



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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Governor

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Commissioner

NOTICE OF MEETING
Government Records Council
July 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, July 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

- Charles Arentowicz v. Township of Long Hill (Morris) (2022-169) *In Camera* Review
(N.J.A.C. 5:105-2.8(g))

IV. Approval of Minutes of Previous Meetings:

June 25, 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. Kirk D. Campbell v. Hudson County Prosecutor's Office (2024-133) **(SR Recusal)**
 - Motion to File Within Time Denied.
2. Whitney Strub v. Rutgers University (2024-176) **(SR Recusal)**
 - Motion to File Within Time Denied.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. West Milford Police Department (Passaic) (2022-66)
 - All Records Responsive Provided in a Timely Manner.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Highland Park Police Department (Middlesex) (2022-69)
 - All Records Responsive Provided in a Timely Manner.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Hopatcong Police Department (Sussex) (2022-72)
 - All Records Responsive Provided in a Timely Manner.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Franklin Township Police Department (Somerset) (2022-73)
 - All Records Responsive Provided in a Timely Manner.
5. Luis Eduardo Vergara v. Township of Berkeley Heights (Union) (2023-25)
 - All Records Responsive Provided in a Timely Manner.
6. Klarida Papajani v. Pascack Valley Regional High School District (Bergen) (2024-16)
 - No Record Responsive to the Request Exists.
7. Charlette Bey v. Bravo Supermarkets – New Brunswick (Middlesex) (2024-161)
 - Request Made to a Non-Public Agency.
8. Tyrell L. Hicks v. Bravo Supermarkets – New Brunswick (Middlesex) (2024-166)
 - Request Made to a Non-Public Agency.
9. Benu Varghese v. Office of Assemblyman Robert Auth (2024-181)
 - Not Within the Council's Jurisdiction.

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

1. Kathleen Zurich v. Madison Public Schools (Morris) (2024-40)
 - Complaint Settled in Mediation.
2. Kevin Kearns v. Township of Verona (Essex) (2024-59)
 - Complaint Settled in Mediation.
3. Debbie Lynn Fitzgerald v. Neptune Township Police Department (Monmouth) (2024-105)
 - Complaint Voluntarily Withdrawn.
4. Gladys I. Torres v. Town of Hammonton (Atlantic) (2024-143)
 - Complaint Voluntarily Withdrawn.

5. Gladys I. Torres v. City of Camden (Camden) (2024-153)
 - Complaint Voluntarily Withdrawn.
6. Matthew B. Thompson, Esq. v. Township of Edison (Middlesex) (2024-159)
 - Complaint Voluntarily Withdrawn.
7. Andrew H. Graulich, Esq. v. NJ Department of Treasury (2024-178)
 - 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. Perrault Jean-Paul v. City of Jersey City (Hudson) (2020-209) (**SR Recusal**)
 - The Council should accept the Administrative Law Judge’s dismissal of this complaint because of the Complainant’s abandonment thereof.
2. Maria Diamonte v. Rutgers University (2022-61) (**SR Recusal**)
 - The Custodian lawfully denied access to the Complainant’s OPRA request item Nos. 1, 2, 5, and 6 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 records responsive to the Complainant’s OPRA request item No. 3 because she properly referred the Complainant to the location on the internet where said record could be located and also provided a responsive record. Rodriguez v. Kean Univ., GRC Complaint No. 2013-69 (March 2014).
 - The Custodian lawfully denied access to the Complainant’s OPRA request item No. 4 based on the privacy interest. N.J.S.A. 47:1A-1; Diamonte v. Rutgers Univ., GRC Complaint No. 2022-25 (June 2024).

B. Individual Complaint Adjudications with no Recusals:

1. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, & Grace Woko) v. Closter Police Department (Bergen) (2021-126)
 - 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 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 as part of the Statement of Information (“SOI”).
 - The Custodian performed an insufficient search to locate records responsive to the requested agreements. N.J.S.A. 47:1A-6; Weiner v. Cnty. of Essex, GRC Complaint No. 2013-52 (September 2013) (citing Schneble v. N.J. Dep’t of Env’tl. Prot., GRC Complaint No. 2007-220 (April 2008)).
 - The Custodian did not unlawfully deny access to the portion of the Complainant’s OPRA request seeking court complaints 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 portion of the Complainant’s OPRA request seeking complaints filed with Closter Police Department alleging misconduct under the Internal Affairs Policy & Procedures. N.J.S.A. 47:1A-9(a); Rivera v. Union Cnty. Prosecutor’s Office, 250 N.J. 124, 142-43 (2022).
 - The Custodian’s response to the portion of the OPRA 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); Moore v. N.J. Dep’t of Corr., GRC Complaint No. 2009-144 (Interim Order dated October 26, 2010). Thus, the Council should decline to order disclosure here.
 - Although the Custodian lawfully denied access to the redacted portions of two (2) “Use of Force” (“UFR”) reports, he unlawfully redacted the remaining eight (8) UFRs, none of which contained information redactable under Executive Order No. 26 (Gov. McGreevey, 2002). However, the GRC declines to order disclosure because the Custodian did so 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 Delores Simmons, Obafemi Simmons, & Grace Woko) v. Buena Borough Police Department (Atlantic) (2021-183)
 - The Custodian unlawfully denied access to records maintained by another agency pursuant to a shared services agreement. N.J.S.A. 47:1A-6; Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010); Michalak v. Borough of Helmetta (Middlesex), GRC Complaint No. 2010-220 (Interim Order dated January 31, 2012). Thus, the Custodian had an obligation to obtain and disclose responsive records. Meyers v. Borough of Fairlawn, GRC Complaint No. 2005-127 (May 2006).
 - 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 August 26, 2021 and as part of the SOI.

- 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 & Research Institute) v. Mountainside Police Department (Union) (2021-287)
- The current Custodian did not fully comply with the Council's October 3, 2023 Administrative Order.
 - The Custodian unlawfully denied access to the redacted portions of the responsive agreements containing "payroll" information. Palkowitz v. Hasbrouck Heights (Bergen), GRC Complaint No. 2013-199 (Interim Order dated February 24, 2014); Roarty v. Secaucus Bd. of Educ. (Hudson), GRC Complaint No. 2009-221 (January 2011); Jackson v. Kean Univ., GRC Complaint No. 2002-98 (February 2004). However, the GRC declines to order disclosure because the current Custodian provided an unredacted copy to the Complainant on August 8, 2022.
 - 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.
4. Kris Pawelko v. Ramapo Indian Hills High School District (Bergen) (2022-42)
- The Custodian's failure to provide a date certain on which he would respond to the subject OPRA request resulted in a "deemed" denial of access. Hardwick v. N.J. Dep't of Transp., GRC Complaint No. 2007-164 (February 2008).
 - The Custodian lawfully denied access to the Complainant's OPRA request item No. 1 seeking oaths of office because same are exempt from disclosure. N.J.S.A. 47:1A-1.1; Kaufmann, Jr. v. N.J. Office of the Attorney General, GRC Complaint. No. 2022-178 (May 2023).
 - The Custodian lawfully denied access to the Complainant's OPRA request item Nos. 2 and 3 because he certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Ringwood Police Department (Passaic) (2022-70)
- 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 agreements. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the GRC declines to order disclosure because the Custodian did so on May 20, 2022 and July 1, 2024.
 - The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2007-156 (February 2008). The Custodian shall thus locate and provide such records.

- 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. Delaware Township Police Department (Hunterdon) (2022-71)
 - 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 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.
 7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Ridgefield Park Police Department (Bergen) (2022-74)
 - 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 Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes, GRC 2007-156. The Custodian shall thus locate and provide such records.
 - 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. Borough of Prospect Park Police Department (Bergen) (2022-75)
 - 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 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 Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking personnel information because the disclosed spreadsheet was derived from individual physical records. Valdes, GRC 2007-156. The Custodian shall thus locate and provide such records.
 - 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. Princeton Police Department (Mercer) (2022-77)
 - The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking agreements because all records were disclosed. Danis, GRC 2009-156, *et seq.*

- 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 Complainant is not a prevailing party.
10. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Brielle Borough Police Department (Monmouth) (2022-78)
- 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. However, the GRC declines to order disclosure because the Custodian did so as part of the SOI.
 - 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 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 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.
11. Scott Madlinger v. Berkeley Township (Ocean) (2022-114)
- The \$1.05 copying cost assessed by the Custodian for records not responsive to the subject OPRA request was unwarranted and must be refunded to the Complainant. Leibel v. Manalapan Englishtown Reg'l Bd. of Educ., GRC Complaint No. 2004-51 (September 2004).
 - The \$2.50 fee for fifty (50) paper copies of the records in redacted form was lawful. N.J.S.A. 47:1A-5(b). The Custodian is not required to disclose the records until after receiving the Complainant's payment. Santos v. N.J. State Parole Bd., GRC Complaint No. 2004-74 (August 2004).
12. Scott Madlinger v. Berkeley Township (Ocean) (2022-115)
- The \$0.15 fee for additional underestimated paper copies of the records in redacted form was lawful. N.J.S.A. 47:1A-5(b). The Custodian is not required to disclose the records until after receiving the Complainant's payment. Santos, GRC 2004-74.
13. Charles Arentowicz v. Township of Long Hill (Morris) (2022-169)
- The Custodian complied with the Council's January 31, 2023 Administrative Order.
 - The Custodian shall comply with the Council's *In Camera* Examination.
14. Yehuda Miller v. County of Cape May Board of Elections (2022-232)
- The Custodian's failure to provide a specific lawful basis for denial resulted in an insufficient response. N.J.S.A. 47:1A-5(g); Schwarz v. N.J. Dep't of Human Servs., GRC Complaint No. 2004-60 (February 2005).

- The Complainant’s clarified OPRA request was valid. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005). Thus, the Custodian’s denial on the basis of validity was unlawful. N.J.S.A. 47:1A-6.
- The Custodian unlawfully denied access to the requested ballots, which have been separated from any individual voter information. N.J.S.A. 47:1A-6. The Custodian shall thus disclose 100 of the ballots cast in the 2020 general election.

15. Charles Arentowicz v. Township of Long Hill (Morris) (2022-664)

- The responsive “Police Study” constituted “inter-agency or intra-agency advisory, consultative, and deliberative material” not disclosable under OPRA. N.J.S.A. 47:1A-1.1; Educ. Law Ctr. v. N.J. Dep’t of Educ., 198 N.J. 274, 285 (2009); Giambri v. Sterling High Sch. Dist. (Camden), GRC Complaint No. 2014-393, *et seq.* (September 2015). Thus, the Custodian did not unlawfully deny access to the responsive record. N.J.S.A. 47:1A-6.

16. James M. Keefer v. Township of Pennsville (Salem) (2022-669)

- The Custodian lawfully denied access to OPRA request item No. 1 because she certified, and the record reflects, that no records exist. Pusterhofer, GRC 2005-49.
- The Custodian lawfully denied access to OPRA request item Nos. 2 through 4 under the Prevention of Domestic Violence Act. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); N.J.S.A. 2C:25-33; VanBree v. Bridgewater Twp. Police Dep’t (Somerset), GRC Complaint No. 2014-122 (October 2014).

VIII. Court Decisions of GRC Complaints on Appeal:

- Aizen v. New Jersey Dep’t of Children & Families, 2024 N.J. Super. Unpub. LEXIS 1269 (App. Div. 2024)
- Owoh v. Borough of Roselle Police Dep’t, 2024 N.J. Super. Unpub. LEXIS 1479 (App. Div. 2024)

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.