



**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**  
**March 28, 2023**

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, March 28, 2023 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:**

February 28, 2023 Open Session Meeting Minutes  
February 28, 2023 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):**

1. Mark Lamar Tompkins v. Essex County Prosecutor's Office (2022-286) (**SR Recused**)
  - **Tabled Due to Lack of Quorum.**

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

1. Thomas Swartz v. Jersey City Public School District (Hudson) (2021-48)
  - Unripe Cause of Action.
2. Tucker M. Kelley v. Rockway Township (Morris) (2021-360)
  - No Records Responsive to the Request Exist.
3. William Capers v. Borough of Waldwick (Bergen) (2022-145)
  - No Records Responsive to the Request Exist.
4. Yehuda Miller v. Borough of Watchung (Somerset) (2022-241)
  - No Records Responsive to the Request Exist.
5. Kevin Lawrence Conley v. Cumberland County (2022-436)
  - No Correspondence Received by the Custodian.
6. Yusuf Muhammad v. NJ Office of the Public Defender (2022-459)
  - Not a Valid OPRA request.
7. Kevin Alexander v. Somerville Police Department (Somerset) (2023-13)
  - No Records Responsive to the Request Exist.
8. Tyrell L. Hicks v. Somerset County Superior Court (2023-47)
  - Not Within the Council's Jurisdiction.

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

1. Hinson Snipes, LLP (o/b/o Tod Jackson) v. Township of Hopewell (Mercer) (2021-212)
  - Complaint Voluntarily Withdrawn.
2. Jaryda A. Gonzalez, Esq. v. Pleasantville Public Schools (Atlantic) (2022-17)
  - Complaint Voluntarily Withdrawn.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Willingboro Police Department (Burlington) (2022-99)
  - Complaint Voluntarily Withdrawn.
4. Sean Benoit v. City of Plainfield (Union) (2022-337)
  - Complaint Voluntarily Withdrawn.
5. Gregory Mantell v. Camden County Police Department (2022-432)
  - Complaint Settled in Mediation.
6. Dan Bosworth v. Rutgers University (2022-476)
  - Complaint Voluntarily Withdrawn.
7. Yehuda Miller v. City of Vineland (Cumberland) (2022-495)
  - Complaint Settled in Mediation.
8. Michael Koestler v. Harrison Township (Gloucester) (2022-586)
  - Complaint Settled in Mediation.
9. Angelous Jackson v. Somerset County Board of Chosen Freeholders (2022-679)
  - Complaint Settled in Mediation.

10. Jonathan Martin v. Old Bridge Police Department (Middlesex) (2023-7)
  - Complaint Settled in Mediation.
11. Patricia C. Melia, Esq. (o/b/o Chris M. Melia) v. Township of East Hanover Police Department (Morris) (2023-41)
  - Complaint Voluntarily Withdrawn.
12. Scott Madlinger v. Berkeley Township (Ocean) (2023-46)
  - Complaint Voluntarily Withdrawn.

## **VI. New Business – Cases Scheduled for Consent Agenda Administrative Order**

An “Administrative order” means an order issued by the Council requiring the records custodian or the complainant to perform a specific action in furtherance of the adjudication of a pending denial of access complaint or taking other actions deemed appropriate to adjudicate a complaint in an expedited manner. The Executive Director’s recommended reason for the Administrative Order is under each complaint below.

### **A. Administrative Orders with Recusals (Consent Agenda):**

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Bayonne (Hudson) (2021-214) **(SR Recusal)**
  - **Tabled Due to Lack of Quorum.**

### **B. Administrative Orders with No Recusals (Consent Agenda):**

1. Griselda Muck-Raker v. NJ Department of Banking and Insurance (2022-92)
  - *In Camera* Review.
2. Frank Liberato v. Township of Long Hill (Morris) (2022-198)
  - *In Camera* Review.
3. Scott Madlinger v. Lacey Township Police Department (Ocean) (2022-587)
  - *In Camera* Review.

## **VII. 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. Denise Whiteside v. Township of Little Falls (Passaic) (2021-89) **(SR Recusal)**
  - **Tabled Due to Lack of Quorum.**
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Bayonne (Hudson) (2021-213) **(SR Recusal)**
  - **Tabled Due to Lack of Quorum.**

## B. Individual Complaint Adjudications with no Recusals:

1. Rick Robinson v. NJ Department of Human Services, Division of Medical Assistance and Health Services (2015-410)
  - The Custodian complied with the Council’s January 31, 2023 Interim Order.
  - There is no knowing and willful violation.
2. Tom Maciejewski v. Berkeley Heights Board of Education (Union) (2020-110)
  - The current Custodian did not fully comply with the Council’s January 31, 2023 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.
3. Stephen Grogan v. Union County Prosecutor’s Office (2021-20)
  - The Custodian lawfully denied access to the Complainant’s October 7, 2020 OPRA request 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).
  - The Custodian lawfully denied access to the records responsive to the Complainant’s November 17, 2020 OPRA request pursuant to Executive Order No. 26 (Gov. McGreevey, 2002). Vaughn v. City of Trenton (Mercer), GRC Complaint No. 2009-177 (June 2010).
4. Thomas M. Riche v. Borough of Allendale (Bergen) (2021-94)
  - The Custodian’s inability to respond within the extended period due to extenuating circumstances does not rise to the level of a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
5. Craig Rawles v. Glassboro Police Department (Gloucester) (2021-100)
  - The Custodian complied with the Council’s February 28, 2023 Interim Order.
  - There is no knowing and willful violation.
6. Scott Madlinger v. Berkeley Township (Ocean) (2021-137)
  - 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 Council should decline to order disclosure of the responsive records because same were provided on June 30, 2021.
7. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Baffi Simmons, & Grace Woko) v. Somers Point Police Department (Atlantic) (2021-190)
  - The Custodian unlawfully denied access to the complaints and summonses responsive to the Complainant’s OPRA request. Simmons v. Mercado, 247 N.J. 24, 42 (2021). However, the Council should decline to order disclosure of the responsive records because same were provided on March 22, 2022 and again on April 29, 2022.
  - 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. Clementon Borough Police Department (Camden) (2021-196)
  - 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 Council should decline to order disclosure of the responsive records because same were provided on August 31, 2021.
  - The Complainant is not a prevailing party.
9. Stephen J. Christiano, Esq. (o/b/o Ronald Bligh) v. West Orange Board of Education (Essex) (2021-220)
  - The Custodian complied with the Council's February 28, 2023 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. Anonymous v. Borough of Haledon (Passaic) (2021-325)
  - 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 most of the records responsive to the Complainant's OPRA request. N.J.S.A. 47:1A-6. However, the Council should decline to order disclosure of the responsive records because same were provided on December 13, 2021 and March 14, 2023 respectively.
11. Paul Kovacsofsky v. Borough of High Bridge (Hunterdon) (2021-356)
  - The Custodian lawfully denied access to the requested cost analysis under the "inter-agency or intra-agency advisory, consultative, or deliberative material" exemption. N.J.S.A. 47:1A-1.1; Educ. Law Ctr. v. Dep't of Educ., 198 N.J. 274 (2009).
12. Dale E. Parichuk v. Washington Borough Business Improvement District (Warren) (2022-57)
  - No "deemed" denial of access occurred because the Custodian timely responded to the subject OPRA request. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).

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

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

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

- Doe v. Rutgers, 2023 U.S. App. LEXIS 4626 (3d Cir. Feb. 27, 2023)

**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.