



## 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 August 27, 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, August 27, 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:**

July 30, 2024 Open Session Meeting Minutes  
July 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Sayreville Borough Police Department (Middlesex) (2022-110) **(SR Recusal)**
  - All Records Responsive Provided in a Timely Manner.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Bernards Police Department (Somerset) (2022-79)
  - All Records Responsive Provided in a Timely Manner.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Branchburg Police Department (Somerset) (2022-82)
  - All Records Responsive Provided in a Timely Manner.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Westwood Police Department (Bergen) (2022-96)
  - All Records Responsive Provided in a Timely Manner.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Mount Olive Township Police Department (Morris) (2022-104)
  - All Records Responsive Provided in a Timely Manner.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Voorhees Township Police Department (Camden) (2022-107)
  - All Records Responsive Provided in a Timely Manner.
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Cranbury Police Department (Middlesex) (2022-121)
  - All Records Responsive Provided in a Timely Manner.
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Delanco Township Police Department (Burlington) (2022-122)
  - All Records Responsive Provided in a Timely Manner.
8. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Hopewell Township Police Department (Mercer) (2022-123)
  - All Records Responsive Provided in a Timely Manner.
9. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Hanover Township Police Department (Morris) (2022-127)
  - All Records Responsive Provided in a Timely Manner.
10. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Lower Township Police Department (Cape May) (2022-153)
  - All Records Responsive Provided in a Timely Manner.
11. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Monroe Township Police Department (Gloucester) (2022-154)
  - All Records Responsive Provided in a Timely Manner.
12. Bernard J. Meenan, Jr. v. Township of Edgewater Park (Burlington) (2024-32)
  - No Records Responsive to the Request Exist.
13. Andrea Ryan Vaccariello v. Town of Newton (Sussex) (2024-90)
  - All Records Responsive Provided in a Timely Manner.

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

1. Scott Madlinger v. Ho-Ho-Kus Board of Education (Bergen) (2023-224)
  - Complaint Settled in Mediation.
2. Maximillian Hayden v. Rutgers University (2024-13)
  - Complaint Settled in Mediation.
3. Kevin M. Baron v. Hudson County Prosecutor’s Office (2024-43)
  - Complaint Settled in Mediation.
4. Tyler La Fronz v. NJ Transit (2024-48)
  - Complaint Settled in Mediation.
5. John C. McMahon, Jr. v. Voorhees Township Police Department (Camden) (2024-72)
  - Complaint Settled in Mediation.
6. John C. McMahon, Jr. v. Voorhees Township Police Department (Camden) (2024-78)
  - Complaint Settled in Mediation.
7. Joy Bemby v. City of Newark (Essex) (2024-163)
  - Complaint Voluntarily Withdrawn.
8. William J. Cappuccio v. Township of Mullica (Atlantic) (2024-164)
  - Complaint Voluntarily Withdrawn.
9. Joseph Tarulli v. Township of Cranford (Union) (2024-189)
  - 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. Luis S. Manso v. County of Essex (2022-128) (**SR Recusal**)
  - The Custodian lawfully denied access to user agreements between inmates and Global Tel Link (“GTL”) because they are exempt from disclosure under N.J.A.C. 10A:31-6.10(a)(12). N.J.S.A. 47:1A-9(a); Lugo v. N.J. Dep’t of Corr., GRC Complaint No. 2017-8 (March 2018).
  - The Custodian unlawfully denied access to the contracts between GTL and Essex County Correctional Facility because same are generalized and not

associated with individual inmates. N.J.S.A. 47:1A-6. The Custodian shall disclose the responsive contracts or certify if none exist.

- The portion of the request seeking “types of GTL media” is invalid because it sought information. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534 (App. Div. 2005); LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009). Thus, the Custodian lawfully denied access to same. N.J.S.A. 47:1A-6.

2. Andrew H. Graulich, Esq. v. City of Newark (Essex) (2024-128) (**SR Recusal**)

- The Custodian’s failure to submit a Statement of Information (“SOI”) resulted in a violation of N.J.A.C. 5:105-2.4(a).
- 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).
- The Complainant’s request was invalid because it sought generic “records”. MAG, 375 N.J. Super. 534; 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). Thus, notwithstanding the “deemed” denial, the Custodian did not unlawfully deny access to the request. N.J.S.A. 47:1A-6.
- The Complainant is not a prevailing party.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Haworth Police Department (Bergen) (2022-49)

- 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 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.

2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Lyndhurst Police Department (Bergen) (2022-68)

- The Custodian’s failure to submit a SOI resulted in a violation of N.J.A.C. 5:105-2.4(a).
- The Custodian unlawfully denied access to the portion of the Complainant’s OPRA request seeking disclosable personnel information. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010). The current Custodian shall locate and disclose the responsive personnel information or certify if none exists.

- The Custodian may have unlawfully denied access to the portion of the Complainant’s OPRA request seeking “agreements.” N.J.S.A. 47:1A-6. The current Custodian shall perform a search and either disclose those agreements located or certify if none exist.
  - The prevailing party analysis is deferred.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Ewing Police Department (Mercer) (2022-81)
    - The Custodian lawfully denied access to the portion of the Complainant’s OPRA request seeking “agreement[s]” 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.
  4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Buena Borough Police Department (Atlantic) (2022-83)
    - 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 portion of the Complainant’s OPRA request seeking “agreement[s]” 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.
  5. Scott Madlinger v. Berkeley Township (Ocean) (2022-149)
    - The Custodian violated N.J.S.A. 47:1A-5(f) by seeking a deposit from the Complainant, who filed his OPRA request anonymously, although the anticipated cost was less than \$5.00.
  6. Vincent Lepore v. City of Long Branch (Monmouth) (2022-157)
    - The Custodian’s extensions were warranted and substantiated; thus, no “deemed” denial of access occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Rodriguez v. Kean Univ., GRC Complaint No. 2016-87 (April 2018).
    - The Custodian did not violate OPRA by charging the actual cost associated with disclosing the responsive records on flash drives. The Custodian is not required to disclose the responsive records until the Complainant remits payment of the

actual current cost to disclose the records. Santos v. N.J. State Parole Bd., GRC Complaint No. 2004-74 (August 2004).

7. Marcus L. Kirschenbaum v. Wall Township Public Schools (Monmouth) (2022-259)
  - The Complainant's February 14, 2022 request seeking a list is invalid because it sought information. MAG, 375 N.J. Super. 534; LaMantia, GRC 2008-140. Further, the Complainant's April 11, 2022 requests are invalid because they sought information that would have required research and/or the creation of a record. Id. Thus, the Custodian lawfully denied access to these requests. N.J.S.A. 47:1A-6.
  - The Custodian did not unlawfully deny access to the Complainant's March 22, 2022 OPRA request seeking personnel information because all was disclosed. Danis, GRC 2009-156, *et seq.*
8. John Paff v. Wall Township (Monmouth) (2022-662)
  - The Custodian unlawfully denied access to the portion of the Complainant's OPRA request seeking "payroll records" related to Sgt. Cadigan under the basis that it was invalid. Danis, GRC 2009-156, *et seq.*
  - The Custodian unlawfully denied access to the requested leave status. N.J.S.A. 47:1A-10; Jackson v. Kean Univ., GRC Complaint No. 2002-98 (February 2004). However, the GRC declines to order any further disclosure because the Custodian acknowledged that Sgt. Cadigan was on paid leave during the identified time frame and Complainant's Counsel acknowledged this disclosure.
  - 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.

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

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

- Lotocki v. Port Auth. of N.Y. & N.J., 2024 N.J. Super. Unpub. LEXIS 1930 (App. Div. 2024)
- In re Adoption of N.J.A.C. 5:105-1.6(a)(1), 2024 N.J. Super. LEXIS 84 (App. Div. 2024) (Approved for Publication)
- Szemple v. Morris Cnty. Prosecutor's Off., 2024 N.J. Super. Unpub. LEXIS 1998 (App. Div. 2024)

#### **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. Council Closing Remarks**

**XIII. 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.