



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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Governor

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Lieutenant Governor

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Acting Commissioner

NOTICE OF MEETING Government Records Council April 30, 2024

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, April 30, 2024 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

- Stephen Schnitzer, Esq. (o/b/o Vito's Trattoria, Inc.) v. NJ Transit (2016-140) *In Camera* Review (N.J.A.C. 5:105-2.8(g)). (**SR Recusal**)
- Joseph Holzli v. City of Clifton (Passaic) (2021-113) *In Camera* Review (N.J.A.C. 5:105-2.8(g)). (**SR Recusal**)

IV. Approval of Minutes of Previous Meetings:

March 26, 2024 Open Session Meeting Minutes
March 26, 2024 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): None

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Cherry Hill Police Department (Camden) (2022-15)
 - All Records Responsive Provided in a Timely Manner.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Linwood Police Department (Atlantic) (2022-21)
 - All Records Responsive Provided in a Timely Manner.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Northfield Police Department (Atlantic) (2022-24)
 - All Records Responsive Provided in a Timely Manner.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Belmar Borough Police Department (Monmouth) (2022-63)
 - All Records Responsive Provided in a Timely Manner.
5. Aakash Dalal v. Bergen County Prosecutor’s Office (2024-65)
 - Motion to File Within Time Denied.
6. Laura M. Campanella v. Town of Secaucus (Hudson) (2024-77)
 - All Records Responsive Provided in a Timely Manner.
7. Edward Thomas Clifford, III v. Administrative Office of the Courts (2024-79)
 - Not Within the Council’s Jurisdiction.
8. Laura M. Campanella v. Town of Secaucus (Hudson) (2024-86)
 - No Records Responsive to the Request Exist.

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

1. Bryan Gurney v. Borough of Penns Grove (Salem) (2022-56)
 - Complaint Voluntarily Withdrawn.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Bayonne Police Department (Hudson) (2022-303)
 - Complaint Voluntarily Withdrawn.
3. Shawn G. Hopkins v. Hunterdon County Board of Taxation (2023-95)
 - Complaint Voluntarily Withdrawn.
4. Kara K. Parham v. Montville Township Board of Education (Morris) (2024-26)
 - Complaint Voluntarily Withdrawn.

5. Diane Laudenbach v. Kingwood Township (Hunterdon) (2024-75)
6. Diane Laudenbach v. Kingwood Township (Hunterdon) (2024-76)

CONSOLIDATED

- Complaint Voluntarily Withdrawn.
7. Kevin Kearns v. Borough of Sea Bright Police Department (Monmouth) (2024-87)
 - Complaint Voluntarily Withdrawn.
 8. Scott Betsy v. City of Newark (Essex) (2024-88)
 - 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): None

B. Administrative Orders with No Recusals (Consent Agenda): None

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. Stephen Schnitzer, Esq. (o/b/o Vito’s Trattoria, Inc.) v. NJ Transit (2016-140) (**SR Recusal**)
 - The current Custodian complied with the Council’s November 8, 2023 Interim Order.
 - The current Custodian shall comply with the Council’s *In Camera* Examination findings.
 - The knowing and willful and prevailing party analyses are deferred.
2. Joseph Holzli v. City of Clifton (Passaic) (2021-113) (**SR Recusal**)
 - The Custodian did not comply with the Council’s January 30, 2024 Interim Order.
 - The *In Camera* Examination reveals that the Custodian lawfully denied access to the requested Palma Report under the “inter-agency or intra-agency advisory, consultative, or deliberative [(“ACD”)] material” exemption. N.J.S.A. 47:1A-1.1.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Bayonne (Hudson) (2021-213) (**SR Recusal**)
 - This complaint should be dismissed because the Complainant withdrew it in writing via e-mail on April 11, 2024. No further adjudication is required.

4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Bayonne (Hudson) (2021-214) **(SR Recusal)**
 - This complaint should be dismissed because the Complainant withdrew it in writing via e-mail on April 11, 2024. No further adjudication is required.
5. Jason Ritchwood v. Village of South Orange (Essex) (2022-435) **(SR Recusal)**
 - The Custodian’s failure to respond to the June 17, 2022 OPRA request within the extended deadline 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). The Custodian’s failure to timely respond to the June 20, 2022 OPRA request also resulted in a “deemed” denial of access. However, the GRC declines to order any further action because the Custodian disclosed the responsive records on July 14, 2022 and August 22, 2022 respectively.

B. Individual Complaint Adjudications with no Recusals:

1. Rotimi Owoh, Esq. (o/b/o Grace Woko) v. Mount Holly Township Police Department (Burlington) (2021-71)
 - The Custodian did not unlawfully deny access to the responsive personnel information. N.J.S.A. 47:1A-10; Owoh ex rel. Afr. Am. Data & Rsch. Inst. v. Maple Shade Police Dep’t Burlington, 2024 N.J. Super. Unpub. LEXIS 445 (App. Div. 2024).
 - The Complainant is not a prevailing party.
2. Marybeth Maida v. Borough of Red Bank (Monmouth) (2021-229)
 - The current Custodian complied with conclusion Nos. 1 and 2 of the March 26, 2024 Interim Order, but failed to comply with conclusion No. 3.
 - The Council’s Order is enforceable in Superior Court. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).
 - The current Custodian’s actions may have been knowing and willful. Thus, this complaint should be referred to the Office of Administrative Law (“OAL”) for a knowing and willful hearing.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Runnemede Police Department (Camden) (2022-13)
 - The Custodian’s response was insufficient because she failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
 - The Custodian did not unlawfully deny access to the portion of the Complainant’s OPRA request seeking certain personnel information because all was disclosed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010). *See* Owoh, Esq. (O.B.O. AADARI) v. Voorhees Police Dep’t (Camden), GRC Complaint No. 2022-12 (March 2024).
 - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking any “agreement” 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).

- The Complainant is not a prevailing party.
4. Peter Michel v. Borough of Washington (Warren) (2022-27)
 - The Custodian’s failure to respond immediately to OPRA request item No. 8 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’s failure to timely respond within the extended deadline 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.
 - The Custodian lawfully denied access to the Complainant’s OPRA request item Nos. 1, 2, 5 (except for the subject OPRA request), 6, and 7 because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - The GRC must conduct an *in camera* review of two (2) e-mails (and relevant attachments) to determine the validity of the Custodian’s assertion that same was lawfully denied under the attorney-client privilege exemption. N.J.S.A. 47:1A-1.1; 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. Gerlando Termini v. Randolph Township School District (Morris) (2022-37)
 - The Custodian lawfully denied access to the requested calendar proposals under the ACD exemption because they were in draft form. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; Libertarians for Transparent Gov’t v. Gov’t Records Council, 453 N.J. Super. 83 (App. Div. 2018).
 6. Rachel Leigh Adelman, Esq. (o/b/o Bound Brook Education Association) v. Borough of Bound Brook (Somerset) (2022-38)
 - 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’s February 25, 2022 response was insufficient because she failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
 - 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.
 7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Raritan Police Department (Hunterdon) (2022-48)
 - The Custodian’s response was insufficient because she failed to address each OPRA request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
 - The Custodian did not unlawfully deny access to the portion of the Complainant’s OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156. See Voorhees, GRC 2022-12.
 - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking any “agreement” because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - The Complainant is not a prevailing party.

8. Douglas Harle v. New Milford Board of Education (Bergen) (2022-161)
 - The Custodian lawfully denied access to the Complainant’s OPRA request item No. 1 because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - The Custodian lawfully denied access to the Complainant’s OPRA request item No. 2 under the personnel exemption. N.J.S.A. 47:1A-10; O’Shea v. Twp. of West Milford (Passaic), GRC Complaint No. 2008-283 (November 2009).
 - The portion of the complaint related to the Complainant’s OPRA request item No. 3 is without merit and should be dismissed because he did not request the record identified therein. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-7(e); Burns v. N.J. Dep’t of State, Div. of Elec., GRC Complaint No. 2013-64 (September 2013).

9. Douglas Harle v. New Milford Board of Education (Bergen) (2022-173)
 - The Complainant’s complaint is without merit and should be dismissed because he did not request the records identified therein. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-7(e); Burns, GRC 2013-64.

10. Robert Walden v. North Bergen Board of Education (Hudson) (2022-294)
 - The Custodian’s failure to respond immediately to the OPRA request resulted in a violation of OPRA. N.J.S.A. 47:1A-5(e); Herron, GRC 2006-178.
 - The Custodian unlawfully denied access to the requested invoices, cancelled checks, and lease agreements responsive to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Thus, the Custodian shall locate and disclose the records to the Complainant or send the Complainant a legal certification if any do not exist.

11. Maurice Bronson v. Township of Irvington (Essex) (2022-556)
 - The Custodian unlawfully denied access to the Complainant’s OPRA request on the basis that no records existed. Welenc v. N.J. State Police, GRC Complaint No. 2017-134 (Interim Order dated February 26, 2019). Thus, the Custodian shall disclose to the Complainant the responsive record with redactions where applicable. O’Shea, GRC 2008-283.

12. Saul Jaffe v. City of Passaic (Passaic) (2022-560)
 - 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 lawfully denied access to the Complainant’s OPRA request because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.

13. Linda Kent v. City of Estell Manor (Atlantic) (2022-629)
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14. Linda Kent v. City of Estell Manor (Atlantic) (2022-630) CONSOLIDATED
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- 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). However, the GRC declines to order any further action because the responsive records were disclosed to the Complainant on December 29, 2022 and April 12, 2023 respectively.
- There is no knowing and willful violation; however, the Custodian and Mr. Moore’s actions were negligent and heedless.

15. Kevin Alexander v. NJ Department of Corrections (2022-645)

- The Custodian did not violate OPRA when assessing the proper copy cost for hardcopy disclosure of a record responsive to OPRA request item No. 1. N.J.S.A. 47:1A-5(b). Further, the Custodian was not required to waive the fee. Reid v. GRC & N.J. Dep't of Corr., 2013 N.J. Super. Unpub. LEXIS 2625, *5 (App. Div. 2013). Thus, the Custodian is not required to disclose the record until receipt of the associated cost. Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).
- The Custodian lawfully denied access to the Complainant's OPRA request item No. 2 because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.

VIII. Court Decisions of GRC Complaints on Appeal:

- Cauthen v. N.J. Dep't of Corr., 2024 N.J. Super. Unpub. LEXIS 506 (App. Div. 2024)

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

- Williams v. Mercer Cnty. Bd. of Elections, 2024 N.J. Super. Unpub. LEXIS 568 (App. Div. 2024)
- Benigno v. N.J. Off. of the State Comptroller, 2024 N.J. Super. Unpub. LEXIS 637 (App. Div. 2024)
- Afr. Am. Data & Rsch. Inst. "AADARI", LLC v. Hitchner, 2024 N.J. Super. Unpub. LEXIS 597 (App. Div. 2024)
- ACLU of N.J. v. Cnty. Prosecutors Ass'n of N.J., 2024 N.J. LEXIS 365 (2024)

X. Complaints Adjudicated in U.S. District 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.