



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS  
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PHILIP D. MURPHY  
*Governor*

TAHESHA L. WAY  
*Lieutenant Governor*

JACQUELYN A. SUÁREZ  
*Commissioner*

### NOTICE OF MEETING Government Records Council May 21, 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, May 21, 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**

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

April 30, 2024 Open Session Meeting Minutes  
April 30, 2024 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):**

1. Nevel Harris v. Newark Police Department (Essex) (2023-226) **(SR Recusal)**
  - No Correspondence Received by the Custodian.
2. Kevin Alexander v. NJ Office of the Attorney General (2023-281) **(SR Recusal)**
  - No Correspondence Received by the Custodian.
3. Vesselin Dittrich v. City of Hoboken (Hudson) (2024-82) **(SR Recusal)**
  - Motion to File Within Time Denied.

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

1. Rashir Abner v. City of Plainfield Police Department (Union) (2023-240)
  - No Records Responsive to the Request Exist.
2. Juan M. Vazquez v. NJ Department of Treasury, Unclaimed Property Administration (2024-80)
  - Not a Valid OPRA Request.
3. Dmitry Talmazan v. Plainsboro Township Police Department (Middlesex) (2024-84)
  - Not a Valid OPRA Request.
4. Przemyslaw Ryba v. Township of Toms River (Ocean) (2024-91)
  - All Records Responsive Provided in a Timely Manner.
5. Tyler Matthew Neher v. Borough of Seaside Heights (Ocean) (2024-114)
  - Duplicate Complaint Filed With the GRC.

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

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| <ol style="list-style-type: none"><li>1. John Bellocchio v. County of Bergen (2022-65)</li><li>2. John Bellocchio v. County of Bergen (2022-113) <b>CONSOLIDATED</b><ul style="list-style-type: none"><li>• Complaint Voluntarily Withdrawn.</li></ul></li><li>3. Miriam Lowenfield-Jayne v. City of Trenton (Mercer) (2023-92)<ul style="list-style-type: none"><li>• Complaint Voluntarily Withdrawn.</li></ul></li><li>4. Douglas Adams v. City of Somers Point (Atlantic) (2023-268)<ul style="list-style-type: none"><li>• Complaint Settled in Mediation.</li></ul></li><li>5. Kevin Kearns v. Town of Secaucus (Hudson) (2023-309)<ul style="list-style-type: none"><li>• Complaint Settled in Mediation.</li></ul></li><li>6. Robert C. Scutro v. County of Union (2024-1)<ul style="list-style-type: none"><li>• Complaint Settled in Mediation.</li></ul></li><li>7. Katherine Lange-Roberson v. Montclair Public Schools (Essex) (2024-23)<ul style="list-style-type: none"><li>• Complaint Voluntarily Withdrawn.</li></ul></li><li>8. Ernest Anemone v. Brookdale Community College (2024-29)<ul style="list-style-type: none"><li>• Complaint Settled in Mediation.</li></ul></li><li>9. Earl Anderson v. City of Paterson (Passaic) (2024-69)<ul style="list-style-type: none"><li>• Complaint Voluntarily Withdrawn.</li></ul></li><li>10. Joshua Tison v. City of Paterson (Passaic) (2024-83)<ul style="list-style-type: none"><li>• Complaint Voluntarily Withdrawn.</li></ul></li></ol> |
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11. Jose L. Gonzalez Jr. v. City of Newark (Essex) (2024-111)
  - 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. George F. Burdick, Jr. v. Franklin Township Board of Education (Hunterdon) (2024-51)
  - *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. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Baffi Simmons, and Grace Woko) v. Middletown Township Police Department (Monmouth) (2021-108) (**SR Recusal**)
  - 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 lawfully denied access to the Complainant’s OPRA request item Nos. 3, 9, 11, 12, 14 in part, 16, and 17 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 did not unlawfully deny access to the Complainant’s OPRA item Nos. 8, 14 in part, and 15 because all records were 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.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Edison Township Police Department (2022-23) (**SR Recusal**)
  - 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 disclosable personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.* See Owoh, Esq.

(O.B.O. AADARI) v. Voorhees Police Dep't (Camden), GRC Complaint No. 2022-12 (March 2024).

- The Custodian lawfully denied access to the portion of the Complainant's OPRA request seeking any "agreement" because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- The Complainant is not a prevailing party.

3. **Brett J. Verbist v. Morris County Department of Law & Public Safety (2023-1) (SR Recusal)**

- The Custodian 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).

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

1. **Rotimi Owoh, Esq. (o/b/o Baffi Simmons and Grace Woko) v. Borough of Elmer Police Department (Salem) (2021-81)**

- The Custodian did not unlawfully deny access to the responsive personnel information. N.J.S.A. 47:1A-10; Owoh ex rel. Afr. Am. Data & Rsch. Inst. v. Maple Shade Police Dep't Burlington, 2024 N.J. Super. Unpub. LEXIS 445 (App. Div. 2024).
- The Custodian unlawfully denied access to the full names of public employees and must disclose the most comprehensive record containing same. N.J.S.A. 47:1A-10; Danis, GRC 2009-156; Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-64 (Interim Order dated August 28, 2012).
- 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 Delores Simmons and Obafemi Simmons) v. Township of Howell (Monmouth) (2021-102)**

- The Custodian performed an insufficient search to locate records responsive to the Complainant's OPRA request item Nos. 7 and 13. 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 separately on the same day she submitted a Statement of Information.
- The Custodian has borne her burden of proof that the proposed \$5,000.00 special service charge comprising 171 hours at an hourly rate of \$34.00 was warranted and reasonable. Courier Post v. Lenape Reg'l High Sch., 360 N.J. Super. 191, 199 (Law Div. 2002); Owoh, Esq. (O.B.O. AADARI) v. Elizabeth Police Dep't (Union), GRC Complaint No. 2020-39 (Interim Order dated June 29, 2021). Thus, the Custodian shall disclose the responsive records upon payment of the proposed special service charge. Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).
- The Custodian lawfully denied access to the Complainant's OPRA request item Nos. 8-12 because she 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.

3. Yanming Xiao v. NJ State Police (2021-324)
  - The Custodian's request for reconsideration should be denied.
  - The February 27, 2024 Interim Order remains in effect.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Holland Township Police Department (Hunterdon) (2022-22)
  - The Custodian did not fully comply with the Council's March 26, 2024 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.
5. Peter Michel v. Borough of Washington (Warren) (2022-27)
  - This complaint should be dismissed because the Complainant withdrew it via e-mail on May 6, 2024. No further adjudication is required.
6. Joseph Oettinger, Jr. v. Borough of Westwood (2022-54)
  - The Custodian unlawfully denied access to the requested property record cards. N.J.S.A. 47:1A-6; Hopkins v. Monmouth Cnty. Bd. of Taxation, et al., GRC Complaint No. 2014-01, *et seq.* (June 2018). Thus, the Custodian must disclose the requested records, with individual redactions where appropriate, to the Complainant via his preferred method of delivery.
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Flemington Police Department (2022-67)
  - 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 disclosable personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*; Valdes, GRC 2011-64.
  - The Custodian lawfully denied access to the remainder of the Complainant's OPRA request because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
  - The Complainant is not a prevailing party.
8. Richard J. Labinski, Jr. v. Clayton Police Department (Gloucester) (2022-90)
  - The Custodian lawfully denied access to the requested records under the "Prevention of Domestic Violence Act of 1991." N.J.S.A. 47:1A-6; N.J.S.A. 2C:25-33; VanBree v. Bridgewater Twp. Police Dep't (Somerset), GRC Complaint No. 2014-122 (October 2014).
  - The Complainant is not a prevailing party.

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

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

- Brennan v. Bay Head Plan. Bd., 2024 N.J. Super. Unpub. LEXIS 764 (App. Div. 2024)
- Ass'n for Governmental Resp., Ethics & Transparency v. Borough of Mantoloking, 2024 N.J. Super. LEXIS 41 (App. Div. 2024) (Approved 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.