



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
February 28, 2023

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, February 28, 2023 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

- Denise Whiteside v. Township of Little Falls (Passaic) (2021-89) *In Camera* Review (N.J.A.C. 5:105-2.8(g)) (**SR Recusal**)
- Craig Rawles v. Glassboro Police Department (Gloucester) (2021-100) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Stephen J. Christiano, Esq. (o/b/o Ronald Bligh) v. West Orange Board of Education (Essex) (2021-220) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

IV. Approval of Minutes of Previous Meetings:

January 31, 2023 Open Session Meeting Minutes

January 31, 2023 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. Mark L. Tompkins v. Newark Municipal Court (Essex) (2023-6) **(SR Recusal)**
 - Not Within the Council’s Jurisdiction.

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

1. Julian Lutz v. Cherry Hill Township (Camden) (2023-8)
 - No Records Responsive to the Request Exist.
2. Michael F. Farmer v. Asbury Park Municipal Court (2023-22)
 - Not Within the Council’s Jurisdiction.

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

1. David Weiner v. County of Essex (2022-341)
 - Complaint Settled in Mediation.
2. Yehuda Miller v. Union County Board of County Commissioners (2022-478)
 - Complaint Settled in Mediation.
3. Paul Alfano v. County of Essex (2022-505)
 - Complaint Settled in Mediation.
4. Dean Feasel v. County of Essex (2022-528)
 - Complaint Settled in Mediation.
5. Jeffrey M. Patti, Esq. (o/b/o Patricia Gold) v. NJ State Police (2022-668)
 - Complaint Voluntarily Withdrawn.
6. Sonny Grosso v. Borough of Waldwick (Bergen) (2022-671)
 - Complaint Settled in Mediation.
7. Joseph Thomas v. Winslow Township Board of Education (Camden) (2023-26)
 - 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):

B. Administrative Orders with No Recusals (Consent Agenda):

1. Rick Robinson v. NJ Department of Human Services, Division of Medical Assistance and Health Services (2015-410)
 - Tabled for Additional Review.
2. Marc Liebeskind v. Borough of Highland Park (Middlesex) (2021-312)
 - *In Camera* Review.
3. Marc Liebeskind v. Borough of Highland Park (Middlesex) (2021-327)
 - *In Camera* Review.
4. Michael Graham v. Ramapo College of NJ (2022-275)
 - *In Camera* Review.

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. Stephen Grogan v. Sussex County Prosecutor’s Office (2021-19) (**SR Recusal**)
 - The Custodian’s failure to timely 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 Custodian lawfully denied access to the requested records under Executive Order No. 26 (Gov. McGreevey, 2002) (“EO 26”). N.J.S.A. 47:1A-9(a); Vaughn v. City of Trenton (Mercer), GRC Complaint No. 2009-177 (June 2010).
 - There is no knowing and willful violation.
2. Denise Whiteside v. Township of Little Falls (Passaic) (2021-89) (**SR Recusal**)
 - The Custodian complied with the Council’s August 30, 2022 Interim Order.
 - The Custodian shall comply with the Council’s *In Camera* Examination Findings.
 - The knowing and willful analysis is deferred.
3. Ashley Georges v. Essex County Prosecutor’s Office (2021-268) (**SR Recusal**)
 - 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).

B. Individual Complaint Adjudications with no Recusals:

1. Daniel Z. Rivlin, Esq. (o/b/o American Airlines, Inc.) v. Port Authority of NY & NJ (2020-72)
 - This complaint should be dismissed because Complainant’s Counsel failed to submit a fee application within the prescribed time frame. N.J.A.C. 5:105-2.13(b); (d).

2. Eliza Schleifstein v. Randolph Township School District (Morris) (2020-213)
 - The Custodian complied with the Council’s January 31, 2023 Interim Order.
 - There is no knowing and willful violation.

3. Craig Rawles v. Glassboro Police Department (Gloucester) (2021-100)
 - The Custodian complied with the Council’s August 30, 2022 Interim Order.
 - The Custodian shall comply with the Council’s *In Camera* Examination Findings.
 - The Custodian must disclose all portions of the responsive e-mails not otherwise exempt (except where identified in the Examination). Ray v. Freedom Acad. Charter Sch. (Camden), GRC Complaint No. 2009-185 (Interim Order dated August 24, 2010).
 - The knowing and willful analysis is deferred.

4. Vincent Cricchio v. City of Long Branch, Office of Planning & Zoning (Monmouth) (2021-136)
 - The Custodian’s responses were legally insufficient because she failed to respond to each request item individually and failed to state whether certain records existed. Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008); Lenchitz v. Pittsgrove Twp. (Salem), GRC Complaint No. 2012-265 (Interim Order dated August 27, 2013). The Custodian shall provide the Complainant with a complete response.

5. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, & Grace Woko) v. Oaklyn Police Department (Camden) (2021-151)
 - The Complainant’s OPRA request was valid; thus, the Custodian unlawfully denied access to it. N.J.S.A. 47:1A-6; MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005). However, the Council should decline to order disclosure because same occurred on March 23, 2022 as part of the Statement of Information (“SOF”).
 - 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.

6. Rotimi Owoh, Esq. v. Town of West New York (Hudson) (2021-165)
 - The Custodian did not unlawfully deny access to the subject OPRA request because she certified, and the record reflects, that all responsive records were disclosed to the Complainant. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
 - The Complainant is not a prevailing party.

7. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Harrison (Gloucester) (2021-185)
 - The Custodian unlawfully denied access to the Complainant’s OPRA request. Simmons v. Mercado, 247 N.J. 24 (2021). However, the Council should decline to order disclosure because same occurred on April 27, 2022.
 - 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. Elk Township (Gloucester) (2021-188)
 - The Custodian unlawfully denied access to the Complainant's OPRA request. Simmons, 247 N.J. 24. However, the Council should decline to order disclosure because same occurred on September 9, 2021.
 - 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.
9. Maria Montalbano v. NJ Division of Consumer Affairs (2021-217)
 - 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 Council should decline to order disclosure because same occurred over multiple dates.
10. Stephen J. Christiano, Esq. (o/b/o Ronald Bligh) v. West Orange Board of Education (Essex) (2021-220)
 - The Custodian complied with the Council's November 9, 2022 Interim Order.
 - The Custodian shall comply with the Council's *In Camera* Examination Findings.
 - The Custodian must disclose all portions of the responsive e-mails not otherwise exempt. Ray, GRC 2009-185.
 - The knowing and willful and prevailing party analyses are deferred.
11. Charles Williams v. NJ Department of Corrections (2021-289)
 - The Custodian lawfully denied access to the requested ledger information based on multiple exemptions. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); EO 26; N.J.A.C. 10A:22-2.3(a)(4) and (b); Helm v. N.J. Dep't of Corr., GRC Complaint No. 2018-114 (February 2020); Farra'D v. N.J. Dep't of Corr., GRC Complaint No. 2010-47 (October 2011).
12. Anonymous v. Borough of Haledon (Passaic) (2021-345)
 - 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 Council should decline to order disclosure because same occurred on December 16, 2021.

VIII. Court Decisions of GRC Complaints on Appeal:

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

- Shurin v. Bd. of Educ. Sch. of Tech., 2023 N.J. LEXIS 111 (2023)
- Ass'n for Governmental Responsibility v. State, 2023 N.J. Super. Unpub. LEXIS 139 (App. Div. 2023)

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. 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.