



**Minutes of the Government Records Council
September 29, 2022 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:31 p.m. by Ms. Robin Berg Tabakin via Microsoft Teams.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag.

- **Meeting Notice**

Ms. Berg Tabakin read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on September 26, 2022.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Jennifer Killough-Herrera, Esq. (designee of Department of Education Acting Commissioner Dr. Angelica Allen-McMillan), John Alexy (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver), and Steven Ritardi, Esq., Public Member.

GRC Staff in Attendance: Frank F. Caruso (Executive Director), Rosemond Bordzoe (Secretary), John Stewart (Mediator), Samuel Rosado (Staff Attorney), and Deputy Attorney General Debra Allen.

II. Executive Director’s Report:

Current Statistics

- Since OPRA’s inception in July 2002, the GRC has received 6,465 Denial of Access Complaints. That averages about 323 annual complaints per a little more than 20

tracked program years. So far in the current program year (FY2023), the GRC has received 210 Denial of Access Complaints, a program year record.

- 703 of the 6,465 complaints remain open and active (10.9%). Of those open cases:
 - 9 complaints are on appeal with the Appellate Division (1.3%);
 - 33 complaints are currently in mediation (4.7%);
 - 4 complaints are proposed for the Office of Administrative Law (0.6%);
 - 29 complaints await adjudication by the Office of Administrative Law (4.1%);
 - 67 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (9.5%);
 - 561 complaints are work in progress (79.8%); and
 - 0 complaints are being held in abeyance (0.0%).

The GRC emphasizes that it has already received 210 complaints in FY2023 and continues to climb well above the agency high in CY filing at 526. In the last five (5) months alone, the GRC has received 439 complaints that have been assigned to a complaint manager, which has eclipsed the total number of complaints filed in each of the GRC's twenty (20) program years.

The significant uptick in complaints both filed in FY2023 and awaiting adjudication is due to two (2) individuals. However, one of those individuals has been particularly aggressive in recent months. Specifically, this individual has filed 123 complaints, all against the same agency, in FY2023 (58.6% of all filed complaints). It also appears that the individual has either created anonymous e-mail addresses or included others, as the total anonymous complaint filings in this fiscal, again against the same agency, is at 134 (63.8% of all complaints filed). The individual or individuals also accounts for 191 complaints filed since April 18, 2022, an average of nearly 40 complaints filed per month and nearly 1.7 complaints per workday during that span.

- Since Program Year 2004, the GRC has received and responded to 36,215 total inquiries, averaging about 1,906 annual inquiries per a little more than 19 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2023), the GRC has received 355 inquiries (5.8 inquiries per workday).

GRC Regulations

- The GRCs proposed regulations with amendments are set for promulgation on October 3, 2022, barring any unforeseen circumstances. This promulgation will come with significant changes to the GRC's operations; an OPRA Alert is presently being crafted to identify some of the most important changes. The GRC notes that its proposed regulations with amendments have been posted on the GRC's homepage since May 16, 2022, the day that same were published in the New Jersey Register, and the comments period closed on July 15, 2022.

Additionally, as part of the pending promulgation, the GRC has been considering the possibility of sending out administrative dispositions regarding withdrawals and mediation settlements simultaneous to those complaint outcomes, as opposed to waiting until after monthly meetings as is the current practice. With the Council's agreement, the GRC will continue to consider this issue and develop a reasonable procedure to carry out this action going forward.

III. Closed Session:

- Lynn Petrovich v. Township of Ocean (Monmouth) (2019-226) (**SR Recusal**) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

Ms. Berg Tabakin called for a motion to go into closed session. Mr. Alexy made a motion, and Ms. Killough-Herrera seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 1:42 p.m. until 1:48 p.m. Mr. Ritardi recused.

Ms. Berg Tabakin called for a motion to end the closed session. Ms. Killough-Herrera made a motion, which was seconded by Mr. Alexy. The Council adopted the motion by a unanimous vote. Open Session reconvened at 1:49 p.m., and Ms. Bordzoe called roll.

- Present: Robin Berg Tabakin, Jennifer Killough-Herrera, John Alexy, and Steven Ritardi.

IV. Approval of Minutes of Previous Meetings:

August 30, 2022 Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the August 30, 2022 meeting. Mr. Alexy made a motion, which was seconded by Ms. Killough-Herrera. The motion passed by a unanimous vote.

August 30, 2022 Closed Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the August 30, 2022 meeting. Mr. Alexy made a motion, which was seconded by Ms. Killough-Herrera. The motion passed by a unanimous vote.

V. New Business – Cases Scheduled for Adjudication

Ms. Berg Tabakin stated that 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 reason for the Administrative Disposition is under each complaint below:

A. Administrative Disposition Adjudications with Recusals (Consent Agenda):

Ms. Berg Tabakin noted that Mr. Ritardi was recused from Agenda items No. 1 through 8.

1. **John Doe v. Township of Irvington (Essex) (2022-451) (SR Recusal)**
 - Unripe Cause of Action.
2. **John Doe v. Township of Irvington (Essex) (2022-452) (SR Recusal)**
 - Unripe Cause of Action.
3. **John Doe v. Township of Irvington (Essex) (2022-453) (SR Recusal)**
 - Unripe Cause of Action.
4. **John Doe v. Township of Irvington (Essex) (2022-457) (SR Recusal)**
 - Unripe Cause of Action.
5. **John Doe v. Township of Irvington (Essex) (2022-473) (SR Recusal)**
 - Unripe Cause of Action.
6. **Anonymous v. Township of Irvington (Essex) (2022-481) (SR Recusal)**
 - Unripe Cause of Action.
7. **John Doe v. Township of Irvington (Essex) (2022-492) (SR Recusal)**
 - Unripe Cause of Action.
8. **Anonymous v. Township of Irvington (Essex) (2022-496) (SR Recusal)**
 - Unripe Cause of Action.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions, noting that Mr. Ritardi was recused from these matters. Mr. Alexy made a motion, which was seconded by Ms. Killough-Herrera. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin noted that Mr. Alexy was recused from the next matter.

9. **Richard DeLuccia v. NJ Department of Community Affairs, Division of Housing & Community Resources (2022-458) (JA Recusal)**
 - No Correspondence Received by the Custodian.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition noting that Mr. Alexy was recused from this matter. Ms. Killough-Herrera made a motion, which was seconded by Mr. Ritardi. The motion passed by a unanimous vote; Mr. Alexy recused.

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

1. **Jeremiah A. Jackson v. Atlantic County Prosecutor's Office (2021-118)**
 - No Correspondence Received by the Custodian.
2. **Larry Beauchamp v. NJ Department of Corrections (2021-134)**
 - No Records Responsive to the Request Exist.
3. **Brian K. Walden, Jr. v. NJ Department of Corrections (2021-135)**
 - No Records Responsive to the Request Exist.

4. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Wildwood Crest Borough Police Department (Cape May) (2022-126)**
 - Duplicate Complaint Filed With the GRC.
5. **Scott Madlinger v. Berkeley Township (Ocean) (2022-411)**
 - No Records Responsive to the Request Exist.
6. **Kevin Lawrence Conley v. Atlantic County (2022-422)**
 - No Correspondence Received by the Custodian.
7. **Kevin Lawrence Conley v. County of Bergen (2022-423)**
 - No Correspondence Received by the Custodian.
8. **Armed Rashon Barkley v. NJ State Cancer Registry (2022-471)**
 - Not a Valid OPRA Request.
9. **Armed Rashon Barkley v. National Cancer Registrars Association, Inc. (2022-472)**
 - Request Made to a Non-Public Agency.

Ms. Berg Tabakin called for a motion to accept the recommendations as written in all the above Administrative Complaint Dispositions. Mr. Alexy made a motion, which was seconded by Ms. Killough-Herrera. The motion passed by a unanimous vote.

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

1. **Gary L. Koenigsberg, Esq. (o/b/o GUESUALDO 4, LLC.) v. Town of Morristown (Morris) (2022-389)**
 - Complaint Settled in Mediation.
2. **David Weiner v. City of Newark (Essex) (2022-394)**
 - Complaint Voluntarily Withdrawn.
3. **Shakima K. Thomas v. City of Newark (Essex) (2022-406)**
 - Complaint Voluntarily Withdrawn.

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

A. Individual Complaint Adjudications with Recusals:

A brief summary of the Executive Director’s recommended action is under each complaint:

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for Agenda items No. 1 and 2 to ensure his non-participation in the items from which he was recused. Mr. Caruso confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda items.

1. **Lynn Petrovich v. Township of Ocean (Monmouth) (2019-226) (SR Recusal)**
 - The Custodian complied with the Council’s May 19, 2020 Interim Order.
 - The Custodian shall comply with the *In Camera* Examination findings.
 - The Custodian must disclose all portions of the responsive e-mails not otherwise exempt. Ray v. Freedom Acad. Charter Sch. (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).

- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

2. **Ivery Brinson v. Essex County Prosecutor's Office (2021-125) (SR Recusal)**

- The portion of the Complainant's request seeking "all documents" is invalid. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005); Morgano v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2007-156 (February 2008).
- The Custodian lawfully denied access to the Complainant's OPRA request item No. 1 seeking police reports 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, 546 (2017).
- The Custodian lawfully denied access to OPRA request item Nos. 2, 3, 4, and 5 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 OPRA request item No. 6 seeking criminal histories. N.J.S.A. 47:1A-9(a); Executive Order No. 9 (Gov. Hughes, 1963); Lewis v. Union Cnty. Prosecutor's Office, GRC Complaint No. 2016-131 (Interim Order dated March 27, 2018).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

B. Individual Complaint Adjudications with no Recusals:

1. **Charles K. Hewitt v. City of Millville (Cumberland) (2019-154)**

- The Council should dismiss this complaint because the Complainant withdrew it in writing via e-mail on September 13, 2022.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

2. **David O'Sullivan v. Borough of Montvale (Bergen) (2019-193)**
 - The Custodian complied with the Council's August 30, 2022 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.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

3. **Jennifer Bondarew v. Township of Howell (Monmouth) (2020-54)**
 - The Custodian complied with the Council's August 30, 2022 Interim Order.
 - There is no knowing and willful violation.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

4. **Rotimi Owoh, Esq. (o/b/o Baffi Simmons) v. Glassboro Police Department (Gloucester) (2020-157)**
 - Because the parties failed to settle the fee issue, and because Complainant's Counsel submitted a timely fee application, the Council should determine the amount of awardable fees.
 - Based on an incomplete record, Complainant's Counsel shall submit an amended time log that is compliant with N.J.A.C. 5:105-2.13(b)(5) within five (5) business days of this Order.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

5. **Rotimi Owoh, Esq. (o/b/o Baffi Simmons) v. Hopatcong Police Department (Sussex) (2020-162)**
 - Because the parties failed to settle the fee issue, and because Complainant's Counsel submitted a timely fee application, the Council should determine the amount of awardable fees.
 - Based on an incomplete record, Complainant's Counsel shall submit an amended time log that is compliant with N.J.A.C. 5:105-2.13(b)(5) within five (5) business days of this Order.

- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

6. **Scott Madlinger v. Berkeley Township Police Department (Ocean) (2021-21)**

- The Custodian’s failure to locate responsive records until after the filing of this complaint resulted in an insufficient search. Schneble v. N.J. Dep’t of Env’tl. Protection, GRC Complaint No. 2007-220 (April 2008).
- The Custodian’s assertion that no records existed amounted to an unlawful denial of access. N.J.S.A. 47:1A-6. However, the Council should decline to order disclosure because the Custodian did so on January 19, 2021.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

7. **Enza Cannarozzi v. Jersey City Board of Education (Hudson) (2021-73)**

- The Council should dismiss this complaint because the Complainant withdrew it in writing via e-mail on September 9, 2022.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

8. **Enza Cannarozzi v. Jersey City Board of Education (Hudson) (2021-74)**

- The Custodian failed to comply with the Council’s July 26, 2022 Interim Order.
- The GRC must conduct an *in camera* review of the contract to determine the validity of the Custodian’s assertion that same was lawfully denied under the competitive advantage 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

9. **Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-75)**

- The current Custodian did not fully comply with the Council's August 30, 2022 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

10. **Steven G. Mlenak, Esq. (o/b/o SJ 660 LLC) v. Borough of Edgewater (Bergen) (2021-90)**

- 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 Council should decline to order disclosure of records responsive to OPRA request Item No. 1 because the Custodian did so on June 10, 2021.
- The Custodian lawfully denied access to OPRA request item Nos. 2 and 3 because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- The GRC must conduct an *in camera* review of the records responsive to OPRA request item No. 4 to determine the validity of the Custodian's assertion that same were lawfully denied under the "inter-agency, or intra-agency advisory, consultative, or deliberative material" exemption. N.J.S.A. 47:1A-1.1; Paff, 379 N.J. Super. 346.
- The Complainant's OPRA request item No. 5 is valid. Burke v. Brandes, 429 N.J. Super. 169 (App. Div. 2012); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010). Thus, the Custodian may have unlawfully denied access to this OPRA request item. N.J.S.A. 47:1A-6. The Custodian shall search for, locate, and disclose responsive records or certify if none exist.
- The knowing and willful and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

11. **Peter O'Reilly v. City of East Orange (Essex) (2021-117)**

- The responsive ASCII files from Edmunds Gov. Tech were disclosable records that did not require creation. Paff v. Galloway Twp., 229 N.J. 340 (2017); Hall v. City of East Orange (Essex), GRC Complaint No. 2013-211 (Interim Order dated March 25, 2014). Further, the evidence of record indicates that Annmarie Corbitt committed the denial here. N.J.S.A. 47:1A-6. Thus, the Custodian shall obtain from Ms. Corbitt and disclose the responsive files to the Complainant.
- The knowing and willful analysis is deferred.

- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

12. Mark Chatfield v. NJ Department of Corrections (2021-121)

- Several portions of the Complainant’s request were invalid. MAG, 375 N.J. Super. 534; Feiler-Jampel v. Somerset Cnty. Prosecutor’s Office, GRC Complaint No. 2007-190 (Interim Order dated March 26, 2008); Elcavage, GRC 2009-07.
- The Custodian may have unlawfully denied access to the requested “pictures” and “sounds recordings.” N.J.S.A. 47:1A-6. The Custodian shall search for and disclose those records, assert an exemption, or certify if none exist.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

13. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-131)

- The Custodian timely responded to the subject OPRA request and thus no unlawful denial of access occurred. 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).
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

14. Shaquille Crawley v. County of Burlington (2021-175)

- The Custodian lawfully denied access to the subject OPRA request because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49; Perry v. N.J. Dep’t of Corr., GRC Complaint No. 2012-237 (June 2013).
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

15. **Adam Ponsi v. Long Branch Housing Authority (Monmouth) (2021-178)**

- The Custodian’s failure to respond 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).
- The Custodian’s failure to locate the responsive Form until after the filing of this complaint resulted in an insufficient response. Schneble, GRC 2007-220.
- The Custodian also performed an insufficient search for responsive e-mails. The Custodian shall search for and disclose those e-mails responsive to the OPRA request to exclude those composed by or sent directly to the Complainant. If no records exist, the Custodian shall certify to this fact.
- The Custodian lawfully denied access to the Form under the insurance communication exemption. N.J.S.A. 47:1A-1.1; Rivera v. City of Passaic (Passaic), GRC Complaint No. 2011-214 (Interim Order dated July 31, 2012).
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

16. **Ama Quakyi v. Irvington Board of Education (Essex) (2021-204)**

- The Custodian unlawfully denied access to the requested attendance records. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-10; Burdick v. Franklin Twp. Bd. of Educ. (Hunterdon), GRC Complaint No. 2007-74 (Interim Order dated October 31, 2007). However, the Custodian did not unlawfully deny access to the exact times Ms. Coleman worked on the days in question because there is no record containing said information. Matthews, Jr. v. City of Atlantic City (Atlantic), GRC Complaint No. 2008-123 (February 2009).
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

17. **Richard Battaglia v. Hanover Township Police Department (Morris) (2021-210)**

18. **Richard Battaglia v. Hanover Township Police Department (Morris) (2021-211)**

Consolidated

- The Custodian and Ms. Hertzig’s responses were sufficient and no OPRA violation occurred. N.J.S.A. 47:1A-5(g); Valdes v. N.J. Dep’t of Educ., GRC Complaint No. 2010-256 (March 2012).
- The Custodian lawfully denied access to OPRA request No. 1 because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- The Custodian lawfully denied access to OPRA request No. 2 under OPRA and the Internal Affairs Policies and Procedures. N.J.S.A. 47:1A-10; Rivera v.

Union Cnty. Prosecutor's Office, 250 N.J. 124 (2022); Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (March 2004).

- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

19. **Tineen Howard v. NJ Department of Labor & Workforce Development, Division of Temporary Disability Insurance (2022-285)**

- 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's failure to respond 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).
- The Custodian may have unlawfully denied access to responsive records. N.J.S.A. 47:1A-6. The Custodian shall search for and disclose responsive records or certify if none exist.
- The knowing and willful analysis is deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Alexy made a motion and Ms. Killough-Herrera seconded the motion. The motion passed by a unanimous vote.

VII. Court Decisions of GRC Complaints on Appeal: None

VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None

IX. Public Comment:

- Ms. Taylor Wood (GRC Complaint No. 2022-423): Ms. Wood wanted to know how to reach GRC staff to discuss the Council's adjudication of GRC 2022-423. Ms. Wood was advised to contact her complaint manager following the meeting.
- Ms. Ama Quakyi (GRC Complaint No. 2021-204): Ms. Quakyi asked how she could appeal the Council's decision in GRC 2021-204. Mr. Caruso stated that the available options for challenging a Council decision will be included in cover letters attached to formal decisions disseminated to the parties within five (5) to ten (10) business days after the meeting.

XI. Adjournment:

Ms. Berg Tabakin called for a motion to end the Council meeting. Mr. Alexy made a motion, which was seconded by Ms. Killough-Herrera. The motion passed by a unanimous vote. The meeting adjourned at 2:19 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: November 9, 2022