



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
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Governor

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NOTICE OF MEETING Government Records Council January 30, 2024

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, January 30, 2024 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

- Joseph Semaan v. City of Hackensack (Bergen) (2019-118) *In Camera* Review (N.J.A.C. 5:105-2.8(g)). **(SR Recusal)**

IV. Approval of Minutes of Previous Meetings:

December 12, 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. Anonymous v. Township of Irvington (Essex) (2022-482 *et. al*) (See Appendix A) (**SR Recusal**)
 - Unable to Locate Complainant.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Cape May City Police Department (Cape May) (2021-293)
 - No Correspondence Received by the Custodian.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Mantoloking Police Department (Ocean) (2021-349)
 - All Records Responsive Provided in a Timely Manner.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Woodbury Police Department (Gloucester) (2021-353)
 - All Records Responsive Provided in a Timely Manner.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. West Deptford Police Department (Gloucester) (2021-355)
 - All Records Responsive Provided in a Timely Manner.
5. Anne Vukicevich v. Moorestown Township (Burlington) (2023-241)
 - Motion to File Within Time Denied.
6. Jahkoy Monsanto v. Somerset County Board of Chosen Freeholders (2023-253)
 - No Records Responsive to the Request Exist.
7. Kenneth J. Marr Jr. v. Township of Aberdeen (Monmouth) (2023-280)
 - Not A Valid OPRA Request.
8. Michael McCormick v. NJ Department of Corrections (2023-298)
 - Motion to File Within Time Denied.
9. Boris Boretsky v. Middlesex County Prosecutor's Office (2023-299)
 - Motion to File Within Time Denied.
10. Deepak Kumar v. Moorestown Township (Burlington) (2023-308)
 - Motion to File Within Time Denied.
11. Yeruchom Koslowitz v. Township of Lakewood (Ocean) (2024-9)
 - Motion to File Within Time Denied.

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

1. David Brook, Esq. (o/b/o Thomas Del Casale) v. NJ Department of Law and Public Safety, Division of Law (2023-100)
 - Complaint Settled in Mediation.
2. Din Narain v. County of Hudson (2023-105)
 - Complaint Voluntarily Withdrawn.
3. Kevin Kearns v. Municipality of Princeton (Mercer) (2023-174)
 - Complaint Settled in Mediation.

4. Scott Betsy v. City of East Orange (Essex) (2023-258)
 - Complaint Settled in Mediation.
5. Kevin Kearns v. City of Long Branch (Monmouth) (2023-262)
 - Complaint Voluntarily Withdrawn.
6. Javier De Leon (o/b/o Willie Jones) v. Newark Department of Public Safety (Essex) (2023-289)
 - Complaint Voluntarily Withdrawn.
7. Remi L. Spencer, Esq. (o/b/o Samuel Riyad) v. Borough of Middlesex (Middlesex) (2023-294)
 - Complaint Voluntarily Withdrawn.
8. Yehuda Miller v. Township of Teaneck (Bergen) (2023-310)
 - Complaint Voluntarily Withdrawn.
9. Olivia Liu v. Township of East Windsor (Mercer) (2024-15)
 - 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): None

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. Joseph Semaan v. City of Hackensack (Bergen) (2019-118) (**SR Recusal**)
 - The Custodian timely complied with the Council’s June 29, 2021 Interim Order.
 - The Custodian shall comply with the Council’s *In Camera* Examination Findings.
 - The knowing and willful analysis is deferred.
2. Joseph Holzli v. City of Clifton (Passaic) (2021-113) (**SR Recusal**)
 - The GRC must conduct an *in camera* review of the requested report to determine the validity of the Custodian’s assertion that same was lawfully denied under the “inter-agency, or intra-agency advisory, consultative, or deliberative material” 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 Custodian’s response to the portion of the request seeking personnel records 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 order disclosure.

3. David Weiner v. County of Essex (2022-217) (**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). However, the GRC declines to order any further action because the Custodian responded on April 19, 2022.

4. Bruce Miller v. Hudson County Sheriff’s Office (2022-370) (**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 August 12, 2022 disclosing responsive records.

B. Individual Complaint Adjudications with no Recusals:

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Camden (2018-291)
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Camden (2018-306) **CONSOLIDATED**

- The Council should reconsider its November 10, 2020 Interim Order due to the Appellate Division’s decision in Owoh v. City of Camden, 2023 N.J. Super. Unpub. LEXIS 597 (App. Div.), cert. denied 2023 N.J. LEXIS 1237 (2023), which reversed said Order.
- The Council should rescind Conclusion Nos. 1 and 2 requiring the Custodian to obtain from the Camden County Police Department responsive records for disclosure and instead find that no unlawful denial of access occurred.
- As no violation of OPRA occurred, the GRC will not address the knowing and willful analysis.
- The Complainant is not a prevailing party.

3. Benjamin Palombi v. NJ Department of Labor and Workforce Development (2019-122)

- This complaint should be dismissed because the Complainant withdrew it verbally, which was memorialized in writing by the Office of Administrative Law (“OAL”), on December 28, 2023. No further adjudication is required.

4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Cape May Point Police Department (Cape May) (2021-300)

- 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). However, the GRC declines to order disclosure because the Custodian did so on November 9, 2021 in response to the June OPRA request.
- Notwithstanding the insufficient response, the Custodian did not unlawfully deny access to the Complainant’s OPRA request 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 Complainant is not a prevailing party.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Merchantville Police Department (Camden) (2021-333)
 - The Custodian performed an insufficient search. N.J.S.A. 47:1A-6; Weiner v. Cnty. of Essex, GRC Complaint No. 2013-52 (September 2013). However, the GRC declines to order disclosure because the Custodian did so on December 27, 2021 simultaneous to the Statement of Information (“SOI”).
 - 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 “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 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.
 6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Park Ridge Police Department (Bergen) (2021-340)
 - 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 agreements because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - The Complainant is not a prevailing party.
 7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. East Greenwich Police Department (Gloucester) (2021-343)
 - The Custodian complied with the Council’s December 12, 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. Beverly City Police Department (Burlington) (2021-348)
 - 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’s response to the portion of the request seeking settlements was consistent with prevailing case law and the Council’s prior decisions.

Libertarians, 465 N.J. Super. 11. 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.
9. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. West Amwell Township Police Department (Hunterdon) (2021-350)
- 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. However, the GRC declines to order disclosure because the Custodian did so on February 1, 2022 as part of the SOI.
 - Notwithstanding the insufficient response, 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 agreements because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
 - 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.
10. Paul Salerno v. Township of Piscataway (Middlesex) (2022-191)
- The Custodian failed to timely respond to the Complainant's April 19, 2022 OPRA request and two (2) of the three (3) OPRA requests submitted on May 2, 2022. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
 - Ms. Mitch's response to the Complainant's April 19, 2022 OPRA request was insufficient because she failed to address each request item individually. N.J.S.A. 47:1A-5(g); Paff, GRC 2007-272.
 - A portion of the Complainant's April 19, 2022 request and one (1) of the May 2, 2022 requests was invalid because they sought information and generic records. MAG Entm't, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Bent v. Stafford Police Dep't, 381 N.J. Super. 30, 37 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 236-237 (App. Div. 2015); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009).
 - The Custodian did not unlawfully deny access to the remainder of the Complainant's OPRA requests because all was disclosed. Danis, GRC 2009-156, *et seq.*
11. Dominick Aboosamara v. Borough of Flemington (Hunterdon) (2022-356)
- The Custodian lawfully denied access to the security camera footage responsive to the Complainant's OPRA request because same was exempt under the security and surveillance exemption. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; Gilleran v. Twp. of Bloomfield, 227 N.J. 159, 174-177 (2016).
12. Tineen Howard v. NJ State Police (2022-358)
- The Complainant's request was invalid because it sought generic documents and required research. MAG, 375 N.J. Super. 534; Bent, 381 N.J. Super. 30;

Lagerkvist, 443 N.J. Super. 230; LaMantia, GRC 2008-140. Thus, the Custodian's denial was lawful. N.J.S.A. 47:1A-6.

13. Rafael D. Brito v. NJ Department of Corrections (2022-378)

- This complaint should be dismissed because the Complainant failed to state a claim. Loigman v. Monmouth Cnty. Prosecutor's Office, GRC Complaint No. 2013-342 (July 2014).

14. Kerry Brown v. Borough of Chester (Morris) (2022-383)

- The current Custodian, through Counsel, timely responded in writing. As such, no "deemed" denial occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).

15. Boris Boretsky v. Middlesex County Prosecutor's Office (2023-259)

- The Complainant's request for reconsideration should be denied.

VIII. Court Decisions of GRC Complaints on Appeal:

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

- Dalnoky v. Pinelands Reg'l Sch. Dist., 2023 N.J. Super. Unpub. LEXIS 2241 (App. Div. 2023)
- Fuster v. Twp. of Chatham, 2023 N.J. Super. LEXIS 132 (App. Div. 2023) (App'd for Publication)

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.

Appendix A – Anonymous v. Twp. of Irvington (Essex), Complaint Numbers

1. GRC 2022-482
2. GRC 2022-483
3. GRC 2022-484
4. GRC 2022-487
5. GRC 2022-488
6. GRC 2022-501
7. GRC 2022-502
8. GRC 2022-506
9. GRC 2022-509
10. GRC 2022-511
11. GRC 2022-521
12. GRC 2022-529
13. GRC 2022-537
14. GRC 2022-553
15. GRC 2022-554
16. GRC 2022-555
17. GRC 2022-565
18. GRC 2022-566
19. GRC 2022-583
20. GRC 2022-609
21. GRC 2022-625
22. GRC 2022-626