



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS  
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PHILIP D. MURPHY  
*Governor*

TAHESHA L. WAY  
*Lieutenant Governor*

JACQUELYN A. SUÁREZ  
*Acting Commissioner*

### NOTICE OF MEETING Government Records Council October 3, 2023

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., October 3, 2023, 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**

#### **IV. Approval of Minutes of Previous Meetings:**

August 29, 2023 Open 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):**

1. David Weiner v. County of Essex (2022-216) **(SR Recusal)**
  - Duplicate Complaint Filed with the GRC.
2. Anthony Ramdin v. City of Newark (Essex) (2023-131) **(SR Recusal)**
  - No Records Responsive to the Request Exist.

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

1. Ross Kushner v. NJ Department of Environmental Protection (2022-18)
  - All Records Responsive Provided in a Timely Manner.

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| <ol style="list-style-type: none"><li>2. Jamal R. Ali v. NJ Department of Treasury (2023-162)</li><li>3. Jamal R. Ali v. NJ Department of Treasury (2023-163) <b>Consolidated</b></li></ol> |
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- No Correspondence Received by the Custodian.
4. Brian McBride v. Borough of Collingswood (Camden) (2023-199)
    - Unripe Cause of Action.
  5. Brian McBride v. Borough of Collingswood (Camden) (2023-200)
    - Unripe Cause of Action.
  6. Brian McBride v. Borough of Collingswood (Camden) (2023-201)
    - Unripe Cause of Action.
  7. Brian McBride v. Borough of Collingswood (Camden) (2023-202)
    - Unripe Cause of Action.
  8. Brian McBride v. Borough of Collingswood (Camden) (2023-203)
    - Unripe Cause of Action.

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

1. Patrick Bender v. Middlesex County Sheriff Department of Corrections (2022-641)
  - Complaint Voluntarily Withdrawn.
2. Lisa Maddox Douglas (o/b/o Public Employees Supervisors' Union) v. County of Essex (2023-45)
  - Complaint Voluntarily Withdrawn.
3. Richard LaBarbiera, Esq. v. City of Union City (Hudson) (2023-55)
  - Complaint Voluntarily Withdrawn.
4. Janet Pizar v. NJ Department of Environmental Protection, Division of Game & Wildlife (2023-110)
  - Complaint Settled in Mediation.
5. Lisa M. Fittipaldi (o/b/o Marcus Fuller) v. City of Paterson Department of Public Works (2023-115)
  - Complaint Voluntarily Withdrawn.
6. Melissa Valenti v. NJ Civil Service Commission (2023-133)
  - Complaint Voluntarily Withdrawn.
7. Daniel J. Pilla v. Mount Laurel Township (Burlington) (2023-187)
  - Complaint Voluntarily Withdrawn.

8. Kevin Kearns v. Rutgers University (2023-207)
  - 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):**

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Mountainside Police Department (Union) (2021-287)
  - *In Camera* Review

## **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. David Weiner v. County of Essex (2021-319) (**SR Recusal**)
  - Detective Lloyd performed an insufficient search. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep’t of Env’tl. Protection, GRC Complaint No. 2007-220 (April 2008).
  - 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 v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
  - The Custodian lawfully denied access to most of the redacted information within the timesheets disclosed in response to OPRA request item Nos. 2 and 3. However, the Custodian unlawfully denied access to responsive officer names. N.J.S.A. 47:1A-10; Barker v. Borough of Lyndhurst (Ocean), GRC Complaint No. 2015-26 (Interim Order dated March 28, 2017). The Custodian shall thus redisclose the timesheets without redaction of the foregoing information.
2. David Weiner v. County of Essex (2022-205) (**SR Recusal**)
  - 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 disclosure because the Custodian responded on May 23, 2022 disclosing all records that existed.
3. David Weiner v. County of Essex (2022-212) (**SR Recusal**)
  - 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 disclosure because the Custodian responded on May 23, 2022 disclosing all records that existed.

4. David Weiner v. County of Essex (2022-213) (**SR Recusal**)
  - 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 disclosure of records responsive to OPRA request item No. 1 because the Custodian did so on September 22, 2022.
  - The Complainant's request item No. 2 is invalid because it failed to identify a specific government record and required research. MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230 (App. Div. 2015).
  - The Custodian unlawfully denied access to the "medical license and related credentials" sought in OPRA request item No. 3. N.J.S.A. 47:1A-6; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010). However, the GRC declines to order disclosure because the Custodian did so on August 29, 2023.
  
5. David Weiner v. County of Essex (2022-215) (**SR Recusal**)
  - 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 disclosure because the Custodian did so on December 29, 2022.

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

1. Benjamin Palombi v. NJ Department of Labor and Workforce Development (2019-122)
  - The Custodian did not comply with the Council's July 27, 2021 Interim Order.
  - This complaint should be referred to the Office of Administrative Law ("OAL") for a hearing to resolve the facts. Semprevivio v. Pinelands Reg'l Sch. Dist. Bd. of Educ. (Burlington), GRC Complaint No. 2007-135 (October 2008).
  
2. Rotimi Owoh, Esq. (o/b/o Baffi Simmons) v. Hopatcong Police Department (Sussex) (2020-162)
  - Complainant's Counsel complied with the Council's September 29, 2022 Interim Order.
  - The Council should find that Complainant's Counsel is entitled to an adjusted fee award of \$1,320.00 representing 4.4 hours of service at \$300.00 per hour with no fee enhancement.
  
3. Larry S. Loigman, Esq. (o/b/o Shlomie Klein) v. Township of Lakewood (Ocean) (2021-154)
  - The Custodian lawfully denied access to the requested records because they involved juvenile delinquency. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.S.A. 2A:4A-60. See also N. Jersey Media Grp. v. Evelina, 2014 N.J. Super. Unpub. LEXIS 2747, 33-36 (November 17, 2014).
  - The Complainant is not a prevailing party.

4. Peter O'Reilly v. Borough of Lawnside (Camden) (2021-173)
  - This complaint should be referred to the OAL for a hearing to resolve the facts. Semprevivio, GRC 2007-135.
  
5. Nicole Contaldi v. Flemington-Raritan Regional School District (Hunterdon) (2021-232)
  - 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 performed an insufficient search. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the GRC declines to order any further action because the record responsive to the September 20, 2021 OPRA request was disclosed on August 30, 2023 and no records responsive to the September 21, 2021 OPRA request existed beyond those already disclosed.
  
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute, Baffi Simmons & Delores Simmons) v. Dover Police Department (Morris) (2021-250)
  - The Custodian performed an insufficient search for "agreements." N.J.S.A. 47:1A-6; Schneble, GRC 2007-220.
  - Notwithstanding the insufficient search, the Custodian's response to the portion of the request seeking settlements was consistent with prevailing case law and the Council's prior decisions. Libertarians for Transparent Gov't v. Cumberland Cnty., 465 N.J. Super. 11 (App. Div. 2020). Thus, the Council should decline to find that an unlawful denial of access occurred. Moore v. N.J. Dep't of Corr., GRC Complaint No. 2009-144 (Interim Order dated October 26, 2010).
  - The Complainant is not a prevailing party.
  
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. North Arlington Borough Police Department (Bergen) (2021-273)
  - The Custodian complied with the Council's August 29, 2023 Interim Order.
  - 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.
  
8. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Ridgewood Police Department (Bergen) (2021-277)
  - 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 performed an insufficient search for "agreements." N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the GRC declines to order disclosure because the Custodian disclosed same on September 8, 2023.
  - 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.

9. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Union Police Department (Union) (2021-285)
  - 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 records responsive to the Complainant’s OPRA request because all were provided. Danis, GRC 2009-156, *et seq.*
  - The Custodian did not unlawfully deny access to the portion of the OPRA request seeking “agreements” because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
  - The Complainant is not a prevailing party.
  
10. Andrei Alexeev v. Ewing Township (Mercer) (2022-4)
  - The Custodian performed an insufficient search. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the GRC declines to order disclosure because the Custodian did so on January 7, 2022.
  
11. Walter Marsico v. Vernon Township (Sussex) (2022-6)
  - The Complainant’s request item Nos. 1 and 3 are invalid because they seek information rather than an identifiable “government record” and fail to include the necessary criteria to seek e-mails respectively. MAG, 375 N.J. Super. 534; LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010).
  - The Custodian lawfully denied access to the remaining request items because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
  
12. Anonymous v. Borough of Haledon (Passaic) (2022-222)
  - No “deemed” denial of access occurred, notwithstanding the unnoticed delivery failure issue encountered by the Custodian. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).

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

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

**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.