018-246)
 - The Custodian unlawfully denied access to responsive records, which were being held by Lower Alloways Creek Police Department pursuant to a shared services agreement. N.J.S.A. 47:1A-6; Michalak, GRC 2010-220. The Custodian must obtain and disclose responsive records to the Complainant.
 - The knowing and willful and prevailing party analyses are deferred.
16. Tracey Frazier v. Plainfield Board of Education (Union) (2018-252)
 - 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 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 Custodian may have unlawfully denied access to the responsive bids. N.J.S.A. 47:1A-6; Barth v. Rutgers University (Somerset), GRC Complaint No. 2017-121 (April 2019).
 - The knowing and willful analysis is deferred.
17. Stephanie Murray v. Middletown Township (Monmouth) (2018-260)
 - The Custodian unlawfully denied access to the responsive records on a technical basis. N.J.S.A. 47:1A-6. However, the Council should decline to order disclosure because the Custodian did so on October 31, 2018 and as part of the Statement of Information.
 - There is no knowing and willful violation.

18. Dale L. Archer v. County of Gloucester (2018-270)
 - The Council should dismiss this complaint because the parties executed a stipulation of dismissal on June 1, 2020, thereby negating the need for any further adjudication.
19. Kevin Alexander v. County of Union (2019-218)
 - The Custodian lawfully denied access to the Complainant’s OPRA request because no records existed. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
20. Kevin Alexander v. Union County Department of Corrections (2019-219)
 - 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 Custodian lawfully denied access to the Complainant’s OPRA request because no records existed. Pusterhofer, GRC 2005-49.
21. Thomas S. Kirkland v. Borough of Englishtown Fire District No. 1 (Monmouth) (2020-75)
 - 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 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 Custodian unlawfully denied access to the responsive meeting minutes and must disclose same to the Complainant. N.J.S.A. 47:1A-6; Merckx v. Twp. Of Franklin Bd. of Educ. (Gloucester), GRC Complaint No. 2009-47 (April 2010).
 - The Custodian lawfully denied access to a draft version of the 2020 election ballots, but unlawfully denied access to the final version. N.J.S.A. 47:1A-6. Thus, the Custodian must disclose the final 2020 election ballot.
 - The Complainant’s request item No. 4 seeking correspondence was invalid because it failed to include a date or range of dates. Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010); Inzelbuch, Esq. (O.B.O. Ctr. for Educ.) v. Lakewood Bd. of Educ. (Ocean), GRC Complaint No. 2015-68 (September 2016).
 - The knowing and willful analysis is deferred.

VII. Court Decisions of GRC Complaints on Appeal:

- Smith v. Moorestown Twp., 2020 N.J. Super. Unpub. LEXIS 1108 (App. Div. 2020)
- Jackson v. N.J. Dep't of Corr., 2020 N.J. Super. Unpub. LEXIS 1152 (App. Div. 2020)

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

- Nuckel v. N.J. Econ. Dev. Auth., 2020 N.J. Super. Unpub. LEXIS 948 (App. Div. 2020)
- Medina v. McFadden, 2020 N.J. Super. Unpub. LEXIS 1097 (App. Div. 2020)
- Simmons v. Mercado, 2020 N.J. Super. LEXIS 125 (App. Div. 2020) (Approved for Publication)
- Rivera v. Union Cnty. Prosecutor's Office, 2020 N.J. Super. Unpub. LEXIS 1192 (App. Div. 2020)

IX. Complaints Adjudicated in U.S. District Courts:

- McBride v. Twp. of Wash., 2020 U.S. Dist. LEXIS 107361 (D.N.J. June 19, 2020)

X. 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.*

XI. 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.