



**Minutes of the Government Records Council
November 9, 2022 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:33 p.m. by Ms. Robin Berg Tabakin via Microsoft Teams.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag.

- **Meeting Notice**

Ms. Berg Tabakin read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on November 3, 2022.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Jennifer Killough-Herrera, Esq. (designee of Department of Education Acting Commissioner Dr. Angelica Allen-McMillan), John Alexy (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver), and Steven Ritardi, Esq., Public Member.

GRC Staff in Attendance: Frank F. Caruso (Executive Director), Rosemond Bordzoe (Secretary), John Stewart (Mediator), Samuel Rosado (Staff Attorney), and Deputy Attorney General Debra Allen.

II. Executive Director’s Report:

Current Statistics

- Since OPRA’s inception in July 2002, the GRC has received 6,587 Denial of Access Complaints. That averages about 324 annual complaints per 20 1/3 tracked program

years. So far in the current program year (FY2023), the GRC has received 332 Denial of Access Complaints, a program year record.

- 796 of the 6,587 complaints remain open and active (12.1%). Of those open cases:
 - 11 complaints are on appeal with the Appellate Division (1.4%);
 - 38 complaints are currently in mediation (4.8%);
 - 3 complaints are proposed for the Office of Administrative Law (0.4%);
 - 28 complaints await adjudication by the Office of Administrative Law (3.5%);
 - 58 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (7.3%);
 - 658 complaints are work in progress (82.7%); and
 - 0 complaints are being held in abeyance (0.0%).

The GRC emphasizes that it has received 332 complaints in FY 2023, which is already more than the total number of complaints received in 13 of the GRC's 20 fiscal years. In the last 7 months alone, the GRC has received 520 complaints that have been assigned to a complaint manager, which was the previous high for filings set in FY2022. That equals approximately 74 complaints a month received from April to the end of October 2022.

The significant uptick in complaints both filed in FY2023 and awaiting adjudication is due to two (2) individuals. However, one of those individuals, who has either created multiple anonymous e-mail addresses or involved others, has been historically aggressive in recent months. Specifically, this individual or individuals filed 194 complaints, all against the same agency, in FY2023 (58.4% of all filed complaints). The individual or individuals also account for 251 complaints filed against the same agency since April 18, 2022, an average of over 37 complaints filed per month and nearly 1.8 complaints per workday during that span.

- Since Program Year 2004, the GRC has received and responded to 36,398 total inquiries, averaging about 1,883 annual inquiries per 19 1/3 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2023), the GRC has received 538 inquiries (6 inquiries per workday).

GRC Regulations

The GRC's regulations with amendments went into effect on November 7, 2022 and have been posted to the GRC's website. The newly adopted regulations include significant changes with an aim towards making the process easier and more efficient. DCA has sent out a press release on the changes and an OPRA Alert will be posted to the GRC's website shortly.

III. Closed Session: None

IV. Approval of Minutes of Previous Meetings:

September 29, 2022 Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the September 29, 2022 meeting. Ms. Killough-Herrera made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

September 29, 2022 Closed Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the September 29, 2022 meeting. Ms. Killough-Herrera made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

V. New Business – Cases Scheduled for Adjudication

Ms. Berg Tabakin stated that 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 reason for the Administrative Disposition is under each complaint below:

A. Administrative Disposition Adjudications with Recusals (Consent Agenda):

Ms. Berg Tabakin noted that Mr. Ritardi was recused from Agenda items No. 1 and confirmed he muted himself.

1. Joe Doer v. Township of Irvington (Essex) (2022-523) (SR Recusal)

- Unripe Cause of Action.
- Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition, noting that Mr. Ritardi was recused from this matter. Ms. Killough-Herrera made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

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

1. Colton Holbrook v. NJ State Parole Board (2021-256)

- No Records Responsive to the Request Exist.

2. Scott Madlinger v. Berkeley Township Police Department (Ocean) (2022-463)

- All Records Provided in a Timely Manner.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Ms. Killough-Herrera made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

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

1. **Jennifer Crandall v. Borough of Ramsey (Bergen) (2022-239)**
 - Complaint Settled in Mediation.
2. **Brian D. Martinez v. Middlesex County (2022-243)**
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

A. Individual Complaint Adjudications with Recusals:

A brief summary of the Executive Director’s recommended action is under each complaint:

Ms. Berg Tabakin noted that Mr. Alexy would be muted for Agenda item No. 1 to ensure his non-participation in the item from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Alexy was muted prior to addressing the below agenda item.

1. **Nancy Joyce Krrywda v. NJ Department of Community Affairs, Division of Housing & Community Resources (2021-225) (JA Recusal)**

- The Complainant’s request seeking an “[e]ntire file” is invalid and the Custodian lawfully denied access to it. N.J.S.A. 47:1A-6; MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005); Morgano v. Essex Cnty. Prosecutor’s Office, GRC Complaint No. 2007-156 (February 2008).
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote; Mr. Alexy recused.

Ms. Berg Tabakin notified the public that Mr. Alexy would rejoin the meeting by unmuting himself. Mr. Alexy rejoined the meeting at that time.

B. Individual Complaint Adjudications with no Recusals:

1. **Edwin Sheppard v. NJ Department of Law and Public Safety, Division of Law (2017-180)**

- Custodian Counsel’s request for reconsideration should be denied.
- Notwithstanding the reconsideration denial, the Council should rescind conclusion No. 4 referring the complaint to the Office of Administrative Law

(“OAL”) and conduct the knowing and willful analysis. Henry, Esq. (O.B.O. Joseph Cordaro) v. Twp. of Hamilton Police Dep’t (Atlantic), GRC Complaint No. 2015-155 (April 2017).

- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. DAG Allen noted that her office did not review this matter or provide advice based on a recusal. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Bradley Beach (Monmouth) (2018-157)**

- The Council should dismiss the complaint because the parties settled it via agreement and notified the OAL of such on July 28, 2022. No further adjudication is required.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

3. **Thomas S. Chichester v. Cinnaminson Township (Burlington) (2020-25)**

- The Council should dismiss this complaint based on the Complainant’s passing and next-of-kin’s request to dismiss it. No further adjudication is required.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

4. **Daniel Z. Rivlin, Esq. (o/b/o American Airlines, Inc.) v. Port Authority of NY & NJ (2020-72)**

- The Custodian’s extensions were unwarranted and unsubstantiated; thus, a “deemed” denial of access occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014).
- The Custodian unlawfully denied access to the Complainant’s OPRA request and must either disclose responsive records or certify if same were disclosed during the pendency of the instant complaint. N.J.S.A. 47:1A-6; Golden v. N.J. Inst. of Tech., 934 F.3d 302 (3rd Cir. 2019).
- The knowing and willful and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations. Mr. Caruso noted that page 7 of the proposed Findings and Recommendations was amended to include a discussion of

Golden, 934 F.3d 302. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as amended. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

5. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Hoboken (Hudson) (2020-80)**

- 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

6. **Eliza Schleifstein v. Randolph Township School District (Morris) (2020-213)**

- The Custodian's request for reconsideration should be denied.
- The Council's August 30, 2022 Interim Order remains in effect.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

7. **Rotimi Owoh, Esq. (o/b/o Grace Woko) v. Borough of Riverton Police Department (Burlington) (2021-49)**

- The Custodian failed to prove that the proposed special service charge was warranted or reasonable. N.J.S.A. 47:1A-5(c); Courier Post v. Lenape Reg'l High Sch. Dist., 360 N.J. Super. 191, 199 (Law Div. 2002). However, the Council should decline to order disclosure because same occurred on March 9, 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

8. **Brian McBride v. Township of Washington (Gloucester) (2021-53)**

- The Custodian did not fully comply with the Council's August 30, 2022 Interim Order.

- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

9. **Rigeberto Mejia Amaya v. NJ Department of Corrections (2021-93)**

- Mr. Viera’s May 6, 2021 response was insufficient because he did not include a specific lawful basis for denying access to four (4) records. N.J.S.A. 47:1A-5(g).
- Notwithstanding Mr. Viera’s insufficient response, a lawful denial of access occurred to those records because they were exempt under the N.J. Department of Corrections’ (“DOC”) regulations. N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(4); N.J.A.C. 10A:22-2.3(b).
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

10. **Michael Esslie v. Rowan University (2021-97)**

- The Council should dismiss this complaint because the Complainant withdrew it in writing via e-mail on September 21, 2022. No further adjudication is required.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

11. **Peter O’Reilly v. City of East Orange (Essex) (2021-117)**

- The Custodian did not fully comply with the Council’s September 29, 2022 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

12. **Mark Chatfield v. NJ Department of Corrections (2021-121)**

- The Custodian did not fully comply with the Council’s September 29, 2022 Interim Order.

- The Custodian lawfully denied access to the portion of the OPRA request seeking pictures and recordings 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

13. **Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-132)**

- The Custodian's failure to timely respond to a request for "immediate access" records resulted in a violation of OPRA. N.J.S.A. 47:1A-5(e); Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007).
- The Custodian may have unlawfully denied access to invoices responsive to OPRA request No. 2. The Custodian must locate and disclose those invoices, certify if they were not approved at the time of the OPRA request, or certify if none exist.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

14. **Kristen Danielle Augelli v. Cherry Hill Township (Camden) (2021-172)**

- The Custodian unlawfully denied access to the responsive police report because the Complainant demonstrated she was the victim therein. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6. Thus, the Custodian must disclose the report to the Complainant.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

15. **Jermaine Vaughn v. City of Trenton (Mercer) (2021-174)**

- The Custodian lawfully denied access to the requested disciplinary records of a retired detective. N.J.S.A. 47:1A-10; Rivera v. Union Cnty. Prosecutor's Office, 250 N.J. 124 (2022); Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (March 2004).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as

written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

16. Adam Ponsi v. Long Branch Housing Authority (Monmouth) (2021-178)

- The Custodian complied with the Council’s September 29, 2022 Interim Order.
- The Custodian lawfully denied access to the responsive e-mails because she certified, and the record reflects, that none existed. N.J.S.A. 47:1A-6; Pusterhofer, GRC 2005-49.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

17. Linda Kent v. City of Estell Manor (Atlantic) (2021-184)

- 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 Custodian proved that the proposed \$160.00 fee for use of the City’s Information Technology vendor to create and produce the responsive e-mail logs was lawful. N.J.S.A. 47:1A-5(d); Paff v. Twp. of Galloway, 229 N.J. 340, 354 (2017); Anonymous Englishtown Taxpayer v. Borough of Englishtown (Monmouth), GRC Complaint No. 2021-18 (February 2022). Thus, the Custodian was not required to disclose the responsive logs until remittance of payment. N.J.S.A. 47:1A-6; Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

18. Marc Liebeskind v. Borough of Highland Park (Middlesex) (2021-186)

- The Complainant’s request for reconsideration should be denied.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

19. Rahgeam Jenkins v. NJ Department of Corrections (2021-219)

- The Custodian’s failure to respond to OPRA request item No. 4 resulted in an insufficient response. 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). The Custodian shall thus locate and disclose the responsive records or certify if they were already disclosed.

- The Custodian's failure to locate records responsive to OPRA request item Nos. 2 and 3 until after the filing of this complaint resulted in an insufficient search. Schneble v. N.J. Dep't of Env'tl. Prot., GRC Complaint No. 2007-220 (April 2008). The Custodian shall thus disclose the responsive records or certify if they were already provided.
- The Custodian did not unlawfully deny access to OPRA request item No. 1 because he certified, and the record reflects, that all responsive records were disclosed to the Complainant. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

20. **Stephen J. Christiano, Esq. (o/b/o Ronald Bligh) v. West Orange Board of Education (Essex) (2021-220)**

- The GRC must conduct an *in camera* review of the withheld records to determine the validity of the Custodian's assertion that they were lawfully denied under the privacy, workplace harassment, and personnel exemptions. N.J.S.A. 47:1A-1; N.J.S.A. 47:1A-1.1; 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 and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

21. **Antwine Jabar Rivera v. Millville Police Department (Cumberland) (2021-224)**

- The Custodian lawfully denied access to the requested records under the Internal Affairs Policies and Procedures. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-10; Rivera, 250 N.J. 124; Merino, GRC 2003-110.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

22. **Marybeth Maida v. Borough of Red Bank (Monmouth) (2021-229)**

- The GRC must conduct an *in camera* review of the redacted e-mail and other withheld records to determine the validity of the Custodian's assertion that

they were lawfully denied under the cited exemptions. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10; Paff, 379 N.J. Super. 346.

- The Custodian may have unlawfully denied records responsive to the Complainant's September 17, 2021 OPRA request because there is a lack of evidence necessary to determine whether no records existed. Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2011-76 (Interim Order dated June 26, 2012); Demitroff v. Buena Vista Twp. (Atlantic), GRC Complaint No. 2017-169 (Interim Order dated November 12, 2019). Thus, the Custodian must search for and disclose any responsive records, identify a specific lawful basis if access is being denied in part or whole, or certify if no responsive records exist and include a detailed search explanation.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

23. John Doey v. NJ Department of Banking and Insurance (2021-234)

- 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 Custodian did not unlawfully deny access to records because she certified, and the record reflects, that she disclosed all records that existed. Danis, GRC 2009-156, *et seq.*
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

24. Darlene R. Esposito v. NJ Department of State, Division of Elections (2021-238)

- The Custodian unlawfully denied access to the responsive record because it was only partially legible. N.J.S.A. 47:1A-6; Lopez v. Cnty. of Hudson, GRC Complaint No. 2009-267 (March 2011). However, the Council should not order any further action because the Custodian disclosed a legible copy on November 8, 2021.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

25. Kaseem Ali-X v. NJ Department of Corrections (2021-323)

- The Custodian lawfully denied access to all three (3) of the Complainant's OPRA requests seeking logbooks because same are exempt from disclosure under DOC's regulations at N.J.A.C. 10A:22-2.3(a)(13). Cauthen v. N.J. Dep't of Corr., GRC Complaint No. 2018-26 (November 2019).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

26. Tineen Howard v. NJ Department of Labor & Workforce Development, Division of Temporary Disability Insurance (2022-285)

- The Custodian failed to comply with the Council's September 29, 2022 Interim Order.
- The Custodian lawfully denied access to the Complainant's OPRA request because he, Mr. Martin, and Director Fish all certified, and the record reflects, that no records existed. N.J.S.A. 47:1A-6; Pusterhofer, GRC 2005-49.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Killough-Herrera made a motion and Mr. Alexy seconded the motion. The motion passed by a unanimous vote.

VII. Court Decisions of GRC Complaints on Appeal: None

VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None

IX. Public Comment:

- Mr. Adam Ponsi (GRC Complaint No. 2021-178): Mr. Ponsi thanked the GRC for adjudicating his complaint and wanted to know his options for appealing the Council's decision. Mr. Caruso stated that the options for challenging a Council decision is included in cover letters attached to decisions disseminated to the parties within five (5) to ten (10) business days after the meeting. Mr. Ponsi then noted that it was "odd" to hear that the Council rendered a decision based on a legal certification.
- Mr. Tineen Howard (GRC Complainant No. 2022-285): Mr. Howard suggested a process change to make all parties aware of the context of *ex parte* communications along with copies. Mr. Howard also questioned the Council's decision based on his submissions and asserted that he would have to resubmit his documentation for additional review.

- Ms. Darlene Esposito (GRC Complaint No. 2021-238): Ms. Esposito stated that she did not hear her case called and asked for the proposed conclusion to be read again. Mr. Caruso re-read the proposed conclusions. Ms. Esposito asked if she would receive a copy of the decision, to which Mr. Caruso replied in the affirmative.
- Patti Chacker, Cherry Hill Township (GRC Complaint No. 2021-172): Ms. Chacker stated that she did not hear the proposed conclusions for the relevant complaint. Mr. Caruso re-read the proposed conclusions.

XI. Adjournment:

Ms. Berg Tabakin called for a motion to end the Council meeting. Ms. Killough-Herrera made a motion, which was seconded by Mr. Alexy. The motion passed by a unanimous vote.

The meeting adjourned at 2:16 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: December 13, 2022