



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**  
**August 30, 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, August 30, 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**

- David O'Sullivan v. Borough of Montvale (Bergen) (2019-193) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Jennifer Bondarew v. Township of Howell (Monmouth) (2020-54) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Daniel Z. Rivlin, Esq. (o/b/o American Airlines, Inc.) v. Port Authority of NY & NJ (2020-72) Legal Advice (N.J.S.A. 10:4-12(b)(7)).

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

July 26, 2022 Open Session Meeting Minutes  
July 26, 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. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-138)
  - Unripe Cause of Action.
2. Kevin Alexander v. NaphCare, Inc. (2022-414)
  - Request Made to a Non-Public Agency.

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

1. Lauren Terranova v. Hasbrouck Heights Public Schools (Bergen) (2021-95)
  - Complaint Voluntarily Withdrawn.
2. Fran Brooks v. Tabernacle Township (Burlington) (2021-258)
  - Complaint Voluntarily Withdrawn.
3. Delores Phillips v. Bergen County Board of Social Services (2022-5)
  - Complaint Settled in Mediation.
4. Lester E. Theodore v. City of Woodbury (Gloucester) (2022-8)
  - Complaint Settled in Mediation.
5. Dale E. Parichuk v. Washington Borough (Warren) (2022-86)
  - Complaint Voluntarily Withdrawn.
6. Colton James Holbrook v. NJ Department of Corrections (2022-208)
  - Complaint Settled in Mediation.
7. Leon Singletary v. NJ Department of Law and Public Safety, Division of Criminal Justice (2022-230)
  - Complaint Settled in Mediation.
8. John Doe v. Township of Irvington (Essex) (2022-322)
  - Complaint Voluntarily Withdrawn.
9. John Doe v. Township of Irvington (Essex) (2022-325)
  - Complaint Voluntarily Withdrawn.
10. John Doe v. Township of Irvington (Essex) (2022-335)
  - Complaint Voluntarily Withdrawn.
11. John Doe v. Township of Irvington (Essex) (2022-348)
  - Complaint Voluntarily Withdrawn.
12. John Doe v. Township of Irvington (Essex) (2022-349)
  - Complaint Voluntarily Withdrawn.
13. Barbara Capelli v. Borough of Wenonah (Gloucester) (2022-354)
  - Complaint Voluntarily Withdrawn.

14. Beverly A. Koehler v. Cannabis Regulatory Commission (2022-366)
  - Complaint Voluntarily Withdrawn.
15. John Doe v. Township of Irvington (Essex) (2022-376)
  - Complaint Voluntarily Withdrawn.
16. John Doe v. Township of Irvington (Essex) (2022-387)
  - Complaint Voluntarily Withdrawn.
17. Scott Madlinger v. Borough of Penns Grove (Salem) (2022-424)
  - Complaint Voluntarily Withdrawn.
18. John Doe v. Township of Irvington (Essex) (2022-429)
  - 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. John R. Lanza, Esq. (o/b/o Wayne Klein) v. Essex County Prosecutor's Office (2020-159) (**SR Recusal**)
  - 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.
2. James J. Creegan III v. County of Essex (2021-27) (**SR Recusal**)
  - Ms. Schumann did not fully comply with the Council's July 26, 2022 Interim Order.
  - Mr. Durkin did not knowingly and willfully violate OPRA.
3. Al-Quan W. White v. Essex County Prosecutor's Office (2021-77) (**SR Recusal**)
  - The Custodian unlawfully denied access to OPRA request item No. 3 seeking complaint-warrants. N.J.S.A. 47:1A-6; Seabrooks v. Cnty. of Essex, GRC Complaint No. 2012-230 (Interim Order dated June 25, 2013). However, the Council should decline to order disclosure because the Custodian did so on August 3, 2022.
  - The Custodian lawfully denied access to OPRA request item No. 1 seeking police reports under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541, 546 (2017).
  - The Custodian lawfully denied access to OPRA request item No. 7 seeking lab reports also under the criminal investigatory exemption.
  - The Custodian lawfully denied access to OPRA request item No. 6 seeking criminal histories. N.J.S.A. 47:1A-9(a); Executive Order No. 9 (Gov. Hughes, 1963); Lewis v. Union Cnty. Prosecutor's Office, GRC Complaint No. 2016-131 (Interim Order dated March 27, 2018).
  - The Custodian lawfully denied access to OPRA request item Nos. 2, 4, and 5 because he certified, and the record reflects, that no records exist. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
  - There is no knowing and willful violation.

4. Denise Whiteside v. Township of Little Falls (Passaic) (2021-89) (**SR Recusal**)
  - The Custodian’s response was insufficient because she failed to provide a specific lawful basis for redactions. N.J.S.A. 47:1A-5(g); Paff v. Borough of Lavallette, GRC Complaint No. 2007-209 (Interim Order dated June 25, 2008).
  - The Custodian’s method of whiting out the Register was not an appropriate form of redaction. N.J.S.A. 47:1A-5(g); Scheeler, Jr. v. City of Cape May (Cape May), GRC Complaint No. 2015-91 (Interim Order dated December 15, 2015).
  - The GRC must conduct an *in camera* review of the Register to determine the validity of the Custodian’s assertion that the redactions were lawfully denied under the personal and personnel exemptions. N.J.S.A. 47:1A-1; N.J.S.A. 47:1A-10; 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.
  
5. Ginevra Wilson v. NJ Department of Community Affairs, Division of Codes & Standards (2020-241) (**JA Recusal**)
  - The subject OPRA request is invalid because it did not provide sufficient identifiers necessary for the Custodian to locate additional responsive records. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010); Verry v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2014-289 (July 2015).
  
6. Linda A. Evans v. NJ Department of Community Affairs, Bureau of Housing Inspection) (2021-109) (**JA Recusal**)
  - 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).

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

1. David O’Sullivan v. Borough of Montvale (Bergen) (2019-193)
  - The Custodian complied with the Council’s February 23, 2021 Interim Order.
  - The Custodian shall comply with the *In Camera* Examination findings.
  - The knowing and willful and prevailing party analyses are deferred.
  
2. Jennifer Bondarew v. Township of Howell (Monmouth) (2020-54)
  - The Custodian complied with the Council’s April 27, 2021 Interim Order.
  - The Custodian shall comply with the *In Camera* Examination findings.
  - The 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.
  
3. Daniel Z. Rivlin, Esq. (o/b/o American Airlines, Inc.) v. Port Authority of NY & NJ (2020-72)
  - This complaint should be tabled for additional legal review.

4. S.V. (o/b/o S.V.) v. Morris School District (Morris) (2020-74)
  - Complainant Counsel’s request for reconsideration should be denied.
  
5. Eliza Schleifstein v. Randolph Township School District (Morris) (2020-213)
  - The Custodian’s response, which fell beyond the response time frame, does not constitute a “deemed” denial of access due to his reasonable efforts to respond. N.J.S.A. 47:1A-5(i)(2).
  - The Custodian bore his burden of proof that the proposed special service charge was warranted and reasonable. N.J.S.A. 47:1A-5(c). Thus, the Custodian shall disclose the responsive records, with redactions where applicable, upon payment of the proposed charge.
  - The Custodian unlawfully denied access to the responsive attorney bills and must disclose same to the Complainant with appropriate redactions. N.J.S.A. 47:1A-6.
  - The knowing and willful analysis is deferred.
  
6. Edward Farley Aizen v. NJ Department of Children and Families, Division of Child Protection & Permanency (2021-1)
  - The Custodian lawfully denied access to the requested records. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.S.A. 9:6-8.10a; Downing v. N.J. Dep’t of Children & Families, GRC Complaint No. 2010-295 (April 2012).
  
7. Gable J. Smith v. Cumberland County Utilities Authority (2021-7)
  - The 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). However, the GRC declines to order disclosure of a portion of the responsive records because the Custodian did so on January 21, 2021.
  - The Custodian lawfully denied access to portions of the OPRA request seeking the November 23, 2020 meeting minutes and recordings because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
  - The Custodian lawfully denied access to the portion of the OPRA request seeking notes. N.J.S.A. 47:1A-1.1; O’Shea v. West Milford Bd. of Educ., 391 N.J. Super. 534, 538 (App. Div. 2007).
  - There is no knowing and willful violation.
  
8. Brian McBride v. Township of Washington (Gloucester) (2021-53)
  - The Custodian bore his burden of proof that the proposed special service charge was warranted and reasonable. N.J.S.A. 47:1A-5(c). Thus, the Custodian shall disclose the responsive records, with redactions where applicable, upon payment of the proposed charge.
  - The knowing and willful analysis is deferred.
  
9. Yusef Steele v. Township of Piscataway (Middlesex) (2021-55)
  - The Custodian did not fully comply with the Council’s July 26, 2022 Interim Order.
  - There is no knowing and willful violation.

10. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-65)
  - Custodian Counsel’s request for reconsideration should be denied.
  - The current Custodian did not fully comply with the Council’s June 28, 2022 Interim Order.
  - There is no knowing and willful violation.
  
11. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-70)
  - The Custodian timely responded to the subject OPRA request and thus no unlawful denial of access occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2011-100 (Interim Order dated June 26, 2012).
  
12. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-75)
  - The Custodian unlawfully denied access to at least one (1) e-mail attachment and may have unlawfully denied access to others. N.J.S.A. 47:1A-6; Lewen v. Robbinsville Pub. Sch. Dist. (Mercer), GRC Complaint No. 2008-211 (Interim Order dated December 22, 2009). Thus, the Custodian shall locate responsive attachments, determine their disclosability, and disclose them. Should the Custodian believe a particular attachment is exempt from access, she must provide the specific lawful basis. Should the Custodian not locate any additional attachments, she should certify to this fact.
  - The knowing and willful analysis is deferred.
  
13. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-76)
  - This complaint should be dismissed as unripe because the Complainant filed it before the statutory time frame, as extended, expired. Sallie, GRC 2007-226.
  
14. Michael I. Inzelbuch, Esq. (o/b/o L.R.) v. Englewood Public School District (Bergen) (2021-86)
  - The Custodian’s failure to timely respond with a “reasonable effort” resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(i)(2). However, the GRC declines to order disclosure because the Custodian did so on May 11, 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.
  
15. Anonymous v. Township of Medford (Burlington) (2021-92)
  - The subject OPRA request is invalid because it sought information and not an identifiable “government record.” LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); MAG, 375 N.J. Super. at 549.
  
16. Michael Esslie v. Rowan University (2021-97)
  - 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 GRC must conduct an *in camera* review of the redacted report to determine the validity of the Custodian’s assertion that same was lawfully denied under the asserted exemptions. N.J.S.A. 47:1A-1.1; Paff, 379 N.J. Super. 346.
  - The knowing and willful analysis is deferred.
17. Craig Rawles v. Glassboro Police Department (Gloucester) (2021-100)
- The GRC must conduct an *in camera* review of the responsive e-mails and attachments to determine the validity of the Custodian’s assertion that same were lawfully denied under the asserted exemptions. N.J.S.A. 47:1A-1; N.J.S.A. 47:1A-10; Paff, 379 N.J. Super. 346.
  - The knowing and willful analysis is deferred.
18. Richard Battaglia v. Township of Parsippany-Troy Hills Main Library (Morris) (2021-112)
- Mr. Madin violated OPRA by failing to either forward the subject OPRA request to the Custodian or returning it to the Complainant and directing him to the proper custodian. N.J.S.A. 47:1A-5(h); Kossup v. City of Newark Police Dep’t, GRC Complaint No. 2006-174 (February 2007).
  - Mr. Madin lawfully denied access to the requested security camera footage under the security and surveillance exemption. N.J.S.A. 47:1A-1.1; Gilleran v. Twp. of Bloomfield, 227 N.J. 159, 174-177 (2016).
  - There is no knowing and willful violation.
19. Wayne I. Hodges v. NJ Department of Corrections (2021-114)
- The Custodian lawfully denied access to OPRA request item No. 1 seeking video footage because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
  - The Custodian unlawfully denied access to OPRA request item No. 2 seeking a JPay inquiry from the Complainant’s account. N.J.S.A. 47:1A-6. However, the Council should decline to order disclosure because the Custodian did so on September 3, 2021.
  - There is no knowing and willful violation.
20. Marc Liebeskind v. Borough of Highland Park (Middlesex) (2021-186)
- The Custodian lawfully denied access to the requested draft resolution under the “inter-agency, or intra-agency advisory, consultative or deliberative 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 (App. Div. 2018).
  - The Custodian lawfully denied access to the redacted personal e-mail addresses contained within the responsive e-mail. N.J.S.A. 47:1A-1; Gettler v. Twp. of Wantage (Sussex), GRC Complaint No. 2009-73, et seq. (Interim Order dated June 25, 2013).
21. Anonymous v. Borough of Haledon (Passaic) (2021-193)
- The Custodian’s failure to respond in 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 Library (Essex), GRC Complaint No. 2007-124 (March 2008). However, the Council should decline to order disclosure because the Custodian did so on August 13, 2021.

- There is no knowing and willful violation.

22. Anonymous v. Borough of Haledon (Passaic) (2021-194)

- The Custodian’s failure to respond in 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, GRC 2007-124. However, the Council should decline to order disclosure because the Custodian did so on August 11, 2021.
- There is no knowing and willful violation.

23. Anonymous v. Borough of Haledon (Passaic) (2021-195)

- The Custodian’s failure to respond in 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, GRC 2007-124. However, the Council should decline to order disclosure because the Custodian did so on August 13, 2021.
- There is no knowing and willful violation.

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

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

- Caroff v. Rutgers, 2022 N.J. Super. Unpub. LEXIS 1441 (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.