



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
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PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**NOTICE OF MEETING**  
**Government Records Council**  
**April 27, 2021**

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, April 27, 2021 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**

- Judson Moore v. Commercial Township (Cumberland) (2018-309) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Michael Camacho v. NJ Department of Corrections (2020-6) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

**IV. Approval of Minutes of Previous Meetings:**

March 30, 2021 Open Session Meeting Minutes  
March 30, 2021 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):**

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

1. Kevin J. Scank v. NJ Department of Corrections (2020-133)
  - No Correspondence Received by the Custodian.
2. Kevin Alexander v. Middlesex County Board of Chosen Freeholders (2021-29)
  - No Correspondence Received by the Custodian.

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

1. James Carifi v. Township of Parsippany-Troy Hills (Morris) (2020-18)
  - Complaint Voluntarily Withdrawn
2. Chimaobi Amutah v. Rutgers University (2020-217)
  - Complaint Settled in Mediation.
3. Thomas Swartz v. Jersey City Public School District (2021-41)
  - Complaint Voluntarily Withdrawn.
4. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-62)
  - Complaint Voluntarily Withdrawn.
5. Matthew G. Connaughton, Esq. v. North Bergen Municipal Utilities Authority (Hudson) (2021-63)
  - Complaint Voluntarily Withdrawn.

**VI. 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. Elouise McDaniel v. Township of Irvington (Essex) (2019-184) (**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 lawfully denied access to the Complainant's two (2) OPRA requests because no records existed. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
  - There is no knowing and willful violation.
2. Tyshammie L. Cooper v. City of Orange Township (Essex) (2019-223) (**SR Recusal**)
  - The Custodian did not fully comply with the Council's March 30, 2021 Interim Order.
  - There is no knowing and willful violation.

3. Seth I. Davenport, Esq. v. Township of Irvington (Essex) (2020-33) **(SR Recusal)**
  - The Custodian’s failure to timely respond immediately resulted in a “deemed” denial of access. N.J.S.A. 47:1A-5(e).
  - The Custodian unlawfully denied access to responsive records and must disclose them through a viable electronic method. N.J.S.A. 47:1A-6.
  - The knowing and willful analysis is deferred.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Edison Police Department (Middlesex) (2020-55) **(SR Recusal)**
  - The Custodian’s response was insufficient because it did not address each OPRA request item. Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
  - The knowing and willful and prevailing party analyses are deferred.

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

1. Carol Scutro v. City of Linden (Union) (2016-256)
  - The Council should reject the Administrative Law Judge’s Initial Decision and refer the complaint back to the Office of Administrative Law (“OAL”) for a determination as set forth in the October 30, 2018 Interim Order.
2. Judson Moore v. Commercial Township (Cumberland) (2018-309)
  - The Complainant’s request for reconsideration should be denied.
  - The Custodian complied with the Council’s August 25, 2020 Interim Order.
  - The *In Camera* Examination reveals that the Custodian lawfully denied access to the redacted portions of the responsive executive session minutes.
  - The Council should decline to address the knowing and willful issue because no unlawful denial of access occurred.
3. Brittany Olt v. City of Camden (Camden) (2019-88)
  - The Custodian may have unlawfully denied access to records responsive to the Complainant’s clarified OPRA request. N.J.S.A. 47:1A-6. Thus, the Custodian shall initiate a new search and either disclose those records located or certify if no records exist, inclusive of a search explanation from those parties conducting the search.
  - The knowing and willful and prevailing party analyses are deferred.
4. Luis F. Rodriguez v. Kean University (2019-109)
  - This complaint is not barred by a prior Superior Court action because it was administratively dismissed. N.J.S.A. 47:1A-6.
  - The Custodian unlawfully denied access to the names and addresses of public employees leasing Kean-owned housing. N.J.S.A. 47:1A-6; Brennan v. Bergen Cnty. Prosecutor’s Office, 233 N.J. 330 (2018) and must disclose the responsive records without redactions for that information.
  - The knowing and willful and prevailing party analyses are deferred.

5. Jonathan L. Leitman, Esq. v. Borough of Paramus (Bergen) (2019-127)
  - The Custodian’s response was insufficient because it did not address each OPRA request item. Paff, GRC 2007-272.
  - The Custodian lawfully denied access to dashcam recordings from Officer Mordaga’s patrol car because no records existed. Pusterhofer, GRC 2005-49.
  - Due to contested facts, this complaint should be referred to the OAL for a fact-finding hearing to determine whether the Custodian initially disclosed all responsive records. Rivera v. City of Bayonne (Hudson), GRC Complaint No. 2012-86 (Interim Order dated January 29, 2013). Further, if necessary, the OAL should determine whether a knowing and willful violation occurred.
  
6. Roger J. McLaughlin, Esq. (o/b/o Avon Hotel Corp. t/a The Parker House) v. Borough of Sea Girt (Monmouth) (2019-152)
  - 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 GRC declines to order disclosure because the Custodian did so on August 13, 2019.
  - There is no knowing and willful violation.
  
7. Marcella Aylwin v. Egg Harbor City (Atlantic) (2019-191)
  - The GRC must conduct an *in camera* review of the responsive e-mail and attachment to determine the validity of the Custodian’s assertion that same was lawfully denied because it was not a “government record” for purposes of OPRA. Paff v. N.J. Dep’t of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005).
  - The knowing and willful analysis is deferred.
  
8. Carol Scutro v. City of Linden (Union) (2019-207)
  - The Custodian’s response was insufficient because it did not address each OPRA request item. Paff, GRC 2007-272. The Custodian shall search for and disclose any responsive “correspondence” and “court documents” sought or certify if none exist.
  - The portion of the Complainant’s request asking a question is invalid. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Watt v. Borough of North Plainfield (Somerset), GRC Complaint No. 2007-246 (September 2009); Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012)
  - The Custodian lawfully denied access to a CD containing responsive records because none exist. Pusterhofer, GRC 2005-49.
  - The Custodian’s \$2.75 charge for disclosed records was lawful under N.J.S.A. 47:1A-5(b) because the Complainant sought civil litigation records, and not records regarding a criminal incident.
  - There is no knowing and willful violation.
  
9. Kathleen Ma v. Port Authority of NY & NJ (2019-212)
  - The Custodian may have unlawfully denied access to the requested “Drayage Truck Registry” and must either disclose the responsive data or provide a specific lawful basis for denying access to it. N.J.S.A. 47:1A-6; Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010).

- The knowing and willful and prevailing party analyses are deferred.
10. James Pappas v. West Morris Regional High School District (Morris) (2019-229)
    - The Custodian complied with the Council’s February 23, 2021 Interim Order.
    - There is no knowing and willful violation.
  11. Larry S. Loigman, Esq. v. Ocean County Board of Social Services (2019-245)
    - The Custodian lawfully relied on a “Glomar” response when denying access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6; N. Jersey Media Grp., Inc. v. Bergen Cnty. Prosecutor’s Office, 447 N.J. Super. 182 (App. Div. 2016).
  12. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of East Newark (Hudson) (2019-256)
    - The Custodian lawfully denied access to the Complainant’s OPRA request because no records existed. Pusterhofer, GRC 2005-49.
    - The Complainant is not a prevailing party.
  13. Michael Camacho v. NJ Department of Corrections (2020-6)
    - The Custodian did not fully comply with the Council’s February 23, 2021 Interim Order.
    - The Custodian shall comply with the Council’s *In Camera* Examination findings.
    - The knowing and willful analysis is deferred.
  14. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Montgomery Township (Somerset) (2020-10)
    - The Custodian violated N.J.S.A. 47:1A-5(c) by failing to provide the Complainant an opportunity to accept or reject the special service charge prior to it being incurred. N.J.S.A. 47:1A-5(c). Notwithstanding, the charge of \$773.20 was warranted and reasonable. Courier Post v. Lenape Reg’l High Sch. Dist., 360 N.J. Super. 191, 199 (October 28, 2002).
    - There is no knowing and willful violation.
    - The Complainant is not a prevailing party.
  15. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Union (Union) (2020-15)
    - The Custodian lawfully denied access to request item Nos. 1 and 2 because they were invalid and required research. MAG, 375 N.J. Super. 534; Love v. Spotswood Police Dep’t (Middlesex), GRC Complaint No. 2014-223 (Interim Order dated March 31, 2015); Valdes v. Union City Bd. of Educ. (Hudson), GRC Complaint No. 2011-147, *et seq.* (July 2012).
    - The Custodian unlawfully denied access to the Complainant’s OPRA request item No. 3. N.J.S.A. 47:1A-10; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010).
    - The knowing and willful and prevailing party analyses are deferred.

16. Michael I. Inzelbuch, Esq. (o/b/o Fooksman) v. Elizabeth Board of Education (Union) (2020-37)
- The Custodian timely responded and thus no timeliness violation occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Complainant is not a prevailing party.
17. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Bloomfield (Essex) (2020-48)
- The Custodian lawfully denied access to the Complainant's OPRA request because the Township did not possess or maintain the responsive records. N.J.S.A. 47:1A-6; Simmons v. Mercado, 464 N.J. Super. 77 (App. Div. 2020) (certif. granted 244 N.J. 342 (2020)).
  - The Complainant is not a prevailing party.
18. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Lincoln Park (Morris) (2020-49)
- The Custodian may have unlawfully denied access to the requested complaints and summonses. N.J.S.A. 47:1A-6; Merino v. Borough of Ho-Ho-Kus, GRC Complaint No. 2003-110 (July 2004). The Custodian shall conduct a search and either disclose those records located, upon payment of a special service charge if applicable, or certify if no records exist.
  - The knowing and willful and prevailing party analyses are deferred.
19. Rory Moore v. Township of Nutley (Essex) (2020-52)
- The Complainant's request was invalid because it sought information and not identifiable "government records." MAG, 375 N.J. Super. 534; LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009).
20. Jennifer Bondarew v. Township of Howell (Monmouth) (2020-54)
- The Custodian's failure to provide a specific lawful basis for denying access to responsive e-mails results in an insufficient response. N.J.S.A. 47:1A-5(g).
  - The GRC must conduct an *in camera* review of the twelve (12) e-mail chains to determine the validity of the Custodian's assertion that same were exempt under the attorney-client privilege and "inter-agency or intra-agency advisory, consultative, or deliberative material" exemptions. Paff, 379 N.J. Super. 346.
  - The knowing and willful analysis is deferred.
21. Hai Kim Nguyen v. NJ Department of Corrections (2020-61)
- The Custodian lawfully denied access to the Complainant's OPRA request seeking criminal history records. N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(6).
22. Denix Rodriguez v. Elizabeth Police Department (Union) (2020-69)
- The Custodian's response was insufficient because it did not address each OPRA request item. Paff, GRC 2007-272.
  - The Custodian's request item Nos. 1 and 3 are invalid because they ask questions. MAG, 375 N.J. Super. 534; Watt, GRC 2007-246.

- No unlawful denial of access to the disclosed records occurred because the Custodian was not given an opportunity to disclose records in a manner consistent with the Complainant's Denial of Access Complaint wishes. Carter v. Franklin Fire Dist. No. 1 (Somerset), 2019 N.J. Super. Unpub LEXIS 590, 19 (App. Div. 2019).
- There is no knowing and willful violation.

23. Carl Moore v. NJ State Police (2020-79)

- The Custodian lawfully denied access to the requested disciplinary records. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9; N.J.A.C. 13:1E-3.2(a)(4).

24. Kevin Lawrence Conley v. NJ Office of the Public Defender (2020-113)

- The GRC cannot determine who received the subject OPRA request and violated N.J.S.A. 47:1A-5(h).
- The Custodian's failure to locate records until after the filing of this complaint results in an insufficient search. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep't of Env'tl. Protection, GRC Complaint No. 2007-220 (April 2008). However, the GRC declines to order disclosure because same occurred on August 24, 2020.
- There is no knowing and willful violation.

**VII. Court Decisions of GRC Complaints on Appeal:**

**VIII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:**

- Gannett Satellite Info. Network, LLC v. Twp. of Neptune, 2021 N.J. Super. LEXIS 42 (App. Div. 2021) (Approved for Publication)

**IX. 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.\*

**X. 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.