



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

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Acting Commissioner

NOTICE OF MEETING
Government Records Council
May 26, 2015

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, May 26, 2016, at the Department of Community Affairs (“DCA”) offices located at 101 South Broad Street in Trenton, New Jersey.

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. in Room 129 of the DCA.

I. Public Session:

Call to Order
Pledge of Allegiance
Meeting Notice
Roll Call

II. Executive Director’s Report

III. Closed Session

- Luis Rodriguez v. Kean University (2013-71) – *Tabled pending legal review*

IV. Approval of Minutes of Previous Meetings:

March 31, 2015, Open Session Meeting Minutes – *Tabled due to lack of quorum*
March 31, 2015, Closed Session Meeting Minutes – *Tabled due to lack of quorum*
April 28, 2015, Open Session Meeting Minutes
April 28, 2015, 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. A short synopsis of the Executive Director’s recommended reason for the Administrative Disposition is under each complaint below.



A. Administrative Disposition Adjudications with Recusals (Consent Agenda):

1. Robert Kovacs v. Irvington Police Department (Essex) (2014-261) **(SR Recusal)**
 - The item is held from consideration due to lack of a quorum.

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

1. Kavitha Reddy (On behalf of Diana Moskovitz) v. Rutgers University (2014-340)
 - The parties settled the complaint through mediation.
2. Robert A. Verry v. Franklin Township Fire District No. 1 (Somerset) (2014-366)
 - There is no reasonable factual basis to pursue the complaint.
3. Ronald Ellerman v. Office of the Corrections Ombudsman (2015-23)
 - There is no reasonable factual basis to pursue the complaint.
4. Randy Johnson v. NJ Department of Corrections (2015-52)
 - The parties settled the complaint through mediation.
5. Breandan Q. Nemec v. Township of Galloway Police Department (Atlantic) (2015-53)
 - The parties settled the complaint through mediation.
6. Richard Stolte v. NJ State Police (2015-73)
 - The Complainant submitted a duplicate complaint.
7. Robert Cosme v. NJ Department of Corrections (2015-90)
 - No responsive records exist.

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

1. Nanticoke Lenape Tribal Nation v. NJ Office of the Governor (2014-329)
2. Angelo Fichera v. Township of Montgomery (Somerset) (2014-367)
3. Barbara Boyer v. NJ Division of Criminal Justice (2015-63)
4. Harry B. Scheeler, Jr. v. Cumberland County Sheriff's Department (2015-96)
5. Anthony W. DeStefanis v. NJ Department of Treasury (2015-108)
6. Marisa and Danny Seals v. Lawrence Township Public Schools (Mercer) (2015-112)
7. Angelo Fichera v. Township of Montgomery (Somerset) (2015-120)
8. Carl J. Garrison v. NJ Office of the Public Defender (2015-127)

VI. New Business – Cases Scheduled for Individual Complaint Adjudication

A short synopsis of the Executive Director's recommended action is under each complaint below.

A. Individual Complaint Adjudications with Recusals:

1. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-59) **(DP Recusal)**
 - The item is held from consideration due to lack of a quorum.
2. Denyce Carroll v. Trenton Public School District (Mercer) (2014-69) **(DP Recusal)**
 - The item is held from consideration due to lack of a quorum.

3. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-90) **(DP Recusal)**
 - The item is held from consideration due to lack of a quorum.
4. Harry B. Scheeler, Jr. v. Woodbine Board of Education (Cape May) (2014-205) **(DP Recusal)**
 - The item is held from consideration due to lack of a quorum.
5. Kathy L. Camarata v. Essex County Prosecutor's Office (2014-127) **(SR Recusal)**
 - The item is held from consideration due to lack of a quorum.

6. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2014-139) **(SR Recusal)**
7. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2014-161) **(SR Recusal) Consolidated**

- The item is held from consideration due to lack of a quorum.
8. Kevin M. Barry v. NJ Transit (2014-229) **(SR Recusal)**
 - The item is held from consideration due to lack of a quorum.
 9. Kevin M. Barry v. NJ Transit (2014-264) **(SR Recusal)**
 - The item is held from consideration due to lack of a quorum.
 10. Kevin M. Barry v. NJ Transit (2014-309) **(SR Recusal)**
 - The item is held from consideration due to lack of a quorum.
 11. Albert N. Sedges v. Morris County Prosecutor's Office (2014-312) **(SR Recusal)**
 - The item is held from consideration due to lack of a quorum.

B. Individual Complaint Adjudications with no Recusals:

1. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2011-73)
 - The Complainant withdrew the matter at OAL as part of a proposed settlement.
2. Jeff Carter v. Franklin Fire District No. 2 (Somerset) (2012-5)
 - The Custodian complied with the Interim Order.
 - The request is invalid because it failed to provide the Custodian adequate identifiers to permit a sufficient search.
 - There is neither a knowing and willful violation nor a prevailing party finding.
3. Luis Rodriguez v. Kean University (2013-71)
 - The matter is tabled pending legal review.

4. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2013-281)
5. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2013-282)
6. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2013-283) **Consolidated**

- The Custodian complied with the Interim Order.
- There is no knowing and willful violation.
- The Complainant is a prevailing party.

- | |
|---|
| 7. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2013-328) |
| 8. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2013-329) |
| 9. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2013-330) |
| 10. Jeff Carter v. Franklin Fire District No. 1 (Somerset) (2013-331) Consolidated |

- The Custodian complied with the Interim Order.
- There is no knowing and willful violation.
- The Complainant is a prevailing party.

11. Harry B. Scheeler, Jr. v. Salem County Special Services School (2014-108)

- The Custodian complied with the Interim Order.
- The Complainant's objection to the redaction index is without merit because the Custodian complied with the requirements of the Interim Order.
- There is no knowing and willful violation.

12. Salvatore J. Sorce v. Stafford Township (Ocean) (2014-109)

- The Custodian complied with the Interim Order.
- There is no knowing and willful violation.

13. Rafael L. Martinez v. Edison Board of Education (Middlesex) (2014-126)

- Request items #1 and #2 are invalid because they fail to identify senders and/or recipients.
- The Custodian's redactions are lawful.
- The Custodian bore his burden to prove that no records were unlawfully denied to the Complainant.

14. Michael Doss v. Borough of Paramus (Bergen) (2014-149)

- The Custodian failed to establish valid grounds for reconsideration.

15. Dudley Burdge v. NJ Civil Service Commission (2014-168)

- The Custodian complied with the Interim Order.
- GRC must conduct an in camera review to determine whether the records contain advisory, consultative, or deliberative material.
- The knowing and willful analysis is deferred pending the Custodian's compliance.

16. Bernard Mitchell v. NJ Department of Military and Veterans Affairs (2014-192)

- The requested records are exempt from disclosure pursuant to DMAVA's regulations.

17. Michael A. D'Antonio v. Borough of Allendale (Bergen) (2014-220)

- Both parties failed to establish valid grounds for reconsideration.

18. Lemont Love v. Spotswood Police Department (Middlesex) (2014-223)

- The Custodian complied with the Interim Order and provided all appropriately redacted documents.
- There is no knowing and willful violation.

19. Kevin R. Lare v. Township of Lower (Cape May) (2014-225)
 - Despite an unlawful denial of access to certain records, the evidence at bar demonstrates that the Custodian nonetheless made a good faith effort to comply with an overly broad request by providing responsive documents.
 - There is no knowing and willful violation.
20. Joseph Baker v. Union County Prosecutor's Office (2014-262)
 - The requested document is not subject to disclosure under OPRA.
21. Robert Kovacs v. Middlesex Police Department (Woodbridge) (2014-273)
 - The request was overly broad, as it failed to include adequate identifiers to permit the Custodian to conduct a sufficient search.
22. Clifford Wares v. Township of West Milford (Passaic) (2014-274)
 - The requested records are exempt from disclosure, respectively as personnel records and pursuant to the Attorney General's Internal Affairs Policy and Procedures.
23. Rose D. Richardson v. NJ Office of the Attorney General) (2014-277)
 - The Custodian did not timely respond to the request, which results in a "deemed" denial.
 - Part of the request is invalid, as it seeks information rather than properly identifying government records.
 - The Custodian may have unlawfully denied access to part of the request. The Custodian must therefore disclose the responsive information in the most comprehensive record available.
 - The Custodian must advise the Complainant of any proposed special services charge within three business days and provide certified confirmation of compliance to the Executive Director.
 - The knowing and willful analysis is deferred pending the Custodian's compliance.
24. Michael Hayes v. NJ Department of Corrections (2014-286)
 - The Custodian lawfully denied access to the requested records pursuant to N.J.S.A. 47:1A-1.1.
25. Jermaine A. Williams v. Passaic County Prosecutor's Office (2014-297)
 - The Custodian has borne the burden of proving that no responsive records exist.
26. Michael Palkowitz v. Borough of Hasbrouck Heights (2014-302)
 - The Custodian has proven that a special service charge is indeed warranted, but one hour of the cited time appears unreasonable. The proposed special service charge is therefore reduced accordingly.
 - The Complainant shall deliver to the Custodian the appropriate payment or provide a written statement of his choice to decline the charge.
 - Should the Complainant pay the charge, the Custodian must disclose the responsive records within three (3) business days.

27. Linda Graumann v. Newfield Police Department (Gloucester) (2014-314)
- The Custodian did not timely respond, thus resulting in a “deemed” denial.
 - The Custodian’s response was insufficient because she failed to respond in writing to each request individually.
 - Although the Custodian at first denied access improperly to items #1 and #2, she ultimately disclosed the records to the Complainant.
 - The Custodian lawfully denied access to item #3, as the evidence indicates that no responsive items exist.
 - There is no knowing and willful violation.
28. Joseph B. Garrett, POA (On behalf of Regina M. Garrett) v. NJ Department of Banking & Insurance (2014-368)
- The requested records are not subject to disclosure pursuant to DOBI regulations.

VII. Court Decisions of GRC Complaints on Appeal: None

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

- Weinberg v. Goworek, 2015 N.J. Super. Unpub. LEXIS 994 (April 29, 2015)
- Gilleran v. Palagano, 2015 N.J. Super. LEXIS 76 (App. Div. 2015)
- N.J. Second Amendment v. Div. of State Police of the N.J. Dep't of Law & Pub. Safety (In re Adoption of N.J.A.C. 13:1e-3), 2015 N.J. Super. Unpub. LEXIS 1115 (App. Div. May 14, 2015)

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