



## 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 December 10, 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, December 10, 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: 126 639 081#

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. 2025 Proposed Council Meeting Dates – Final Review**

#### **IV. Closed Session**

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

November 7, 2024, Open Session Meeting Minutes

#### **VI. 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. Colts Neck Police Department (Monmouth) (2022-105)
  - All Records Provided in a Timely Manner.
2. Victor Malyar v. Monmouth County Board of Taxation (2022-651)
  - No Records Responsive to the Request Exist.
3. Scott Madlinger v. Berkeley Township Police Department (Ocean) (2023-114)
  - All Records Responsive Provided in a Timely Manner.
4. Darlene Esposito v. Mercer County Prosecutor's Office (2024-188)
  - No Responsive Records to the Request Exist.
5. David Wyche v. NJ Department of Law & Public Safety, Division on Civil Rights (2024-216)
  - Motion to File Within Time Denied.
6. Tripp Kendall v. NJ Department of Children and Families (2024-217)
  - Not a Valid OPRA Request.

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

1. Scott Madlinger v. Lacey Township Police Department (Ocean) (2022-533)
  - Complaint Voluntarily Withdrawn.
2. Tamara Rudow Steinberg v. Cherry Hill Public Schools (Camden) (2024-36)
  - Complaint Settled in Mediation.
3. Tamara Rudow Steinberg v. Cherry Hill Public Schools (Camden) (2024-37)
  - Complaint Settled in Mediation.
4. W. Robb Graham v. Lawnside School District Board of Education (Camden) (2024-115)
  - Complaint Voluntarily Withdrawn.
5. Jenna Bloom v. NJ State Police (2024-118)
  - Complaint Settled in Mediation.
6. Robert C. Scutro v. NJ Department of Community Affairs, Division of Codes & Standards (2024-148)
  - Complaint Settled in Mediation.
7. Nelson Dice v. City of Ocean City (Ocean) (2024-150)
  - Complaint Settled in Mediation.
8. Michael Jones v. NJ State Police (2024-151)
  - Complaint Settled in Mediation.
9. David J. Durling v. NJ Department of Corrections (2024-160)
  - Complaint Voluntarily Withdrawn.

10. Sarah Hymowitz, Esq. (o/b/o Arlene Johnson) v. NJ Department of Labor and Workforce Development, Board of Review (2024-228)
  - Complaint Voluntarily Withdrawn.
11. John Paff v. City of Jersey City (Hudson) (2024-239)
  - Complaint Voluntarily Withdrawn.
12. Kevin Kearns v. Borough of Shrewsbury (Monmouth) (2024-243)
  - Complaint Voluntarily Withdrawn.

## **VII. 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**

## **VIII. 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 & SR Recusals**)
  - **Cannot be adjudicated due to lack of quorum.**
3. Maria Diamonte v. Rutgers University (2022-388) (**RC & SR Recusals**)
  - **Cannot be adjudicated due to lack of quorum.**
4. Maria Diamonte v. Rutgers University (2022-398) (**RC & SR Recusals**)
  - **Cannot be adjudicated due to lack of quorum.**

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Burlington Township Police Department (Burlington) (2022-64)
  - The Custodian performed an insufficient search to locate records responsive to the portion of the request seeking “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)). However, the GRC declines to order disclosure because the Custodian did so on April 19, 2022.
  - 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); Owoh, Esq. (O.B.O. AADARI) v. Voorhees Twp. Police Dep't (Camden), GRC Complaint No. 2022-12 (March 2024).

- 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. Manasquan Police Department (Monmouth) (2022-76)
    - 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 "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.
  3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. East Brunswick Police Department (Middlesex) (2022-106)
    - 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.
  4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Chester Township Police Department (Morris) (2022-109)
    - 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 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.
5. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Mansfield Township Police Department (Burlington) (2022-119)
- 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.
6. Scott Madlinger v. Borough of Seaside Heights (Ocean) (2022-535)
- The Custodian lawfully denied access to an e-mail log because she certified, and the record reflects, that no records exist and could not be produced. Pusterhofer, GRC 2005-49.
7. Scott Madlinger v. Lacey Township Police Department (Ocean) (2022-635)
- The Custodian lawfully denied access to the requested computer-aided dispatch reports with narratives under the “inter-agency or intra-agency advisory, consultative, or deliberative material” exemption. N.J.S.A. 47:1A-1.1.
8. Scott Madlinger v. Borough of Seaside Heights (Ocean) (2023-134)
- 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). However, the GRC declines to order disclosure because the Custodian did so prior to, or on the same date of, the expiration of an extended time frame.

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

- Kubiel v. Toms River Dist. No. 1 Bd. of Fire Comm'rs Ocean, 2024 N.J. Super. Unpub. LEXIS 2893 (App. Div. 2024)

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

- Thorpe v. Lt. Kenneth S. Kleinman Ret. CPM, 2024 N.J. Super. Unpub. LEXIS 2738 (App. Div. 2024)
- Hill v. N.J. Dep't of Corr., 2024 N.J. Super. Unpub. LEXIS 2794 (App. Div. 2024)

**XI. Complaints Adjudicated in U.S. District Court:**

**XII. 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 shall be limited to **five (5) minutes** per the GRC's By-Laws. Speakers shall not be permitted to make oral or written testimony regarding pending or scheduled adjudications.\*

**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.