



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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Commissioner

NOTICE OF MEETING
Government Records Council
November 7, 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., Thursday, November 7, 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. By-Law Amendments

IV. Election of Vice Chair & Secretary

V. Closed Session

VI. Approval of Minutes of Previous Meetings:

August 27, 2024, Open Session Meeting Minutes

VII. 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. David Weiner v. County of Essex (2023-96) (SR Recusal)
 - **Cannot be adjudicated due to lack of quorum.**
2. David Weiner v. County of Essex (2024-218) (SR Recusal)
 - **Cannot be adjudicated due to lack of quorum.**

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Wyckoff Police Department (Bergen) (2022-89)
 - All Records Responsive Provided in a Timely Manner.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Washington Police Department (Warren) (2022-93)
 - All Records Responsive Provided in a Timely Manner.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Scotch Plains Police Department (Union) (2022-94)
 - All Records Responsive Provided in a Timely Manner.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Little Egg Harbor Police Department (Ocean) (2022-101)
 - No Records Responsive to the Request Exist.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Sea Isle City Police Department (Cape May) (2022-168)
 - All Records Responsive Provided in a Timely Manner.
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Randolph Police Department (Morris) (2022-188)
 - All Records Responsive Provided in a Timely Manner.
7. Rahim Caldwell v. West Deptford Township (Gloucester) (2024-206)
 - Not a Valid OPRA Request.

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

1. Eileen Birmingham v. Borough of Glen Ridge (Essex) (2022-673)
 - Complaint Voluntarily Withdrawn.
2. Kevin Kearns v. City of Englewood (Bergen) (2024-61)
 - Complaint Voluntarily Withdrawn.
3. Diane Csabai v. Borough of Wharton (Morris) (2024-73)
 - Complaint Settled in Mediation.
4. William Robb Graham v. Haddon Heights Board of Education (Camden) (2024-96)
 - Complaint Settled in Mediation.
5. William E. Yago v. Kinnelon Borough (Morris) (2024-101)
 - Complaint Voluntarily Withdrawn.
6. Lisa Douglas v. County of Essex (2024-146)
 - Complaint Settled in Mediation.

7. Yasha Kahn v. Cannabis Regulatory Commission (2024-157)
 - Complaint Settled in Mediation.
8. Andrea Anderson v. Township of West Orange (Essex) (2024-169)
 - Complaint Settled in Mediation.
9. Kevin Kearns v. Bridgewater Township Police Department (Somerset) (2024-212)
 - Complaint Voluntarily Withdrawn.
10. Benjamin Shore v. Cherry Hill Public Schools (Camden) (2024-220)
 - Complaint Voluntarily Withdrawn.

VIII. 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

IX. 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) (2022-317) (**SR Recusal**)
 - **Cannot be adjudicated due to lack of quorum.**
2. Maria Diamonte v. Rutgers University (2022-355) (**RC Recusal**)
 - **Cannot be adjudicated due to lack of quorum.**
3. Maria Diamonte v. Rutgers University (2022-388) (**RC Recusal**)
 - **Cannot be adjudicated due to lack of quorum.**
4. Maria Diamonte v. Rutgers University (2022-398) (**RC Recusal**)
 - **Cannot be adjudicated due to lack of quorum.**

B. Individual Complaint Adjudications with no Recusals:

1. Ali S. Morgano v. NJ Department of Treasury, Division of Pensions & Benefits (2011-145)
 - This complaint should be dismissed because the Complainant failed to appear for multiple hearings before the Office of Administrative Law and did not submit any explanation for said failure.
2. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, & Grace Woko) v. Park Ridge Police Department (Bergen) (2021-142)
 - The Custodian’s request for reconsideration was timely.

- The Council should accept the Custodian’s request for reconsideration based on a “mistake.”
 - The Council should rescind its June 25, 2024 Final Decision conclusion No. 1 and find that the Custodian did not unlawfully deny access to the Complainant’s OPRA request. Simmons v. Mercado, 464 N.J. Super. 77 (App. Div. 2020); Moore v. N.J. Dep’t of Corr., GRC Complaint No. 2009-144 (Interim Order dated October 26, 2010).
 - The Council should rescind its June 25, 2024 Final Decision conclusion No. 2 and find that the Complainant is not a prevailing party.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Leonia (Bergen) (2021-242)
- The current Custodian complied with the Council’s June 25, 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.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Palisades Park Police Department (Bergen) (2021-330)
- 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 August 14, 2024.
 - The Custodian did not unlawfully deny access to the portion of the Complainant’s OPRA request seeking disclosable personnel information 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 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Lyndhurst Police Department (Bergen) (2022-68)
- The Council should dismiss this complaint because the Complainant withdrew it in writing on September 12, 2024.
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Bernardsville Borough Police Department (Somerset) (2022-80)
- 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 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 v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).

- The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking disclosable personnel information because all records were disclosed. Danis, GRC 2009-156, *et seq.*; Owoh, Esq. (O.B.O. AADARI) v. Voorhees Twp. Police Dep't (Camden), GRC Complaint No. 2022-12 (March 2024).
 - The Complainant is not a prevailing party.
7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Barrington Police Department (Camden) (2022-85)
- 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 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.
8. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Pennington Police Department (Mercer) (2022-91)
- The Custodian's failure to timely respond to the subject OPRA request 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 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 records were disclosed. Danis, GRC 2009-156, *et seq.*; Voorhees, GRC 2022-12.
 - The Complainant is not a prevailing party.
9. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Riverton Police Department (Burlington) (2022-97)
- 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.

10. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Winfield Police Department (Union) (2022-98)
- 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 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.
11. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Madison Borough Police Department (Morris) (2022-102)
- 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 records were disclosed. Danis, GRC 2009-156, *et seq.*; Voorhees, GRC 2022-12.
 - 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.
12. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. North Wildwood Police Department (Cape May) (2022-103)
- The Custodian performed an insufficient search to locate records responsive to the portion of the request seeking "agreement." 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 on June 13, 2022 in conjunction with the Statement of Information ("SOI").
 - The Custodian did not unlawfully deny access to the portion of the Complainant's OPRA request seeking disclosable personnel information because all records were disclosed. Danis, GRC 2009-156, *et seq.*; Voorhees, GRC 2022-12.
 - 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.
13. Scott Madlinger v. Berkeley Township (Ocean) (2022-242)
- The Custodian performed an insufficient search to locate records responsive to the requested E-ZPass violations. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the GRC declines to order disclosure because the Custodian did so on July 5, 2022 in conjunction with a response to the GRC's request for additional 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.
14. Scott Madlinger v. Berkeley Township (Ocean) (2022-269)
- The instant complaint filing is not frivolous. N.J.S.A. 47:1A-7(b).
 - The Custodian did not violate OPRA by assessing a copy cost associated with redacting and disclosing the responsive record. N.J.S.A. 47:1A-5(b); Paff v. Twp. of Teaneck (Bergen), GRC Complaint No. 2010-09 (Interim Order dated May 24, 2011). Further, the Custodian was not required to disclose the responsive records until the Complainant remitted the assessed fee. Santos v. N.J. State Parole Bd., GRC Complaint No. 2004-74 (August 2004).
15. Scott Madlinger v. Jackson Township (Ocean) (2022-305)
- The Custodian unlawfully denied access to the Complainant's OPRA request on the basis that same was invalid. N.J.S.A. 47:1A-6; MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005); Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010). The Custodian shall locate and disclose the responsive 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.
16. Scott Madlinger v. Township of Lacey (Ocean) (2022-530)
- 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).
17. Kara Fitzsimmons v. Montclair Board of Education (Essex) (2024-187)
- The Custodian's failure to submit a SOI resulted in a violation of N.J.A.C. 5:105-2.4.
 - The Custodian's failure to timely respond, both within the seven (7) business days and immediately to OPRA request item No. 4, resulted in a "deemed" denial of access and violation of OPRA. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Kohn v. Twp. of Livingston (Essex), GRC Complaint No. 2011-330 (Interim Order dated February 26, 2013).
 - The Complainant's request item Nos. 3 and 5 were invalid because they failed to include all criteria set forth by Elcavage v. West Milford Twp. (Passaic), GRC Complaint No. 2009-07 (April 2010). N.J.S.A. 47:1A-6; Tracey-Coll v. Elmwood Park Bd. of Educ. (Bergen), GRC Complaint No. 2009-206 (June 2010).
 - The Custodian may have unlawfully denied access to the remainder of the Complainant's OPRA request. Thus, the Custodian shall 1) locate and disclose responsive records; 2) identify any records exempt from disclosure in part or whole; or 3) certify if no records exist.
 - The knowing and willful analysis is deferred.

18. This Budz 4 U LLC v. Borough of Haledon (Passaic) (2024-202)

- The Custodian's failure to submit a SOI resulted in a violation of N.J.A.C. 5:105-2.4.
- 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 unlawfully denied access to the Complainant's OPRA request and must disclose the requested minutes and meeting recordings. N.J.S.A. 47:1A-6; Wolosky v. Vernon Twp. Bd. of Educ., GRC Complaint No. 2009-57 (December 2009); Burlett v. Monmouth Cnty. Bd. of Freeholders, GRC Complaint No. 2004-75 (August 2004); Miller v. Westwood Reg'l Sch. Dist. (Bergen), GRC Complaint No. 2009-49 (February 2010).
- 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.

X. Court Decisions of GRC Complaints on Appeal:

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

- Afr. Am. Data & Rsch. Inst. Aadari v. Hitchner, 2024 N.J. Super. Unpub. LEXIS 2059 (App. Div. 2024)
- M.J.L. v. Heiser, 2024 N.J. Super. Unpub. LEXIS 2263 (App. Div. 2024)

XII. Complaints Adjudicated in U.S. District Court:

XIII. 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.*

XIV. 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.