



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**  
**December 15, 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, December 15, 2020 via Office 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. 2021 Officer Elections**

**III. 2021 Proposed Council Meeting Dates – Final Review**

**IV. Executive Director's Report**

**V. Closed Session**

- Patrick Duff v. Stockton University (2017-246) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Rashaun Barkley v. Essex County Prosecutor's Office (2019-15) (**SR Recusal**) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

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

November 10, 2020 Open Session Meeting Minutes  
November 10, 2020 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 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):**

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

1. Antonia Matera-Vignola v. Hasbrouck Heights Board of Education (Bergen) (2019-124)
  - No Correspondence Received by the Custodian.
2. Gary Abdq Harris v. NJ State Parole Board (2019-254)
  - No Records Responsive to the Request Exist.
3. Perrault Jean-Paul v. City of Jersey City (Hudson) (2020-227)
  - Unripe Cause of Action.

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

1. EK OBO WW v. Rowan University (2020-95)
  - Complaint Voluntarily Withdrawn.
2. Ian MacDougall v. NJ State Police (2020-130)
  - Complaint Settled in Mediation.
3. David Weiner v. County of Essex (2020-132)
  - Complaint Settled in Mediation.
4. David Weiner v. County of Essex (2020-142)
  - Complaint Settled in Mediation.
5. David Weiner v. County of Essex (2020-179)
  - Complaint Settled in Mediation.
6. Gerlando Termini v. Randolph Township School District (Morris) (2020-182)
  - Complaint Settled in Mediation.
7. Joe Donnelly v. Borough of Union Beach (Monmouth) (2020-221)
  - Complaint Voluntarily Withdrawn.

**VIII. 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. Katalin Gordon v. City of Orange (Essex) (2013-255) (**SR Recusal**)
  - The Council should accept the Administrative Law Judge’s October 2, 2020 Initial Decision but reject the portion of same dismissing this complaint with prejudice due to an outstanding knowing and willful penalty payment.

2. Kevin Lee v. NJ Office of the State Comptroller (2017-206) **(SR Recusal)**
  - The Council should dismiss this complaint because the Complainant withdrew it in an e-mail dated December 4, 2020.
3. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Middletown Township Police Department (Monmouth) (2018-144) **(SR Recusal)**
  - This complaint should be dismissed as unripe because the Complainant filed it before the statutory time frame expired. Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2013-363 (July 2014).
4. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. City of Long Branch (Monmouth) (2018-178) **(SR Recusal)**
  - The current Custodian complied with the Council’s November 10, 2020 Interim Order.
  - The current Custodian has borne his burden of proof that the proposed special service charge of \$4,458.10 to fulfill the subject OPRA request was warranted and reasonable. Thus, the Complainant shall pay the charge in order to obtain responsive records.
  - The knowing and willful and prevailing party analyses are deferred.
5. Rashaun Barkley v. Essex County Prosecutor’s Office (2019-15) **(SR Recusal)**
  - The current Custodian complied with the Council’s August 25, 2020 Interim Order.
  - The current Custodian shall comply with the *In Camera* Examination findings.
  - The knowing and willful analysis is deferred.
6. David Weiner v. County of Essex (2019-159) **(SR Recusal)**
  - The original Custodian’s failure to timely respond within the extended 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); Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2007-124 (March 2008). However, no further action is required because the original Custodian disclosed the only record that existed on August 20, 2019.
  - There is no knowing and willful violation.
7. Maurice Ragland v. Atlantic City Police Department (Atlantic) (2019-68) **(GT Recusal)**
  - The Custodian did not fully comply with the Council’s November 10, 2020 Interim Order.
  - There is no knowing and willful violation.

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

1. Patrick Duff v. Stockton University (2017-246)
  - The current Custodian complied with the Council’s November 12, 2019 Interim Order.
  - The current Custodian shall comply with the *In Camera* Examination findings.
  - The knowing and willful analysis is deferred.

2. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Old Bridge Township (Middlesex) (2018-79)
  - The Custodian did not fully comply with the Council's September 29, 2020 Interim Order. However, the Custodian need not take any further action on OPRA request item Nos. 2, 4, and 5 because the Complainant declined to pay the special service charge.
  - The Custodian has borne her burden of proof that the proposed special service charge of \$1,148.50 to fulfill OPRA request item No. 3 was warranted and reasonable. Thus, the Complainant shall pay the charge in order to obtain responsive records.
  - The knowing and willful and prevailing party analyses are deferred.
3. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Eatontown Police Department (Monmouth) (2018-145)
  - The Custodian lawfully denied access to the requested records because no records exist. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
  - The Complainant is not a prevailing party.
4. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Township of Holmdel (Monmouth) (2018-174)
  - The Custodian complied with the Council's November 10, 2020 Interim Order.
  - The Council should decline to address the knowing and willful analysis because no denial of access occurred.
  - The Complainant is not a prevailing party.
5. Luis F. Rodriguez v. Kean University (2019-39)
  - The Custodian complied with the Council's November 10, 2020 Interim Order.
  - The Council should decline to address the knowing and willful analysis because no denial of access occurred.
6. Mitchell Kotler v. Town of Morristown (Morris) (2019-99)
  - The Custodian complied with the Council's November 10, 2020 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.
7. Alexander Doctoroff v. City of Plainfield Police Department (Union) (2019-113)
  - The Custodian timely responded to the Complainant's OPRA request.
  - The Custodian lawfully denied access to OPRA request item No. 2 seeking civilian complaints made against an officer. N.J.S.A. 47:1A-6; Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (Interim Order dated March 11, 2004).

8. Jackson Township Municipal Supervisors Association v. Township of Jackson (Ocean) (2019-125)
  - The Custodian’s failure to timely respond to the Complainant’s OPRA request, both for those “immediate” access items and within the extended time frame, resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Cody v. Middletown Twp. Pub. Sch., GRC Complaint No. 2005-98 (December 2005); Kohn, GRC 2007-124.
  - The portions of the Complainant’s OPRA request item No. 1 seeking generic records and correspondence as invalid. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 549 (App. Div. 2005); Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2007-151 (April 2010).
  - The Custodian lawfully denied access to the portion of OPRA request item No. 1 seeking “reports,” “studies,” and “invoices” because no records exist. Pusterhofer, GRC 2005-49.
  - The Custodian lawfully denied access to the requested layoff plans under the “inter-agency or intra-agency advisory, consultative, or deliberative [(“ACD”)] material” exemption. N.J.S.A. 47:1A-1.1; Libertarians for Transparent Gov’t v. Gov’t Records Council, 453 N.J. Super. 83, 90-91 (App. Div. 2018).
  - There is no knowing and willful violation.
9. James S. Cohen v. Port Authority of NY and NJ (2019-138)
  - The Custodian complied with the Council’s November 10, 2020 Interim Order.
  - There is no knowing and willful violation.
10. Saul Jaffe v. County of Passaic (2019-146)
  - The Custodian complied with the Council’s November 10, 2020 Interim Order.
  - There is no knowing and willful violation.
11. Peter Michel v. Borough of Washington (Warren) (2019-153)
  - 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). However, no further action is required because the Custodian disclosed responsive records on August 8, 2019.
  - There is no knowing and willful violation.
12. Anonymous v. Borough of Haledon (2019-160)
  - 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). However, no further action is required because the Custodian disclosed responsive records on August 26, 2019.
  - There is no knowing and willful violation.
13. Anonymous v. Borough of Haledon (2019-162)
  - 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). However, no further action is required because the Custodian disclosed responsive records on August 29, 2019.

- There is no knowing and willful violation.
14. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-164)
    - The Custodian timely responded to the Complainant's August 3 and 5, 2015 OPRA requests.
    - The Custodian did not unlawfully deny access to the Complainant's August 4, 2015 OPRA request because she did not receive it. See Martinez v. Morris Cnty. Prosecutor's Office, GRC Complaint No. 2014-2 (September 2014).
  15. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-165)
    - The Custodian timely responded to the Complainant's OPRA requests.
  16. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-166)
    - The Custodian timely responded to the Complainant's OPRA requests.
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| <ol style="list-style-type: none"> <li>17. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-169)</li> <li>18. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-172) <b>Consolidated</b> <ul style="list-style-type: none"> <li>• The Custodian timely responded to the Complainant's OPRA requests.</li> </ul> </li> </ol> |
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19. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-173)
    - The Custodian timely responded to the Complainant's OPRA request.
    - The Custodian lawfully denied access to the Complainant's OPRA request because it was invalid. MAG, 375 N.J. Super. at 549; Feiler-Jampel, GRC 2007-190; Elcavage, GRC 2007-151.
  20. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-174)
    - The Custodian timely responded to the Complainant's OPRA request.
  21. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-175)
    - The Custodian timely responded to the Complainant's OPRA request.
  22. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-181)
    - The Custodian timely responded to the Complainant's OPRA request granting inspection. Valdes v. N.J. Dep't of Educ., GRC Complaint No. 2012-30 (April 2013).
  23. Frank J. Festa, Jr. v. Township of Marlboro (Monmouth) (2019-187)
    - This complaint should be dismissed as unripe because the Complainant filed it before the statutory time frame expired. Werner v. N.J. Civil Serv. Comm'n, GRC Complaint No. 2011-151 (December 2012).
  24. William M. Pankowski v. Township of Washington (Bergen) (2019-188)
    - The Custodian's response was insufficient because she failed to definitively state that no records existed. Shanker v. Borough of Cliffside Heights (Bergen), GRC Complaint No. 2007-245 (March 2009).
    - There is no knowing and willful violation.

25. Andrew Kelsey v. Borough of Keyport (Monmouth) (2019-244)
- The Custodian lawfully denied access to the requested draft ordinance under the ACD exemption. N.J.S.A. 47:1A-1.1; Libertarians, 453 N.J. Super. 83; Eastwood v. Borough of Englewood Cliffs (Bergen), GRC Complaint No. 2012-121 (June 2013).
26. David Henry v. NJ Office of the Public Defender (2019-253)
- The Custodian lawfully denied access to the requested client reports under N.J.S.A. 47:1A-5(k). N.J.S.A. 47:1A-6; Lemon v. Office of the Pub. Defender, GRC Complaint No. 2015-297 (November 2015).
27. Joseph Maddaloni, Jr., Esq. (o/b/o Renaissance School Services, LLC) v. The Kingdom Charter School of Leadership (Camden) (2020-66)
- The Custodian failed to comply with the Council’s July 28, 2020 Interim Order.
  - The Council’s Order is enforceable in Superior Court. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).
  - The Custodian’s actions may have been knowing and willful. Thus, this complaint should be referred to the Office of Administrative Law (“OAL”) for a knowing and willful hearing.
  - The Complainant is a prevailing party entitled to an award of attorney’s fees. Teeters, 387 N.J. Super. 423; Mason, 196 N.J. 51. For administrative ease, the OAL should determine the total fee amount.

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

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

- In re Medicinal Marijuana Alt. Treatment Ctrs. for Pangea Health. & Wellness, LLC, 2020 N.J. Super. LEXIS 237 (App. Div. 2020) (Approved for Publication)

**XI. 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.\*

**XII. 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.