



State of New Jersey  
DEPARTMENT OF COMMUNITY AFFAIRS  
101 SOUTH BROAD STREET  
PO Box 819  
TRENTON, NJ 08625-0819

PHILIP D. MURPHY  
Governor

LT. GOVERNOR SHEILA Y. OLIVER  
Commissioner

**NOTICE OF MEETING**  
**Government Records Council**  
**July 26, 2022**

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 26, 2022 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**

- Edwin Sheppard v. NJ Department of Law and Public Safety, Division of Law (2017-180) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

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

June 28, 2022 Open Session Meeting Minutes  
June 28, 2022 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. Leon Singletary v. Essex County Prosecutor's Office (2022-229) (SR Recusal)
  - No Records Responsive to the Request Exist.

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

1. Jeffrey Voigt v. Village of Ridgewood (Bergen) (2021-69)
  - Duplicate Complaint Filed With the GRC.
2. Leo William Pecarsky v. Surf City Police Department (Ocean) (2021-346)
  - All Records Responsive Provided in a Timely Manner.
3. Levi Brown v. NJ Department of Corrections (2022-133)
  - Unripe Cause of Action.

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

1. Lauren Papaleo, Esq. (o/b/o Barbara Resnick) v. City of Orange Township (Essex) (2021-80)
  - Complaint Voluntarily Withdrawn.
2. Old Bridge PBA Local 127 v. Old Bridge Township (Middlesex) (2021-221)
  - Complaint Voluntarily Withdrawn.
3. Robert C. Scutro v. Union County (2021-357)
  - Complaint Settled in Mediation.
4. William Bauder v. Township of Cranbury (Middlesex) (2022-2)
  - Complaint Settled in Mediation.
5. Joe Thomas v. Winslow Township (Camden) (2022-174)
  - Complaint Settled in Mediation.
6. Yehuda Miller v. Township of Jefferson (Morris) (2022-240)
  - Complaint Voluntarily Withdrawn.
7. John Doe v. Township of Irvington (Essex) (2022-281)
  - Complaint Voluntarily Withdraw.
8. John Doe v. Township of Irvington (Essex) (2022-293)
  - Complaint Voluntarily Withdrawn.
9. John Doe v. Township of Irvington (Essex) (2022-295)
  - Complaint Voluntarily Withdrawn.
10. John Doe v. Township of Irvington (Essex) (2022-319)
  - 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. James J. Creegan, III v. County of Essex (2021-27) **(SR Recusal)**
  - The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
  - 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 may have unlawfully denied access to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. The Custodian must locate and disclose the responsive records, certify if they were already disclosed, or certify if no records existed.
  - The knowing and willful analysis is deferred.
  
2. Rashon Barkley v. Essex County Prosecutor’s Office (2021-72) **(SR Recusal)**
  - The subject OPRA request is invalid because it sought information and not an identifiable “government record.” LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009); Rummel v. Cumberland Cnty. Bd. of Chosen Freeholders, GRC Complaint No. 2011-168 (December 2012); MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 549 (App. Div. 2005).
  
3. John Doe v. Township of Irvington (Essex) (2022-267) **(SR Recusal)**
  - The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
  - This complaint should be dismissed as unripe because the Complainant filed it before the statutory time frame, as extended, expired. Sallie v. N.J. Dep’t of Banking & Ins., GRC Complaint No. 2007-226 (April 2009).

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

1. Edwin Sheppard v. NJ Department of Law and Public Safety, Division of Law (2017-180)
  - The Custodian did not fully comply with the Council’s January 25, 2022 Interim Order.
  - The Custodian lawfully denied access to three (3) of the redacted e-mail bodies under the attorney-client privilege and common interest doctrine. N.J.S.A. 47:1A-1.1; O’Boyle v. Borough of Longport, 218 N.J. 168 (2014). The GRC declines to order any additional disclosures because the responsive e-mails were already disclosed to the Complainant.
  - This complaint should be referred to the Office of Administrative Law (“OAL”) to determine whether the Custodian knowingly and willfully violated OPRA when she provided redacted e-mails to the GRC for *in camera* review inconsistent with the actual disclosure.
  
2. Shirley A. Brown v. NJ Department of Treasury, Division of Lottery (2018-293)
  - The Custodian complied with the Council’s May 31, 2022 Interim Order.
  - There is no knowing and willful violation.

3. E.K. and P.W. (o/b/o W.W.) v. Mantua Township Board of Education (Gloucester) (2020-105)
  - The Custodian’s inability to respond within the extended period due to extenuating circumstances does not rise to the level of a “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Custodian lawfully denied access to Complainants’ OPRA request seeking the contents of WW’s evaluator files because the District had no control over them. N.J.S.A. 47:1A-6; Hittinger v. N.J. Transit, GRC Complaint No. 2013-324 (July 2014).
  - The Custodian did not unlawfully deny access to OPRA request item No. 1a because she certified, and the record reflects, that she disclosed all responsive records that existed. N.J.S.A. 47:1A-6; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010).
  - The Complainant is not a prevailing party.
  
4. M.N. and E.N. (o/b/o A.N.) v. Gloucester Township Board of Education (Camden) (2020-124)
  - The Custodian did not fully comply with the Council’s June 28, 2022 Interim Order.
  - There is no knowing and willful violation.
  - 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. Peter Antonucci v. City of Long Branch (Monmouth) (2020-207)
  - The current Custodian complied with the Council’s May 31, 2022 Interim Order.
  - The Custodian lawfully denied access to the outstanding responsive records because they were exempt from disclosure under OPRA and the Attorney General’s Internal Affairs Policy and Procedures. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(b); Rivera v. Union Cnty. Prosecutor’s Office, 250 N.J. 124 (2022).
  - There is no knowing and willful violation.
  - The Complainant is not a prevailing party.
  
6. Kevin Alexander v. Somerset County Board of Chosen Freeholders (2020-211)
  - The Custodian complied with the Council’s June 28, 2022 Interim Order.
  - There is no knowing and willful violation.
  
7. James A. Brown v. NJ Department of Treasury, Division of Lottery (2020-219)
  - The Custodian shall disclose those records responsive to OPRA request item Nos. 1 and 3 per the Council’s prior decision in Brown v. N.J. Dep’t of Treasury, GRC Complaint No. 2018-293 (Interim Order dated May 31, 2022).
  - The GRC must conduct an *in camera* review of 605 pages of e-mails to determine the validity of the Custodian’s assertion that same were lawfully denied under the attorney-client privilege and work product exemptions. N.J.S.A. 47:1A-1.1; Paff v. N.J. Dep’t of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005). The Custodian shall, if applicable, identify records

responsive to OPRA request item Nos. 1 and 3 and the number of pages accordingly.

- The knowing and willful analysis is deferred.
8. Scott Madlinger v. Berkeley Township (Ocean) (2020-230)
    - The Complainant's request, to the extent it was for the Police Department Custodian, was valid. However, the request, to the extent it included some other recipients, was invalid. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-5(g).
    - No "deemed" denial of access occurred because the Police Department Custodian timely responded extending the response time frame. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
    - The Police Department Custodian unlawfully denied access to the responsive roster. N.J.S.A. 47:1A-6. However, the GRC declines to order disclosure because same occurred on December 15, 2020.
    - There is no knowing and willful violation.
  9. Cheri Wong (o/b/o Coriander Way Condominium Association) v. City of Englewood (Bergen) (2021-6)
    - The Custodian's failure to timely respond with a "reasonable effort" resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(i)(2). However, the GRC declines to order a response because the Custodian did so on May 6, 2021.
    - The Custodian lawfully denied access to the subject OPRA request 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).
    - There is no knowing and willful violation.
  10. Gable J. Smith v. Cumberland County Utilities Authority (2021-7)
    - This complaint is being tabled for additional review.
  11. Michael Mincer v. Hamilton Township Municipal Utilities Authority (Atlantic) (2021-43)
    - The Custodian lawfully denied access to the requested water and sewer map records based on OPRA's safety and security exemptions. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-9(a); Executive Order No. 21 (Gov. McGreevy, 2002).
  12. Yusef Steele v. Township of Piscataway (Middlesex) (2021-55)
    - An unidentified employee performed an insufficient response. N.J.S.A. 47:1A-5(g); DeAppolonio v. Borough of Deal (Monmouth), GRC Complaint No. 2008-62 (September 2009).
    - The Police Department performed 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).
    - The Custodian unlawfully denied access to the requested 911 recording on the basis that it was a criminal investigatory record. N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-6; Serrano v. South Brunswick Twp., 358 N.J. Super. 352 (App. Div. 2003). Thus, the Custodian must disclose the recording to the Complainant, with redactions where applicable.
    - The Complainant, who is representing himself *pro se*, is not a prevailing party. Pitts v. N.J. Dep't of Corr., GRC Complaint No. 2005-71 (April 2006).

- The knowing and willful analysis is deferred.
13. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute and Grace Woko) v. Maple Shade Police Department (Burlington) (2021-64)
- The Custodian did not unlawfully deny access to the responsive personnel information. N.J.S.A. 47:1A-10.
  - The Complainant is not a prevailing party.
14. Enza Cannarozzi v. Jersey City Board of Education (Hudson) (2021-73)
- The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
  - The Custodian’s failure to timely respond resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Custodian may have unlawfully denied access to the responsive records. N.J.S.A. 47:1A-6. The Custodian must either locate and disclose the responsive records, certify if those records were previously disclosed, or certify if none exist.
  - The knowing and willful analysis is deferred.
15. Enza Cannarozzi v. Jersey City Board of Education (Hudson) (2021-74)
- The Custodian’s failure to submit a Statement of Information resulted in a violation of N.J.A.C. 5:105-2.4(a).
  - The Custodian’s failure to timely respond immediately resulted in “deemed” denial of access. N.J.S.A. 47:1A-5(e); N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
  - The Custodian may have unlawfully denied access to the responsive records. N.J.S.A. 47:1A-6. The Custodian must either locate and disclose the responsive records, certify if those records were previously disclosed, or certify if none exist.
  - The knowing and willful analysis is deferred.

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

- Gordon v. City of Orange, 2022 N.J. Super. Unpub. LEXIS 1226 (App. Div. 2022)

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

- Kratovil v. City of N.B., 2022 N.J. Super. Unpub. LEXIS 1267 (App. Div. 2022)

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

**X. 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.\*

**XI. 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.