



## State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS  
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*Governor*

TAHESHA L. WAY  
*Lieutenant Governor*

JACQUELYN A. SUÁREZ  
*Commissioner*

### NOTICE OF MEETING Government Records Council June 25, 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, June 25, 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:**

May 21, 2024 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. Tyshawn Feaster v. Essex County Correctional Facility (2022-30) (SR Recusal)
  - No Correspondence Received by the Custodian.

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

1. Kevin Alexander v. Middlesex County Board of Chosen Freeholders (2024-100)
  - Duplicate Complaint Filed With the GRC.
2. Kevin Alexander v. Middlesex County Board of Chosen Freeholders (2024-119)
  - No Records Responsive to the Request Exist.

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

1. Laura Meckler v. South Orange and Maplewood School District (Essex) (2022-657)
  - Complaint Voluntarily Withdrawn.
2. Paul Marinaccio v. Borough of North Plainfield (Somerset) (2023-178)
  - Complaint Voluntarily Withdrawn.
3. Richard LaBarbiera, Esq. (o/b/o Sharon DeLucia) v. Borough of Leonia (Bergen) (2024-17)
  - Complaint Voluntarily Withdrawn.
4. Christine Gurriere v. NJ Department of Health (2024-27)
  - Complaint Settled in Mediation.
5. Maureen Chandra v. City of Jersey City (Hudson) (2024-28)
  - Complaint Settled in Mediation.
6. Jacques Guire III v. West Long Branch Fire Company No. 2 (Monmouth) (2024-45)
  - Complaint Voluntarily Withdrawn.
7. Michael Maselli (o/b/o Lyft, Inc.) v. Township of Willingboro (Burlington) (2024-106)
  - Complaint Voluntarily Withdrawn.
8. Paul L. Tractenberg v. NJ Department of Education (2024-112)
  - Complaint Voluntarily Withdrawn.
9. Laura Mistretta v. City of Jersey City (Hudson) (2024-123)
  - Complaint Voluntarily Withdrawn.
10. Chelsea VanDellen v. Fair Lawn Board of Education (Bergen) (2024-135)
  - 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. Aakash Dalal v. NJ Department of Law and Public Safety, Division of Criminal Justice (2022-55)
  - *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. Stephen Schnitzer, Esq. (o/b/o Vito's Trattoria, Inc.) v. NJ Transit (2016-140) (**SR Recusal**)
  - The current Custodian complied with the Council's April 30, 2024 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.
2. Art Rittenhouse, Jr. v. Borough of Sayreville (Middlesex) (2021-33) (**SR Recusal**)
  - The Council should accept the Administrative Law Judge's June 6, 2024 Initial Decision approving the "Settlement Agreement and Mutual Release" and ordering the parties to comply with the terms thereof.
3. Maria Diamonte v. Rutgers University (2022-25) (**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).
  - The Custodian's failure to respond immediately to OPRA request item No. 4 resulted in a violation of OPRA. N.J.S.A. 47:1A-5(e); Herron v. Twp. of Montclair, GRC Complaint No. 2006-178 (February 2007).
  - 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 did not unlawfully deny access to the Complainant's OPRA item Nos. 1, 2, and 4 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 Custodian lawfully denied access to the letters of reference responsive to the Complainant's OPRA request item No. 3 under the privacy interest exemption. N.J.S.A. 47:1A-1; Burnett v. Cnty. of Bergen, 198 N.J. 408 (2009); Reynolds v. N.J. Bd. of Pub. Util., GRC Complaint No. 2008-14 (August 2009).

4. Stacie Percella v. City of Bayonne (Hudson) (2022-584) **(SR Recusal)**
  - The Custodian timely responded in writing immediately. As such, no “deemed” denial occurred. N.J.S.A. 47:1A-5(e); Ranallo v. City of Trenton (Mercer), GRC Complaint No. 2017-222 (July 2019).
  - The Custodian’s failure to 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 disclosure because the Custodian did so on September 14, 2022.
  - There is no knowing and willful violation.

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

1. Lisa Andreula-Porto v. Cape May County (2020-62)
  - The Council should reject Custodian Counsel’s request for reconsideration based on a “mistake.” However, the Council should suspend the February 27, 2024 Administrative Order pending a response to a request for additional information.
  - To the extent that the Custodian disclosed records in hard copy for the appropriate per-page cost, no violation of OPRA occurred and no refund is warranted. N.J.S.A. 47:1A-5(b). Further, the Custodian was not required to waive or disclose additional hard copy records absent receipt of payment. Reid v. GRC & N.J. Dep’t of Corr., Unpub. LEXIS 2625 (App. Div. 2013); Paff v. City of Plainfield, GRC Complaint No. 2006-54 (July 2006).
  - The Custodian unlawfully denied access to the responsive e-mails (and attachments where applicable) and must disclose same in the “meaningful medium” of .pdf. N.J.S.A. 47:1A-5(d).
  - The knowing and willful analysis is deferred.
2. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, and Grace Woko) v. Park Ridge Police Department (Bergen) (2021-142)
  - The Custodian unlawfully denied access to the responsive records. N.J.S.A. 47:1A-6; Simmons v. Mercado, 247 N.J. 24, 42 (2021). However, the GRC declines to order disclosure because the Custodian did so on March 21, 2021.
  - 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. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute, Baffi Simmons, and Delores Simmons) v. Borough of Leonia (Bergen) (2021-242)
  - 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 unlawfully denied access to requested disclosable personnel information 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); Matthews v. City of Atlantic City (Atlantic), GRC Complaint No. 2008-123 (February 2009).

- 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 v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
  - The prevailing party analysis is deferred.
4. Tucker M. Kelley v. Rockaway Township (Morris) (2021-359)
    - 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 lawfully denied access to the responsive dashcam footage, which was part of an Internal Affairs investigation. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); Internal Affairs Policy & Procedures; Rivera v. Union Cnty. Prosecutor’s Office, 250 N.J. 124, 142-143 (2022).
    - The Complainant is not a prevailing party.
  5. Tucker M. Kelley v. Rockaway Township (Morris) (2022-36)
    - The Custodian’s extensions were unwarranted and unsubstantiated; thus, a “deemed” denial of access occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Ciccarone v. N.J. Dep’t of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014). However, the Council should decline to order disclosure of the responsive records because same were provided on March 4, 2022.
    - There is no knowing and willful violation.
    - The Complainant is not a prevailing party.
  6. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Galloway Township Police Department (Atlantic) (2022-46)
    - 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 performed an insufficient search to locate records responsive to the requested personnel information. 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 as part of Statement of Information.
    - 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 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.
  7. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Atlantic City Police Department (Atlantic) (2022-47)
    - 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.*

- 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 Complainant is not a prevailing party.
8. Andrew Garcia Phillips v. City of Rahway (Union) (2022-59)
- The Custodian’s failure to 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, GRC 2007-124.
  - The Custodian’s failure to respond immediately to OPRA request item Nos. 1 and 4 resulted in a violation of OPRA. N.J.S.A. 47:1A-5(e); Herron, GRC 2006-178.
  - The Custodian did not unlawfully deny access to records responsive to OPRA request item Nos. 1 and 4 because he disclosed them on March 8, 2022. Matthews, GRC 2008-123. Further, the current Custodian cured a technical issue with the disclosed record once made aware of the issue.
  - The Custodian lawfully denied access to OPRA request item Nos. 2, 3, and 5 because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
  - There is no knowing and willful violation.
9. John Bellocchio v. Middlesex County Prosecutor’s Office (2022-60)
- The request seeking “any and all . . . criminal records” was invalid because it failed to specify records and required research. 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). Thus, the Custodian lawfully denied access to the subject request. N.J.S.A. 47:1A-6.
10. Matthew Streger, Esq. (o/b/o Lincoln Park EMS) v. NJ Department of Health (2022-299)
- The Custodian lawfully denied access to the subject OPRA request on the basis that it would substantially disrupt agency operations. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-6; Karakashian v. N.J. Dep’t of Law & Pub. Safety, Div. of Consumer Affairs, Office Bd. of Medical Examiners, GRC Complaint No. 2013-121, *et seq.* (November 2013).
  - The Complainant is not a prevailing party.
11. Marc Liebeskind v. NJ Department of Transportation (2022-569)
- 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).
12. James M. Janone v. Borough of Victory Gardens (Morris) (2023-42)
- 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). See Dittrich v. City of Hoboken, GRC Complaint No. 2008-04 (March 2009).
  - The Custodian unlawfully denied access to the responsive meeting recording and must disclose same. N.J.S.A. 47:1A-6; Burlett v. Monmouth Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2009-49 (February 2010).

**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.