



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
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PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

NOTICE OF MEETING
Government Records Council
December 14, 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, December 14, 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. 2022 Officer Elections**

- III. 2022 Proposed Council Meeting Dates – Final Review**

- IV. Executive Director’s Report**

- V. Closed Session**

- VI. Approval of Minutes of Previous Meetings:**
 - November 9, 2021 Open Session Meeting Minutes
 - November 9, 2021 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): None

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Beach Haven Police Department (Ocean) (2021-267)
 - Duplicate Complaint Filed.
2. Ronald Brown v. East Brunswick Police Department (Middlesex) (2021-297)
 - All Records Responsive Provided in a Timely Manner.
3. Peter Gartner v. Middlesex Board of Education (2021-303)
 - All Records Responsive Provided in a Timely Manner.
4. Peter Gartner v. Borough of Middlesex (Middlesex) (2021-316)
 - Unripe Cause of Action.

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

1. Antonia Matera-Vignola v. Hasbrouck Heights Board of Education (Bergen) (2021-101)
 - Complaint Settled in Mediation.
2. James Stoldt v. Rutgers University (2021-203)
 - Complaint Settled in Mediation.
3. Bernard Josefsberg (o/b/o Northern NJ Sanctuary Coalition) v. Bergen County Sheriff's Office (2021-278)
 - Complaint Voluntarily Withdrawn.
4. Anna D. Lichnowski v. Ocean County Board of Elections (2021-307)
 - Complaint Voluntarily Withdrawn.
5. Debra E. Press-Costello v. County of Gloucester (2021-310)
 - Complaint Voluntarily Withdrawn.
6. Arthur Lang v. Lakewood Board of Education (Ocean) (2021-317)
 - 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. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-134) (**SR Recusal**)
 - The Council should determine the reasonable fee amount to which the Complainant's Co-Counsel is entitled.
 - The Council should find that Mr. John Bermingham, Esq. is entitled to an adjusted fee award of \$3,240.00 representing 10.8 hours of service at \$300.00 per hour.

- The Council should find that Mr. Walter M. Luers, Esq. is entitled to a fee award of \$4,724.94 representing 12.5 hours of service at \$350.00 per hour, 4 hours of paralegal service at \$75.00 per hour, and \$49.94 in expense reimbursements.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Paterson (Passaic) (2020-16) (**SR Recusal**)
 - The Council should dismiss this complaint because the Complainant withdrew it on November 19, 2021.
 3. Goutam U. Jois (o/b/o Gustavo Martinez) v. Monmouth County Prosecutor’s Office (2020-171) (**GT Recusal**)
 - The Custodian lawfully denied access to the requested witness statements, which are exempt from disclosure under the Internal Affairs Policy and Procedures (“IAPP”) and no waiver applies. N.J.S.A. 47:1A-6; IAPP § 9.6.1; Rivera v. Union Cnty. Prosecutor’s Office, 2020 N.J. Super. Unpub. LEXIS 1192 (App. Div. 2020); Camarata v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2014-127 (June 2015).
 - The Custodian did not unlawfully deny access to any remaining nonexempt records because she certified, and the record reflects, that all were disclosed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
 - The Complainant is not a prevailing party.

B. Individual Complaint Adjudications with no Recusals:

1. Edwin Sheppard v. NJ Department of Law and Public Safety, Division of Law (2017-181)
 - The Custodian timely responded based on a warranted and substantiated extension. Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014); Libertarians for Transparent Gov’t v. Summit Pub. Sch. (Union), GRC Complaint No. 2016-193 (March 2018).
 - The requested “disciplinary actions” are exempt from disclosure under OPRA. N.J.S.A. 47:1A-9(a); N.J.S.A. 47:1A-10; N.J.A.C. 13:1E-3.2(a)(4); N. Jersey Media Grp. v. Bergen Cnty. Prosecutor’s Office, 405 N.J. Super. 386, 390 (App. Div. 2009); Rodriguez v. Kean Univ., GRC Complaint No. 2013-296 (June 2014). Thus, no unlawful denial of access occurred. N.J.S.A. 47:1A-6.
2. Edwin Sheppard v. NJ Department of Law and Public Safety, Division of Law (2018-75)
 - The Custodian lawfully denied access to the Complainant’s OPRA request because she certified, and the record reflects, that no records exist. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Old Bridge Township (Middlesex) (2018-79)
 - 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.

4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Red Bank (Monmouth) (2018-175)
 - 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.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Long Branch (Monmouth) (2018-178)
 - 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.
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Lacey (Ocean) (2018-193)
 - 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.
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of West Cape May (Cape May) (2018-197)
 - 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.
8. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute & Baffi Simmons) v. Audubon Park Borough (Camden) (2018-290)
 - The Custodian did not comply with the Council's November 10, 2020 Interim Order. However, no further action is necessary because the Custodian eventually disclosed responsive records on March 2, 2021.
 - 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Audubon Park Borough (Camden) (2019-239)
 - The Custodian complied with the Council's March 30, 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.
10. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Union (Union) (2020-15)
 - The Custodian complied with the Council's April 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.
11. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Lacey (Ocean) (2020-44)
 - 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.
 12. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Montclair Police Department (Essex) (2020-45)
 - 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.
 13. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Lincoln Park (Morris) (2020-49)
 - 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Town of Morristown (Morris) (2020-50)
 - 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.
 15. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Edison Police Department (Middlesex) (2020-55)
 - The Custodian complied with the Council's April 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.
 16. Paul Brennan v. Borough of Bay Head (Ocean) (2020-166)
 - The Complainant's request for reconsideration should be denied.
 - The Custodian complied with the Council's September 28, 2021 Interim Order.
 - There is no knowing and willful violation.
 - The Complainant is not a prevailing party.
 17. Vanessa Gottesfeld v. Greenwich Township School District (Cumberland) (2020-169)
 - No unlawful denial occurred because the Custodian timely and reasonably sought clarification of the subject OPRA request, but the Complainant failed to provide same. N.J.S.A. 47:1A-6; Liebel v. Manalapan Englishtown Reg'l Bd. of Educ., GRC Complaint No. 2004-51 (September 2004); Schilling v. Twp. of

Little Egg Harbor (Ocean), GRC Complaint No. 2013-293 (Interim Order dated March 22, 2013).

18. Victoria del Campo v. NJ Department of Law & Public Safety, Division on Civil Rights (2021-254)

- This complaint should be tabled for additional review and legal advice.

IX. Court Decisions of GRC Complaints on Appeal:

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

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.