



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS  
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*Governor*

TAHESHA L. WAY  
*Lieutenant Governor*

JACQUELYN A. SUÁREZ  
*Acting Commissioner*

### NOTICE OF MEETING Government Records Council December 12, 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., Tuesday, December 12, 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. 2024 Officer Elections**

**III. 2024 Proposed Council Meeting Dates – Final Review**

**IV. Executive Director's Report**

**V. Closed Session**

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

November 8, 2023 Open Session Meeting Minutes

**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 – New Category**

1. Unable to Locate Complainant – This category can be used when the GRC can no longer locate a complainant based on the contact information available to it. Staff should only use this category after exhausting all reasonable avenues of attempting to contact the complainant, including attempts to obtain updated contact information where possible. This category is consistent with the Council's prior decisions including Siddeeq v. N.J. Dep't of Corr., GRC Complaint No. 2009-182, *et seq.* (November 2009); Taylor v. N.J. Dep't of Corr., GRC Complaint No. 2010-319 (May 2012).

**B. Administrative Disposition Adjudications with Recusals (Consent Agenda):**

1. Yusuf Ibrahim v. Hudson County Correctional Center (2023-260) (SR Recusal)
  - Motion to File Within Time Denied.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. High Bridge Police Department (Hunterdon) (2021-335)
  - All Records Provided in a Timely Manner.

2. Jaylin Short v. Township of Irvington (Essex) (2022-548)

3. Jaylin Short v. Township of Irvington (Essex) (2022-585)

4. Jaylin Short v. Township of Irvington (Essex) (2022-624) **Consolidated**

- Unable to Locate Complainant.
5. Anonymous v. Township of Irvington (Essex) (2022-588)
    - Unable to Locate Complainant.
  6. John Doer v. Township of Irvington (Essex) (2022-607)
    - Unable to Locate Complainant.
  7. Caleb L. McGillvary v. NJ Department of Treasury, Division of Revenue (2023-235)
    - No Correspondence Received by the Custodian.
  8. Boris Boretsky v. Middlesex County Prosecutor's Office (2023-259)
    - Motion to File Within Time Denied.

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

1. Shaun Michael Dannenfelsen v. City of Atlantic City (Atlantic) (2023-121)
  - Complaint Settled in Mediation.
2. Paul Tractenberg v. NJ Department of Education (2023-144)
  - Complaint Voluntarily Withdrawn.
3. John Paff v. Borough of Fair Lawn (Bergen) (2023-151)
  - Complaint Voluntarily Withdrawn.
4. Kevin Kearns v. Old Bridge Township (Middlesex) (2023-176)
  - Complaint Settled in Mediation.

5. Yolanda S. Kershaw v. City of East Orange (Essex) (2023-210)
  - Complaint Voluntarily Withdrawn.
6. Christopher Bisono v. Borough of Haddonfield (Camden) (2023-218)
  - Complaint Voluntarily Withdrawn.
7. Alexander Paff v. Little Egg Harbor Municipal Utilities Authority (Ocean) (2023-254)
  - Complaint Voluntarily Withdrawn.
8. John Paff v. NJ Department of Community Affairs, Division of Local Government Services (2023-255)
  - Complaint Voluntarily Withdrawn.
9. Jonathan Arredondo-Calle v. River Vale Police Department (Bergen) (2023-278)
  - Complaint Voluntarily Withdrawn.

### **VIII. 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. Marc Liebeskind v. NJ Department of Transportation (2022-339)
  - *In Camera* Review.

### **IX. 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 (2022-340) (**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 July 25, 2022 disclosing the responsive record.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Oaklyn Police Department (Camden), (2021-305)
  - 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. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep’t of Env’tl. Prot., GRC Complaint No. 2007-220 (April 2008).

However, the GRC declines to order disclosure because the Custodian did so on December 21, 2021 as part of the Statement of Information.

- 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Plainsboro Township Police Department (Middlesex) (2021-309)
    - The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking certain personnel information because all was disclosed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
    - 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.
  3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Saddle River Police Department (Bergen) (2021-328)
    - 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 Complainant is not a prevailing party.
  4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Cliffside Park Police Department (Bergen) (2021-329)
    - 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 Complainant is not a prevailing party.
  5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Bridgeton Police Department (Cumberland) (2021-331)
    - 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 Complainant is not a prevailing party.
  6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Readington Police Department (Hunterdon) (2021-332)
    - The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
    - The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking the "reason for separation", "amount and type of

pension”, and agreements 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 Complainant is not a prevailing party.
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Winfield Police Department (Union) (2021-337)
    - The Custodian’s response was insufficient because he 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 the portion of the Complainant’s OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
    - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking the “reason for separation”, “amount and type of pension”, and agreements because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
    - The Complainant is not a prevailing party.
  8. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Harrison Town Police Department (Hudson) (2021-338)
    - 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 the portion of the Complainant’s OPRA request seeking certain personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
    - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking the “reason for separation”, “amount and type of pension”, and agreements because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
    - The Complainant is not a prevailing party.
  9. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. East Greenwich Police Department (Gloucester) (2021-343)
    - The Custodian unlawfully denied access to the Complainant’s OPRA request seeking certain personnel information on the basis that it was invalid. N.J.S.A. 47:1A-10; Danis, GRC 2009-156, *et seq.*; Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012; Matthews v. City of Atlantic City (Atlantic), GRC Complaint No. 2008-123 (February 2009). The Custodian shall locate and disclose the responsive information or certify if none could be located.
    - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking agreements because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
    - The prevailing party analysis is deferred.
  10. Griselda Muck-Raker v. NJ Department of Banking and Insurance (2022-44)
    - The Complainant’s request is invalid because it failed to identify specific records and would have required research. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005); Elcavage

v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010). Thus, the Custodian lawfully denied access to the subject request. N.J.S.A. 47:1A-6.

**X. Court Decisions of GRC Complaints on Appeal: None.**

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

- Flood v. City of Ocean City, 2023 N.J. Super. Unpub. LEXIS 1993 (App. Div. 2023)
- Madlinger v. Twp. of Independence, 2023 N.J. Super. Unpub. LEXIS 2184 (App. Div. 2023)

**XII. Complaints Adjudicated in U.S. District Court: None.**

**XIII. 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.\*

**XIV. 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.