



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**  
**February 22, 2022**

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, February 22, 2022 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**

- Ryan E. Melsky v. Township of Clinton (Hunterdon) (2019-186) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Luis F. Rodriguez v. Kean University (2020-131) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

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

January 25, 2022 Open Session Meeting Minutes  
January 25, 2022 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):**

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

1. Kenneth L. MacRitchie v. NJ State Board of Professional Engineers & Land Surveyors (2021-37)
  - Not a Valid OPRA Request.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. River Vale Police Department (Bergen) (2021-339)
  - Duplicate Complaint Filed.
3. Ross Kushner v. NJ Office of Legislative Services (2022-19)
  - Not Within the Council’s Jurisdiction.
4. Debra Coyle v. Town of Kearny (Hudson) (2022-20)
  - Not a Valid OPRA Request.

**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 & Research Institute) v. City of Hackensack (Bergen) (2020-87)
  - Complaint Voluntarily Withdrawn.
2. Brian McBride v. Township of Washington (Gloucester) (2021-271)
  - Complaint Voluntarily Withdrawn.
3. Marquise McCoy v. NJ Department of Corrections (2021-288)
  - Complaint Settled in Mediation.
4. Lawrence Anthes v. Township of Clinton (Hunterdon) (2022-1)
  - Complaint Voluntarily Withdrawn.
5. Ann Marie Sekeres v. Bloomfield Public Schools (Essex) (2022-3)
  - Complaint Voluntarily Withdrawn.
6. Wanda R. Stevenson v. City of Newark (Essex) (2022-7)
  - 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Hoboken (Hudson) (2020-51) **(SR Recusal)**
  - 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.
2. Jacoby & Meyers, LLP (o/b/o Estate of Ketrina L. Morrow) v. Essex County Prosecutor's Office (2020-122) (**SR Recusal**)
    - This complaint should be tabled for additional review.

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

1. Luis F. Rodriguez v. Kean University (2016-86)
  - The Custodian's request for reconsideration should be denied.
  - The Council should find that Complainant's Counsel is entitled to a fee award of \$3,220.00 representing 9.2 hours of service at \$350.00 per hour.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Somerdale Police Department (Camden) (2019-33)
  - The Custodian has borne her burden of proof that the proposed special service charge was warranted and reasonable. Courier Post v. Lenape Reg'l High Sch. Dist., 360 N.J. Super. 191, 202 (October 28, 2002); Rivera v. Rutgers, The State Univ. of N.J., GRC Complaint No. 2009-311 (Interim Order dated January 31, 2012). Thus, the Custodian shall disclose records upon payment of said fee and certify whether the Complainant accepted or rejected same.
  - The knowing and willful and prevailing party analyses are deferred.
3. Ryan E. Melsky v. Township of Clinton (Hunterdon) (2019-186)
  - The Custodian complied with the Council's January 26, 2021 Interim Order.
  - The Custodian shall comply with the Council's *In Camera* Examination findings.
  - The current Custodian must disclose all portions of the responsive e-mails not otherwise exempt. Ray v. Freedom Acad. Charter Sch. (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).
  - The knowing and willful analysis is deferred.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Union City (Union) (2020-19)
  - The current Custodian's request for reconsideration should be denied. Thus, the Council's June 29, 2021 Interim Order remains in effect and the current Custodian must comply accordingly.
5. Craig S. Dunwell (o/b/o Borough of Alpha) v. Town of Phillipsburg (Warren) (2020-64)
  - The Custodian's inability to meet the "immediate access" standard of response due to extenuating circumstances does not rise to the level of 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).
  - This complaint should be dismissed as unripe because the Complainant filed it before the statutory time frame expired. Sallie v. N.J. Dep't of Banking & Ins., GRC Complaint No. 2007-226 (April 2009).

- The Complainant is not a prevailing party.
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Kenilworth (Union) (2020-67)
    - The Custodian failed to prove that the proposed special service charge was warranted or reasonable. Courier Post, 360 N.J. Super. 191. Thus, the Custodian shall disclose the records without imposition of said charge.
    - The knowing and willful and prevailing party analyses are deferred.
  7. Scott Madlinger v. Berkeley Township Police Department (Ocean) (2020-90)
    - The Custodian violated OPRA by failing to provide the Complainant a proposed special service charge for acceptance or rejection. N.J.S.A. 47:1A-5(c). Thus, the Custodian shall locate and disclose the responsive records, certify if none exist, or calculate a proposed special service charge to conduct the search if still applicable.
    - The knowing and willful analysis is deferred.
  8. Anonymous v. Borough of Haledon (Passaic) (2020-125)
    - The Custodian complied with the Council's January 25, 2022 Interim Order.
    - There is no knowing and willful violation.
  9. Luis F. Rodriguez v. Kean University (2020-131)
    - The Custodian complied with the Council's September 28, 2021 Interim Order.
    - The *In Camera* Examination reveals that the Custodian lawfully denied access to the withheld e-mails and attachment. N.J.S.A. 47:1A-6.
    - The Council declines to address the knowing and willful issue because no violation of OPRA occurred.
  10. Rotimi Owoh, Esq. (o/b/o Baffi Simmons) v. Clayton Police Department (Gloucester) (2020-137)
    - The Custodian may have unlawfully denied access to the complaints and summonses sought in the Complainant's OPRA request item Nos. 1 through 3. N.J.S.A. 47:1A-6; Simmons v. Mercado, 247 N.J. 24 (2021). Thus, the Custodian shall perform a search of the eCDR system and the Police Department's records to locate those that exist and disclose them or certify if none exist. Should the Custodian determine that a special service charge is applicable, he must provide same to the Complainant for acceptance or rejection.
    - The Custodian lawfully denied access to the records responsive to the Complainant's OPRA request item No. 4. N.J.S.A. 47:1A-6; O'Shea v. Twp. of West Milford, 410 N.J. Super. 371, 382 (App. Div. 2009); Attorney General Law Enforcement Directive No. 2018-3. To the extent the Complainant sought disciplinary records, same are also exempt from disclosure. N.J.S.A. 47:1A-10; Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (July 2004).
    - The knowing and willful and prevailing party analyses are deferred.

11. Rotimi Owoh, Esq. (o/b/o Baffi Simmons) v. Glassboro Police Department (Gloucester) (2020-157)
  - Although the proposed special service charge is warranted, the Custodian failed to prove that it was reasonable. N.J.S.A. 47:1A-6; Courier Post, 360 N.J. Super. 191; Palkowitz v. Borough of Hasbrouck Heights (Bergen), GRC Complaint No. 2014-302 (Interim Order dated May 26, 2015). Thus, the Custodian shall recalculate the charge based on the hourly rate of the lowest paid employee capable of performing the work required to respond to the subject OPRA request.
  - The knowing and willful and prevailing party analyses are deferred.
12. Anonymous Englishtown Taxpayer v. Borough of Englishtown (Monmouth) (2021-18)
  - The Custodian's response was insufficient because although he responded timely seeking an extension, he failed to provide a date certain on which he would respond. N.J.S.A. 47:1A-5(i); Papiez v. Cnty. of Mercer, Office of Cnty. Counsel, GRC Complaint No. 2012-59 (March 2013).
  - The proposed fee of \$360.00 for CJIS to produce the responsive e-mail logs is warranted. N.J.S.A. 47:1A-5(d); O'Shea v. Pine Hill Bd. of Educ. (Camden), GRC Complaint No. 2007-192 (February 2009). Thus, the Custodian was not required to disclose the records until receipt of payment. Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).
  - There is no knowing and willful violation.
  - The Complainant is not a prevailing party.
13. Benjamin George (Hollingshead) v. Township of Winslow (Camden) (2021-34)
  - 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 is invalid because it failed to identify specific government records and sought information. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); Feiler-Jampel v. Somerset Cnty. Prosecutor's Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008). The GRC thus declines to address whether Executive Order No. 18 (Gov. McGreevey, 2002) applies here.
  - There is no knowing and willful violation.
14. Victoria del Campo v. NJ Department of Law & Public Safety, Division on Civil Rights (2021-254)
  - 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 records responsive to OPRA request item Nos. 1 through 7 and 9. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.A.C. 13:4-13.1.
  - The Custodian did not unlawfully deny access to OPRA request item No. 8 because the Division on Civil Rights did not issue a final determination. To the extent that the May 14, 2021 letter could constitute a final determination, the Custodian still did not unlawfully deny access to it because the Complainant

already possessed same. Bart v. City of Paterson Hous. Auth., 403 N.J. Super. 609 (App. Div. 2008).

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

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

- African Am. Data & Research Inst. "AADARI" v. Medina, 2022 N.J. Super. Unpub. LEXIS 73 (App. Div. 2022).
- Underwood Props., LLC v. City of Hackensack, 2022 N.J. Super. LEXIS 8 (App. Div. 2022)

**IX. Complaints Adjudicated in U.S. District Court:**

**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.