



**State of New Jersey**  
**GOVERNMENT RECORDS COUNCIL**  
101 SOUTH BROAD STREET  
PO BOX 819  
TRENTON, NJ 08625-0819

**CHRIS CHRISTIE**  
*Governor*

**KIM GUADAGNO**  
*Lt. Governor*

**RICHARD E. CONSTABLE, III**  
*Commissioner*

**NOTICE OF MEETING**  
**Government Records Council**  
**November 18, 2014**

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 10:30 a.m., Tuesday, November 18, 2014, at the Department of Community Affairs ("DCA") offices located at 101 South Broad Street in Trenton, New Jersey.

The agenda, to the extent presently known, is listed below. The public session and consideration of cases is expected to commence at 10:30 a.m. in Room 129 of the DCA.

**I. Public Session:**

- Call to Order
- Pledge of Allegiance
- Meeting Notice
- Roll Call

**II. Executive Director's Report**

**III. Public Comment (First Session):**

- This first session of public comment is reserved solely for suggestions, views and comments relevant to proposed actions on the agenda. A second session of public comment will occur at the end of the meeting to provide an opportunity to present suggestions, views and comments relevant to the Council's functions and responsibilities.

**IV. Closed Session**

- Rules Revision – Procedures for Contested Hearings
- Michael Doss v. Borough of Paramus (Bergen) (2014-149)
- Possible recusal

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

- July 29, 2014 Open Session Meeting Minutes (*Pulled due to lack of quorum*)
- July 29, 2014 Closed Session Meeting Minutes (*Pulled due to lack of quorum*)
- September 30, 2014 Closed Session Meeting Minutes (*Pulled due to lack of quorum*)

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- October 28, 2014 Open Session Meeting Minutes (*Pulled due to lack of quorum*)

## **VI. Approval of 2015 Meeting Dates**

## **VII. 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. G. Harold Christian v. City of Newark (Essex) (2014-307) (**SR Recusal**)
  - Complaint voluntarily withdrawn.
2. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-358) (**DP Recusal**) (*Pulled due to lack of quorum*)

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

1. David Chen and The New York Times v. NJ Office of the Governor (2014-103)
  - Complaint withdrawn.
2. David Goff v. NJ Department of Labor, State Board of Mediation (2014-154)
  - Duplicate Complaint currently being adjudicated as Goff v. NJ Dep’t of Labor, State Bd. of Mediation, GRC Complaint No. 2012-301 (July, 2013)
3. Jaconda Wagner, Esq. v. Township of Montclair (Essex) (2014-176)
  - Complainant has instituted an action in Superior Court.
4. Nancy L. Held v. NJ Department of Transportation (2014-182)
  - Complaint settled in mediation.
5. Terrance David Harris v. Atlantic County Prosecutor’s Office (2014-189)
  - Request was not received, thus no basis for complaint. Case should be dismissed.
6. Kevin M. Barry v. NJ Transit (2014-265)
  - Custodian timely responded to the request and advised that no records exist.
7. Robert Agresta v. NJ Division of Medical Assistance and Health Services (2014-287)
  - Complaint settled in mediation.
8. Al-Qaadir Green v. NJ Office of the Attorney General (2014-326)
  - Complaint settled in mediation.
9. Keith Werner v. NJ Civil Service Commission (2014-347)
  - Request was not received, thus no basis for complaint. Case should be dismissed.
10. Thomas Dello Russo v. NJ Department of Children and Families (2014-360)
  - Complaint withdrawn.

**VIII. 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. Katalin Gordon v. City of Orange (Essex) (2011-256) **(SR Recusal)**
  - Current Custodian complied with IO.
  - Complaint should be referred to Office of Administrative Law (OAL) for a fact finding.
2. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2012-153) **(SR Recusal)**
  - Complaint withdrawn; dismissal by the council recommended.
3. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2013-135) **(SR Recusal)**
  - Complainant failed to establish the necessary criteria for reconsideration; reconsideration denied.
4. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2013-311) **(SR Recusal)**
  - Custodian complied with the IO.
  - No knowing and willful violation.
  - Complainant was a prevailing party; and, as such is entitled to submit a fee application.

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| <ol style="list-style-type: none"><li>5. Shawn G. Hopkins v. Monmouth County Board of Taxation (2014-01)</li><li>6. Shawn G. Hopkins v. Sussex County Board of Taxation (2014-10)</li><li>7. Shawn G. Hopkins v. Morris County Board of Taxation (2014-11) <b>(SR Recusal)</b><br/><b>Consolidated</b></li></ol> |
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*(Tabled for next meeting)*

8. Steven J. Kossup, Esq. (On behalf of William Osborne) v. Irvington Police Department (Essex) (2014-30) **(SR Recusal)**
  - Untimely response resulted in a “deemed denial.”
  - Custodian ultimately produced the records; therefore no unlawful denial of access.
  - No knowing and willful violation.
  - Complainant was a prevailing party; and, as such is entitled to submit a fee application.
9. Gregory Byrnes v. Township of Teaneck (Bergen) (2014-83) **(SR Recusal)**
  - Untimely response resulted in a “deemed denial.”
  - No knowing and willful violation.

10. Nicole Dory, Esq. (On behalf of Shipyard Associates, L.P.) v. City of Hoboken (Hudson) (2014-200) (**SR Recusal**)
  - Untimely response resulted in a “deemed denial.”
  - Custodian’s reponse to requests for item numbers 3 and 5 were insufficient.
  - GRC must conduct an *in camera* review of records responsive to item number 3.
  - Custodian must obtain materials presented at the town council meeting identified by the by Complainant; and disclose them to Complainant.
  - Complainant’s request for item No. 9 was clear and the Custodian shall disclose same.
  - Complainant’s request items numbered 10 and 11 are invalid because they fail to seek identifiable government records.
  - Counsel defers analysis.
11. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-17) (**DP Recusal**) (*Pulled due to lack of quorum*)
12. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-59) (**DP Recusal**) (*Pulled due to lack of quorum*)
13. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-60) (**DP Recusal**) (*Pulled due to lack of quorum*)
14. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-125) (**DP Recusal**) (*Pulled due to lack of quorum*)
15. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-172) (**DP Recusal**) (*Pulled due to lack of quorum*)
16. Thomas Caggiano v. NJ Office of the Governor (2014-166) (**RBT Recusal**) (*Pulled due to lack of quorum*)

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

1. Darian Vitello v. Borough of Belmar Police Department (Monmouth) (2012-268)
  2. Darian Vitello v. Borough of Belmar Police Department (Monmouth) (2012-321)
  3. Darian Vitello v. Borough of Belmar Police Department (Monmouth) (2013-72)
  4. Darian Vitello v. Borough of Belmar Police Department (Monmouth) (2013-73)
- Consolidated**

- Custodian complied with the IO.
  - Custodian failed to timely respond to request resulting in a deemed denial.
  - Complainant is not a prevailing party.
5. Carolyn Breslin v. Burlington County Special Services School District (2013-295)
    - Complainant failed to establish the necessary criteria for reconsideration; reconsideration denied.

6. Donna Doran v. Little Ferry Board of Education (Bergen) (2014-7)
  - Custodian provided requested records to complaint, but failed to provide certification of compliance to GRC.
  - Although Custodian initially unlawfully denied access to records, and failed to fully comply with the IO; there was no knowing and willful violation.
7. Luis F. Rodriguez v. Kean University (2014-52)
  - Final reports stemming from whistle blower complaint are not subject to disclosure.
  - The reports are not defined a personnel information. Had the reports been identified as personnel information they would have been subject to disclosure under OPRA.
  - Custodian lawfully denied access to the reports.
8. Cynthia A. McBride v. City of Camden (Camden) (2014-54)
  - Custodian complied with the IO.
  - Although the Custodian initially unlawfully denied access to the records, there was no knowing and willful violation.

9. Harry B. Scheeler, Jr. v. NJ State Police (2014-57)

10. Harry B. Scheeler, Jr. v. NJ State Police (2014-74) **Consolidated**

- Custodian failed to comply with the IO.
- IO is enforceable in Superior Court; if the Complaint wishes he may seek enforcement of order.
- Complaint referred to OAL for knowing and willful violation.

11. Kevin Conley v. NJ Department of Corrections (2014-88)

- Custodian complied with the IO.
- No knowing and willful violation.

12. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2014-137)

13. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2014-138) **Consolidated**

- Custodian did not prove that a special service charge is warranted. Custodian shall disclose records.
- Knowing and willful and prevailing party analyses deferred.

14. Antonio Merritt v. NJ Department of Corrections (2014-170)

- No responsive records exist.
- Custodian lawfully denied access.

15. Julie Akers v. Buena Vista Township (Atlantic) (2014-190)

- No unlawful denial of access of Board minutes.

16. Harry B. Scheeler, Jr. v. NJ Office of the Attorney General (2014-207)

- Untimely response resulted in a “deemed denial.”
- No knowing and willful violation.

17. Cynthia Zirkle v. Fairfield Township (Cumberland) (2014-212)

- Untimely response resulted in a “deemed denial.”
- Custodian may have unlawfully denied access to the requested record.
- Custodian must produce any responsive records.
- Knowing and willful analysis deferred.

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

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

**XI. Public Comment (Second Session):**

- This second session of public comment is an opportunity 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**.

**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.**