



**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**  
**April 28, 2020**

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 28, 2020, remotely. 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 26, 2020 Open Session Meeting Minutes  
February 26, 2020 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. Russell Smith v. Moorestown Township (Burlington) (2018-150)
  - Unripe Cause of Action.
2. Kafele K. Bomani v. NJ Office of the Public Defender (2018-187)
  - No Correspondence Received by the Custodian.
3. Juan Mendoza v. City of Jersey City (Hudson) (2019-220)
  - No Records Responsive to the Request Exist.
4. Rachel Rodriguez v. Bridgewater Department of Education (Somerset) (2019-225)
  - Not a Valid OPRA Request.
5. Kevin Alexander v. County of Union (2019-235)
  - All Records Responsive Provided in a Timely Manner.
6. Yusuf Abdullah Muhammad v. NJ Office of the Public Defender (2020-35)
  - Not a Valid OPRA Request.

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

1. Anna Crivelli (o/b/o Frank M. Crivelli, Esq.) v. NJ State Police (2019-202)
  - Complaint Voluntarily Withdrawn.
2. Kaseem Ali-X v. NJ Department of Corrections (2019-240)
  - Complaint Settled in Mediation.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Woodland Park (Passaic) (2019-255)
  - Complaint Voluntarily Withdrawn.
4. Gail Oxfeld Kanef, Esq. (o/b/o Elif Hatipoglu) v. Irvington Public Schools (Essex) (2020-14)
  - Complaint Voluntarily Withdrawn.
5. Ryan Lawrence Johnson v. NJ State Police (2020-17)
  - Complaint Voluntarily Withdrawn.
6. Volha Yarmolina v. M.E.T.S. Charter School (Essex) (2020-20)
  - Complaint Voluntarily Withdrawn.
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Florham Park Police Department (Morris) (2020-24)
  - Complaint Voluntarily Withdrawn.
8. Ryan Lawrence Johnson v. Newton Police Department (Sussex) (2020-29)
  - Complaint Voluntarily Withdrawn.
9. Luis F. Rodriguez v. Kean University (2020-30)
  - Complaint Voluntarily Withdrawn.
10. Ryan Lawrence Johnson v. NJ State Police (2020-59)
  - Complaint Voluntarily Withdrawn.

**VI. 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. Megan McNally v. City of Bayonne (Hudson) (2018-16) **(SR Recusal)**
    - The Council should accept the Administrative Law Judge’s Initial Decision that no knowing and willful violation occurred and that the complaint be dismissed.
  2. Abdul-Rahim Muslim v. Essex County Prosecutor’s Office (2018-59) **(SR Recusal)**
    - The current Custodian complied with the Council’s February 26, 2020 Interim Order.
    - There is no knowing and willful violation.
  3. Mark L. Tompkins v. Newark Police Department (Essex) (2018-142) **(SR Recusal)**
    - The Custodian lawfully denied access to the Complainant’s OPRA request because no records existed. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
  4. Donald G. Jackson, Jr v. City of Newark, Department of Public Safety (Essex) (2018-151) **(SR Recusal)**
    - 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); Kohn v. Twp. of Livingston Library (Essex), GRC Complaint No. 2007-124 (March 2008).
    - The Custodian lawfully denied access to the subject OPRA request. N.J.S.A. 47:1A-10. Additionally, there is no evidence in the record supporting that the Complainant waived his confidentiality rights to his personnel records. McGee v. Twp. of East Amwell, 416 N.J. Super. 602, 615 (App. Div. 2010).
    - There is no knowing and willful violation.
  5. Dwayne L. Gillispie v. Paterson Police Department (Passaic) (2018-208) **(SR Recusal)**
    - The Custodian lawfully denied access to the Complainant’s OPRA request because no records existed. Pusterhofer, GRC 2005-49.
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| <ol style="list-style-type: none"><li>6. Monica Manning v. Middletown Township (Monmouth) (2018-216) <b>(SR Recusal)</b></li><li>7. Monica Manning v. Middletown Township (Monmouth) (2018-217) <b>(SR Recusal)</b></li></ol> <p><b>Consolidated</b></p> <ul style="list-style-type: none"><li>• The requested Review was exempt from disclosure under the “inter-agency or intra-agency advisory, consultative, or deliberative material” exemption. <u>N.J.S.A. 47:1A-1.1</u>; <u>Educ. Law Ctr. v. N.J. Dep’t of Educ.</u>, 198 <u>N.J.</u> 274, 286 (2009).</li><li>• The Complainant is not a prevailing party.</li></ul> |
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8. Al-Qaadir Green v. Essex County Prosecutor’s Office (2018-218) **(SR Recusal)**
    - The reports sought in OPRA request item No. 1, as well as notes and e-mails sought in OPRA request item No. 2 are exempt from disclosure under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017). Thus, the Custodian lawfully denied access to this portion of the OPRA request. N.J.S.A. 47:1A-6.

- Because the remaining portion of OPRA request item No. 2 sought juvenile delinquency records, same are exempt under OPRA. N.J.S.A. 47:1A-9(a); N.J.S.A. 2A:4A-60. Thus, the Custodian lawfully denied access to this portion of the OPRA request. N.J.S.A. 47:1A-6.
9. **Al Qadir Green v. Newark Police Department (Essex) (2018-219) (SR Recusal)**
- The Custodian's response was insufficient because he failed to definitively state that no records existed. N.J.S.A. 47:1A-5(g); Shanker v. Borough of Cliffside Heights (Bergen), GRC Complaint No. 2007-245 (March 2009).
  - The Custodian lawfully denied access to the Complainant's OPRA request because no records existed. Pusterhofer, GRC 2005-49.
  - There is no knowing and willful violation.

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

1. **Luis F. Rodriguez v. Kean University (2016-86)**
- The Custodian complied with the Council's February 26, 2020 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.
2. **Steven Levinson v. Sussex County (2017-154)**
- This complaint should be dismissed because the Complainant withdrew it via e-mail on March 6, 2020.
3. **Steven Wronko v. Township of South Brunswick (Middlesex) (2017-237)**
- 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.
4. **Wenke Taule v. Borough of Ringwood (Passaic) (2018-9)**
- The Custodian complied with the Council's February 26, 2020 Interim Order.
  - The Custodian bore her burden of proof the proposed special service charge was warranted, inclusive of labor counsel's reduced rate for review and redactions. N.J.S.A. 47:1A-5(c); Fisher v. Div. of Law, 400 N.J. Super. 61 (App. Div. 2008). However, the charge applied to 150 hours for production and return of requested items must be recalculated by Mr. Heck's hourly rate, which is the lowest among those capable of performing these duties, and offer the Complainant the ability to pay or reject the fee. Palkowitz v. Borough of Hasbrouck Heights (Bergen), GRC Complaint No. 2014-302 (Interim Order dated May 26, 2015).
  - The knowing and willful analysis is deferred.

5. Ryan Cruz v. Township of Hillside (Union) (2018-17)
  - The Custodian complied with the Council’s February 26, 2020 Interim Order.
  - There is no knowing and willful violation.
  
6. Gregory Mascera, Esq. v. Verona Board of Education (Essex) (2018-61)
  - The Custodian’s failure to respond to the Complainant’s clarified January 16, 2018 OPRA request item Nos. 2 and 3 in a timely manner resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Carter v. Franklin Fire Dist. No. 1 (Somerset), GRC Complaint No. 2011-100 (Interim Order dated June 26, 2012). However, the GRC declines to order disclosure of these items because same were provided to the Complainant.
  - The Custodian’s response to the Complainant’s December 18, 2017 OPRA request was insufficient because she failed to provide a specific lawful basis for denying access to redactions and an individual record. Paff v. Borough of Lavallette, GRC Complaint No. 2007-209 (Interim Order dated June 25, 2008).
  - The Custodian’s response to the Complainant’s January 16, 2018 OPRA request was insufficient because she failed to respond to each request item individually. Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
  - The GRC must conduct an *in camera* review of two (2) e-mails and the spreadsheet to determine the validity of the Custodian’s denial of access. Paff v. N.J. Dep’t of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005).
  - The Custodian may have unlawfully denied access to the requested student surveys and must either disclose them, provide a specific lawful basis for denying access, or certify if no surveys exist.
  - The knowing and willful and prevailing party analyses are deferred.
  
7. Thomas S. Chichester v. Cinnaminson Township (Burlington) (2018-74)
  - The Custodian complied with the Council’s February 26, 2020 Interim Order.
  - There is no knowing and willful analysis.
  
8. Andree Friel v. NJ Department of Children and Families (2018-93)
  - The Custodian lawfully denied access to the Complainant’s OPRA request under OPRA. N.J.S.A. 47:1A-9(a); N.J.S.A. 9:6-8.10a; Downing v. N.J. Dep’t of Children & Families, GRC Complaint No. 2010-295 (April 2012).
  
9. Simone Edwards v. Wayne Township Public Schools (Passaic) (2018-99)
  - This complaint should be dismissed because the Complainant withdrew it via e-mail on March 18, 2020.
  
10. Renford Lloyd Wilson v. NJ Office of the Public Defender (2018-105)
  - The Custodian lawfully denied access to the Complainant’s OPRA request because said records are exempt under N.J.S.A. 47:1A-5(k). See Lemon v. N.J. Office of the Pub. Defender, GRC Complaint No. 2015-297 (November 2015).

11. Michael Schulze v. Monmouth County Sheriff's Office (2018-108)

- The Custodian lawfully denied access to the requested surveillance camera footage because same is exempt under OPRA's emergency and security exemptions. N.J.S.A. 47:1A-1.1; Gilleran v. Twp. of Bloomfield, 227 N.J. 159 (2016).

12. Marquis McCray v. NJ Department of Corrections (2018-121)

- 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 response was also insufficient because he failed to respond to each request item individually. Paff, GRC 2007-272.
- The Custodian's failure to locate responsive records until after conducting additional searches following the GRC's request for additional information resulted in an insufficient search and an unlawful denial of access. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep't of Env'tl. Protection, GRC Complaint No. 2007-220 (April 2008). However, the GRC declines to order disclosure because said records were provided to the Complainant.
- There is no knowing and willful violation.

13. Ronald DeMeco v. NJ Department of Corrections (2018-122)

- The Custodian lawfully denied access to the requested records under OPRA and the New Jersey Department of Corrections' ("DOC") regulations. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(12).

14. Al-Qaadir Green v. NJ Department of Corrections (2018-123)

- The Custodian lawfully denied access to the requested records under OPRA and DOC's regulations. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(10).

15. Joseph M. Longo v. Camden County Municipal Utilities Authority (2018-124)

- This complaint should be tabled for additional review.

16. Ahmad I. Ali v. Hudson County Community College (2018-139)

- 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 no records existed. Pusterhofer, GRC 2005-49.
- There is no knowing and willful violation.

17. Ronald DeMeco v. Bergen County Sheriff's Office (2018-140)

- The Custodian lawfully denied access to the Complainant's OPRA request because no records existed. Pusterhofer, GRC 2005-49.

18. Christopher W. Hager, Esq. (o/b/o Brian Geschwindt) v. Bernards Township (Somerset) (2018-148)
- The Complainant’s request seeking “all documents” and “all records” is invalid. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005); Lagerkvist v. Office of the Governor of N.J., 443 N.J. Super. 230, 236-37 (App. Div. 2015); Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-147, *et seq.* (July 2012).
  - The Complainant is not a prevailing party.
19. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Neptune City Police Department (Monmouth) (2018-153)
- This complaint should be dismissed because the Complainant withdrew it via e-mail on March 12, 2020.
20. Michael T. Braden v. Township of Lacey (Ocean) (2018-159)
- The Custodian lawfully assessed a fee of \$5.00 per responsive accident report because the Complainant sought same “other than in person.” N.J.S.A. 47:1A-5(b); N.J.S.A. 39:4-131; Truland v. Borough of Madison, GRC Complaint No. 2006-88 (September 2007).
21. Tariq Elliot v. Keansburg Police Department (Monmouth) (2018-176)
- The Custodian lawfully denied access to the Complainant’s OPRA request because no records existed. Pusterhofer, GRC 2005-49.
22. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Eagleswood Township (Ocean) (2018-192)
- The Custodian lawfully denied access to the subject OPRA request because she was not required to obtain records not made or maintained by, or on behalf of, the Township. Bent v. Stafford Police Dep’t, 381 N.J. Super. 30 (App. Div. 2005).
  - The Complainant is not a prevailing party.
23. Omar J. Ross, Sr. v. NJ Department of Corrections (2018-202)
- There was no unlawful denial of access because the Custodian assessed a copy cost and was not required to disclose the records until receipt of said payment. N.J.S.A. 47:1A-5(b); Reid v. N.J. Dep’t of Corr., GRC Complaint No. 2010-83 (May 2011).
24. Thomas Volscho v. West Orange Board of Education (Essex) (2018-205)
- The Custodian lawfully redacted telephone numbers present in the disclosed incoming and outgoing logs. N.J.S.A. 47:1A-1.1; Livecchia v. Borough of Mt. Arlington, 421 N.J. Super. 24 (App. Div. 2011).
  - The Custodian’s failure to obtain and provide detailed cell phone bills resulted in an unlawful denial of access. N.J.S.A. 47:1A-6. The Custodian must either obtain and disclose the responsive cell phone bills, with redactions, or certify if no records could be obtained and disclosed.
  - The knowing and willful analysis is deferred.

25. Edgardo Collazo v. County of Passaic (2018-213)

- The Custodian lawfully denied access to the Complainant's OPRA request because no records existed. Pusterhofer, GRC 2005-49.

26. Jessica Bishop v. County of Salem (2018-214)

- The Custodian's failure to timely respond, immediately (where applicable) and within the statutory time frame (where applicable), resulted in a "deemed" denial. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Complainant's request item Nos. 1 and 2 seeking text messages and e-mails were invalid because they did not include the subject or content of the records sought. Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-7 (April 2010); Verry v. Borough of South Bound Brook (Somerset), GRC Complaint No. 2009-124 (April 2010).
- The Custodian failed to disclose the requested purchase orders and invoices sought, instead opting to disclose a vendor activity report. Thus, an unlawful denial of access occurred, and the Custodian must disclose the actual records sought. N.J.S.A. 47:1A-6.
- The knowing and willful and prevailing party fee analyses are deferred.

27. Luis F. Rodriguez v. Kean University (2018-215)

- The Custodian timely responded to the Complainant's August 23, 2018 OPRA request. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian timely responded to the Complainant's September 6, 2018 OPRA request based on reasonable extensions of time. Ciccarone v. N.J. Dep't of Treas., GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014).
- No unlawful denial of access to the September 6, 2018 OPRA request occurred because the Custodian provided all records that existed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).

28. Rotimi Owoh, Esq. (o/b/o/ African American Data & Research Institute) v. City of Atlantic City (Atlantic) (2018-247)

- The Custodian's failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
- The Custodian may have unlawfully denied access to the requested records. N.J.S.A. 47:1A-6. The Custodian must either disclose the requested records or certify if no such records exist.
- The knowing and willful and prevailing party analyses are deferred.

29. Dale L. Archer v. County of Gloucester (2018-270)

- The Custodian's failure to properly respond, as the subject OPRA request did not require clarification, 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 bore her burden of proof that the assessed special service charge was warranted and reasonable. N.J.S.A. 47:1A-5(c). Thus, the Custodian shall disclose the responsive records upon receipt of the applicable payment.



- The knowing and willful and prevailing party analyses are deferred.
30. Eugen Tarnow v. NJ Motor Vehicle Commission (2018-296)
- The Complainant’s request was invalid because it asked questions and failed to seek identifiable records. MAG, 375 N.J. Super. at 546; Watt v. Borough of N. Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009).
31. Adam C. Miller v. Township of Lawrence (Mercer) (2018-313)
- The Custodian failed to bear her burden of proof that she lawfully withheld records on the basis that the Complainant already possessed them. Bart v. City of Paterson Hous. Auth., 403 N.J. Super. 609 (App. Div. 2008).
  - The Complainant’s request item Nos. 1 through 4, 6 through 26, 28, 30 through 58, 59, 60, 61 are invalid. MAG, 375 N.J. Super. at 546.
  - The Custodian lawfully denied access to the Complainant’s OPRA request item No. 9 under the criminal investigatory exemption. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp., Inc., 229 N.J. 541.
  - The Custodian failed to bear her burden of proof that she lawfully denied access to records responsive to OPRA request item Nos. 5 and 27. N.J.S.A. 47:1A-6. Thus, the Custodian shall disclose the requested records to the Complainant.
  - The knowing and willful analysis is deferred.
32. James Babb v. NJ Department of Health (2019-27)
- This complaint should be tabled for additional review.

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

**VIII. Complaints Adjudicated in United State District Court**

- Kenny v. Porrino, 2020 U.S. Dist. LEXIS 33035 (D.N.J. Feb. 26, 2020)

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

- Dig. First Media v. Ewing Twp., 2020 N.J. Super. LEXIS 18 (App. Div. 2020)
- Bozzi v. Borough of Roselle Park, 2020 N.J. Super. LEXIS 21 (App. Div. 2020)
- Bozzi v. City of Jersey City, 2020 N.J. Super. Unpub. LEXIS 678 (App. Div. 2020)

**X. 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.\*

**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.