



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 819
TRENTON, NJ 08625-0819

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

NOTICE OF MEETING
Government Records Council
August 24, 2021

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, August 24, 2021 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. Executive Director's Report

III. Closed Session

IV. Approval of Minutes of Previous Meetings:

July 27, 2021 Open Session Meeting Minutes
July 27, 2021 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. Hardinack Rang v. Hillsborough, Montgomery & Manville Municipal Court (2021-168)
 - Not Within the Council’s Jurisdiction.

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

1. Francis Gavin v. Allamuchy Township Board of Education (Warren) (2021-46)
 - Complaint Settled in Mediation.
2. Raymond M. Codey, Esq. v. NJ Infrastructure Bank (2021-52)
 - Complaint Settled in Mediation.
3. Joseph Michael Rickert v. West Deptford Township (Gloucester) (2021-120)
 - Complaint Voluntarily Withdrawn.
4. Patrick Wall v. NJ Department of Education (2021-124)
 - Complaint Voluntarily Withdrawn.
5. IAFF Local 4846 v. Township of Toms River (Ocean) (2021-133)
 - Complaint Voluntarily Withdrawn.
6. Robert Peluso, Esq. v. NJ Department of Community Affairs (2021-140)
 - Complaint Voluntarily Withdrawn.
7. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, & Grace Woko) v. Pompton Lakes Police Department (Passaic) (2021-147)
 - Complaint Voluntarily Withdrawn.
8. Steven Secare, Esq. (o/b/o Ronald Kirk) v. Township of Ocean (Monmouth) (2021-158)
 - Complaint Voluntarily Withdrawn.
9. Robert Moss v. City of Englewood (Bergen) (2021-159)
 - 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:

1. Scott Madlinger v. Atlantic City Police Department (Atlantic) (2019-206) (**GT Recusal**)
 - The Custodian complied with the Council’s July 27, 2021 Interim Order.
 - There is no knowing and willful violation.
2. David Weiner v. County of Essex (2020-114) (**SR Recusal**)
 - The Custodian lawfully denied access to the subject OPRA request because no records existed. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).

B. Individual Complaint Adjudications with no Recusals:

1. Rotimi Owoh, Esq. (o/b/o O.O.) v. Township of Plainsboro (Middlesex) (2018-58)
 - The Custodian complied with the Council's September 29, 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.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. South Brunswick Township (Middlesex) (2018-63)
 - 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.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Middlesex (Middlesex) (2018-70)
 - The current Custodian complied with the Council's November 10, 2020 Interim Order.
 - The Council should decline to address the knowing and willful analysis.
 - 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.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Washington (Gloucester) (2018-80)
 - The current Custodian failed to comply with the Council's May 19, 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.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Red Bank (Monmouth) (2018-175)
 - The Custodian failed to fully comply with the Council's May 19, 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.

6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Berkeley (Ocean) (2018-186)
 - The Custodian unlawfully denied access to the Complainant's August 9, 2018 OPRA request. Simmons v. Mercado, 247 N.J. 24 (2021). However, the Council should decline to order disclosure because same occurred on September 7, 2018.
 - 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Ocean Gate Police Department (Ocean) (2018-194)
 - The Custodian's initial response was insufficient because she failed to respond to each individual OPRA request item. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008). However, the Council should decline to order disclosure because same occurred on September 6, 2018.
 - 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.

8. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Avalon (Cape May) (2018-198)
 - The Custodian unlawfully denied access to the Complainant's October 9, 2018 OPRA request. Simmons, 247 N.J. 24. However, the Council should decline to order disclosure because same occurred on October 11, 2018.
 - 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.

9. Micaela P. Bennett v. West Orange Board of Education (Essex) (2018-209)
 - The Council should adopt the Administrative Law Judge's August 2, 2021 Initial Decision denying the Complainant's request to disqualify Custodian's Counsel, granting summary judgement, and dismissing this complaint.

10. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Elsinboro Township (Salem) (2018-246)
 - The Custodian complied with the Council's June 30, 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.

11. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Alpha (Warren) (2018-283)
 - The Custodian did not fully comply with the Council’s August 25, 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.
12. Adam C. Miller v. Township of Howell (Monmouth) (2018-303)
 - The Custodian failed to fully comply with the Council’s May 18, 2021 Interim Order.
 - The Custodian unlawfully denied access to four (4) OPRA request items, but lawfully denied access to the remaining twelve (12) outstanding OPRA request items. N.J.S.A. 47:1A-6; VanBree v. Bridgewater Twp. Police Dep’t (Somerset), GRC Complaint No. 2014-122 (October 2014); Pusterhofer, GRC 2005-49.
 - There is no knowing and willful violation.
13. Brittany Olt v. City of Camden (Camden) (2019-88)
 - 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.
14. Judith Sullivan v. Ramapo Indian Hills Regional High School District (Bergen) (2019-94)
 - The Council must perform an *in camera* review of the responsive records to determine the validity of the Custodian’s assertion that same are exempt under the “inter-agency or intra-agency advisory, consultative, or deliberative material” exemption. N.J.S.A. 47:1A-1.1; Paff v. N.J. Dep’t of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005).
 - The knowing and willful analysis is deferred.
15. Mary B. Colvell v. Hightstown Police Department (Mercer) (2019-134)
 - The Custodian did not fully comply with the Council’s March 30, 2021 Interim Order.
 - The Complainant’s request for reconsideration should be denied.
 - There is no knowing and willful violation.
16. Marcella Aylwin v. Egg Harbor City (Atlantic) (2019-191)
 - The Custodian complied with the Council’s July 27, 2021 Interim Order.
 - There is no knowing and willful violation.
17. Eliyohu S. Geller v. Township of Lakewood (Ocean) (2019-200)
 - The Custodian’s written response was insufficient because she failed to definitively state that no records responsive to the September 17, 2019 OPRA

- request existed. N.J.S.A. 47:1A-5(g); Shanker v. Borough of Cliffside Park (Bergen), GRC Complaint No. 2007-245 (March 2009).
- The Custodian lawfully denied access to the September 17, 2019 OPRA request because no records existed. Pusterhofer, GRC 2005-49.
 - The Custodian may have unlawfully denied access to the September 18, 2019 OPRA request and must either disclose responsive records or certify to their status as internal affairs records. N.J.S.A. 47:1A-6.
 - The knowing and willful analysis is deferred.
18. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Elizabeth Police Department (Union) (2020-39)
- The Custodian did not fully comply with the Council’s June 29, 2021 Interim Order.
 - The Council should decline to address the knowing and willful analysis.
 - The Complainant is not a prevailing party.
19. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Roselle (Union) (2020-46)
- The Custodian did not fully comply with the Council’s July 27, 2021 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.
20. Asher Stockler v. Long Branch Police Department (Monmouth) (2020-88)
- The Custodian’s response was insufficient because she directed the Complainant to another agency notwithstanding that the Police Department maintained responsive records. N.J.S.A. 47:1A-5(g); DeAppolonio v. Borough of Deal (Monmouth), GRC Complaint No. 2008-62 (September 2009).
 - The Custodian lawfully denied access to the responsive records because they were criminal investigatory in nature. 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 (2017); Mella v. Passaic Cnty. Prosecutor’s Office, GRC Complaint No. 2016-217 (August 2018).
 - There is no knowing and willful violation.
21. Anonymous v. Borough of Haledon (Passaic) (2020-107)
- The Custodian complied with the Council’s July 27, 2021 Interim Order.
 - There is no knowing and willful violation.
22. Anonymous v. Borough of Haledon (Passaic) (2020-108)
- The Custodian complied with the Council’s July 27, 2021 Interim Order.
 - There is no knowing and willful violation.

23. Anonymous v. Borough of Haledon (Passaic) (2020-119)

- Mr. Ramadan's failure to locate responsive summonses resulted in an insufficient search. N.J.S.A. 47:1A-6; Weiner v. Cnty. of Essex, GRC Complaint No. 2013-52 (September 2013).
- The Custodian may have unlawfully denied access to four (4) summonses. N.J.S.A. 47:1A-6; Macek v. Bergen Cnty. Sheriff's Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019). The Custodian shall perform a search and either disclose located records or certify if none exist.
- The knowing and willful analysis is deferred.

VII. Court Decisions of GRC Complaints on Appeal:

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

- Rosario v. Port Auth. of N.Y. & N.J., 2021 N.J. Super. Unpub. LEXIS 1497 (App. Div. 2021)

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.