



**State of New Jersey**  
**GOVERNMENT RECORDS COUNCIL**  
101 SOUTH BROAD STREET  
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**CHRIS CHRISTIE**  
*Governor*

**KIM GUADAGNO**  
*Lt. Governor*

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

**NOTICE OF MEETING**  
**Government Records Council**  
**February 24, 2015**

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, February 24, 2015, 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 1:30 p.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**

- Matthew Cheng v. Town of West New York (Hudson) (2014-213) (ICFR)

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

- January 30, 2015 Open Session Meeting Minutes
- January 30, 2015 Closed Session Meeting Minutes



**VI. 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. Deborah Glenn v. NJ Department of Community Affairs, Division of Housing and Community Resources (2014-332) **(DL Recusal)**
  - Complaint withdrawn.
2. Alfred Savio v. NJ Department of Education (2014-385) **(DP Recusal)**
  - Complaint withdrawn.
3. Robert Kovacs v. Essex County Department of Corrections (2014-425) **(SR Recusal)**
  - No correspondence received by the custodian regarding the request.

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

1. Shawn G. Hopkins v. Township of Mendham (Morris) (2014-132)
  - Complaint withdrawn.
2. Shawn G. Hopkins v. Stillwater Township (Sussex) (2014-134)
  - Complaint withdrawn.
3. Shawn G. Hopkins v. Town of Newton (Sussex) (2014-135)
  - Complaint withdrawn.
4. Shawn G. Hopkins v. Borough of Franklin (Sussex) (2014-140)
  - Complaint withdrawn.
5. John Huegel v. Township of Bloomfield (Essex) (2014-341)
  - Complaint settled in mediation.
6. Karen E. Venditti v. Burlington Township Police Department (Burlington) (2014-380)
  - No correspondence received by the custodian regarding the request.
7. Robert Kovacs v. Ocean County (2014-424)
  - Complaint settled in mediation.
8. Deborah Ann Strong f/k/a Deborah Tietze v. NJ Pinelands Commission (2015-4)
  - Complaint withdrawn.
9. Denyce L. Carroll v. Trenton Public School District (Mercer) (2015-7)
  - Pending action in Superior Court; complainant instituted an action in the Superior Court regarding the denial of the same request as in the instant matter.
10. Robert Dudley Burdge v. NJ Division of Family Development (2015-8)
  - Complaint withdrawn.
11. Jaja Robinson v. Franklin Township Police Department (Somerset) (2015-21)
  - No record(s) responsive to the request exist.

## **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. John Martinez v. Morris County Prosecutor’s Office (2014-2) (**SR Recusal**)
  - Complainant failed to establish the requisite elements for reconsideration; reconsideration denied.
2. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-77) (**DP Recusal**)
  - Custodian did not timely respond to the requests resulting in a “deemed” denial.
  - Custodian did not unlawfully deny access to Item No. 1 because no responsive records exist.
  - Items No. 2 and 6 are invalid requests because they fail to provide sufficient identifiers and would require the Custodian to conduct research.
  - Items No. 3 and 4 are invalid.
  - No knowing and willful violation.
3. Al-Qaadir Green v. County of Essex (2014-101) (**SR Recusal**)
  - Original Custodian timely responded by granting access upon payment of copying fees. However, original Custodian may have denied access by failing to disclose records upon receipt of payments.
  - Custodian must confirm receipt of payment and disclosure of records; or must certify to the date original Custodian received payment and disclose records.
  - Council should decline to address the disclosability of “Interstate Agreement on Detainers” because Custodians counsel released same to Custodian for disclosure.
  - Knowing and willful analysis deferred.
4. Thomas Caggiano v. County of Sussex Board of Chosen Freeholders (2014-374) (**RBT Recusal**)
  - Council find that this complaint should be dismissed based on Honorable Stephan C. Hansbury’s “Order” dated January 28, 2015.

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

1. Robert A. Verry v. Franklin Fire District No. 1 (Somerset) (2013-196)
  - Complainant failed to establish the requisite standard for reconsideration, thus the request for reconsideration should be denied.
2. Anonymous v. NJ State Police (2014-78)
  - Custodian complied with the Council’s January 30, 2015 Interim Order.
  - No knowing and willful violation.
3. John Paff v. NJ State Police (2014-110)
  - Custodian did not unlawfully deny access to request items No. 1 and No. 2 because no records exist.

- Item No. 3 is invalid because it fails to seek identifiable records and would have required the Custodian to conduct research.
  - Complainant has not achieved a desired result because the complaint did not result in a change in the Custodian's conduct.
4. Michael Doss v. Borough of Paramus (Bergen) (2014-149)
- Custodian failed to comply with the Council's January 30, 2015 Interim Order.
  - Council's January 30, 2015 Interim Order is enforceable in Superior Court.
  - Custodian violated OPRA because:
    - i. she failed to submit a certification of compliance as ordered by the Council;
    - ii. of the records disclosed, which were only partially responsive to the request, the Custodian failed to disclose same within (5) business days from receipt of Council's order;
    - iii. she misled the Complainant by informing him that she did not receive the Council's order until February 10, 2015, when she knew or should have known that the statement was untrue; and
    - iv. she failed to disclose records ordered for disclosure in paragraph 2 of the Order.
  - Complaint should be referred to OAL for a knowing and willful determination.
5. David Roundtree v. NJ Department of State, Division of Elections (2014-155)
- Custodian improperly required that the Complainant must submit his OPRA request on OPRA form.
  - Complainant's request was appropriately filed; Custodian should have initially responded.
  - Custodian did not unlawfully deny access to request No. 1; no other responsive records exist.
  - Custodian did not unlawfully deny access to request No. 2; no responsive records exist.
  - Request No. 3 is invalid; it failed to seek identifiable records.
  - No knowing and willful violation.
6. Michael A. King v. NJ Department of Corrections (2014-156)
- Custodian did not unlawfully deny access to record "Attachment AA" because no record exists.
  - GRC must conduct in camera review of records "JPAY Response to RFP 1901" and "JPAY Cost Proposals" to determine if they contain personal identification information and/or trade secrets.
  - Knowing and willful analysis deferred.
7. Reed v. Camden County Police Department (Camden) (2014-157)
- GRC does not have information indicating which CCPD (Camden County Police Department) staff member responded to request; GRC cannot say who violated OPRA.
  - Custodian never received request, thus she did not unlawfully deny access to records.
  - No knowing and willful violation.

8. Dudley Burdge v. NJ Office of Information Technology (2014-179)
  - Custodian did not timely respond to the requests resulting in a “deemed” denial.
  - GRC must conduct an in camera review of responsive records withheld to determine if they contain ACD (advisory, consultative, or deliberative) material and/or if disclosure would give an advantage to competitors or bidders.
  - Custodian did not unlawfully deny access to request item No. 2 because no responsive records exist.
  - Custodian did not unlawfully deny access to January 16, 2014 request because no additional responsive records exist.
  - Knowing and willful analysis deferred.
  - Prevailing party analysis deferred.
9. Brian K. Redd v. Franklin Township Public Schools (Somerset) (2014-185)
  - Ms. Alaigh violated N.J.S.A. 47:1A-5(h) by failing to forward the Complainant’s request to the Custodian.
  - The Complainant’s OPRA request is an invalid request for information requiring the creation of a record.
  - No knowing and willful violation
10. Karen Jean Butala v. Township of Aberdeen (Monmouth) (2014-194)
  - Custodian lawfully denied access to the responsive domestic violence records at the time of the request because same are exempt under the Prevention of Domestic Violence Act of 1991, and no exceptions in the statute provide for access to victims.
11. David Cavagnaro v. Borough of Point Pleasant Beach (Ocean) (2014-197)
  - Custodian complied with the Council’s January 30, 2015.
  - No knowing and willful violation.
12. Peter Gartner v. Borough of Middlesex (Middlesex) (2014-203)
  - Custodian’s failure to timely respond to request item No. 2 resulted in a “deemed” denial.
  - Custodian’s failure to timely respond to request item No. 4 in the extended time frame resulted in a “deemed” denial.
  - Request No. 1 is invalid because it failed to provide ample identifies for Custodian to respond.
  - Custodian unlawfully denied access to record responsive to item No. 2; Custodian must disclose response spreadsheet or certify that she has disclosed all responsive records to him including supporting documentation.
  - Custodian did not unlawfully deny access to request items No. 3 and 4 because no responsive records exist.
  - Knowing and willful analysis deferred.
13. Harry B. Scheeler, Jr. v. Middle Township Public Schools (Cape May) (2014-209)
  - Custodian’s failure to respond to Complainant’s May 8, 2014 request No. 2 in the extended time frame resulted in a “deemed” denial.

- Custodian violated OPRA because she failed to set forth a basis for each redaction. Custodian must disclose records responsive to request, together with a detailed document index.
- Knowing and willful analysis deferred.

14. Matthew Cheng v. Town of West New York (Hudson) (2014-213)

- The Custodian complied with the Council's December 16, 2014 Interim Order.
- The Custodian must comply with the Council's *in camera* examination.
- Knowing and willful analysis deferred.

15. Louis Agre, Esq. v. NJ Office of the Governor (2014-221)

- *Tabled.*

16. Kevin M. Barry v. NJ Transit (2014-229)

- *Tabled.*

17. Charles B. Freyer v. City of Bayonne (Hudson) (2014-235)

- Custodian's failure to timely respond within the extended resulted in a "deemed" denial of access.
- Custodian may have unlawfully denied access to differential payments and access to stipends. Custodian must disclose information or certify that it does not exist.
- Knowing and willful analysis deferred.

18. Sheila Massoni v. Bergen County Prosecutor's Office (2014-253)

- Denial of access was proper as the report is a criminal investigatory record.

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

- Katon v. NJ Dep't of Law & Pub. Safety, 2015 N.J. Super. Unpub. LEXIS 256 (App. Div. 2015)

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

- N. Jersey Media Group v. Twp. of Lyndhurst, 2015 N.J. Super. Unpub. LEXIS 135 (January 23, 2015)
- Stern v. Lakewood Volunteer Fire Dep't, 2015 N.J. Super. Unpub. LEXIS 255 (February 6, 2015)

**X. 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**.

**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.**