



**State of New Jersey**  
DEPARTMENT OF COMMUNITY AFFAIRS  
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CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

CHARLES A. RICHMAN  
*Commissioner*

**NOTICE OF MEETING**  
**Government Records Council**  
**February 23, 2016**

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 23, 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**

- Dudley Burdge v. NJ Civil Service Commission (2014-168)
- Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-59)
- Shawn G. Hopkins v. Monmouth County Board of Taxation (2014-1) (**RBT Recusal**)
- Shawn G. Hopkins v. Sussex County Board of Taxation (2014-10) (**RBT Recusal**)
- Shawn G. Hopkins v. Morris County Board of Taxation (2014-11) (**RBT and SR Recusals**) Consolidated

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

January 26, 2016 Open Session Meeting Minutes  
January 26, 2016 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 summary 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. Anthony Walker v. Essex County Correctional Facility (2016-5) **(SR Recusal)**
  - The Custodian did not receive a records request from the Complainant.
2. Beverly McCall, Esq. (o/b/o The American Legion Morvay-Miley) v. NJ Department of Community Affairs (2016-10) **(JM Recusal)**
  - The complainant has a pending action in Superior Court.

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

1. Richard B. Kahn v. Township of East Brunswick (Middlesex) (2015-327)
  - The parties settled the matter through mediation.
2. Richard Bosi v. Township of Rochelle Park (Bergen) (2015-328)
  - The parties settled the matter through mediation.
3. Ronald Horton v. Franklin Township Police Department (Somerset) (2015-393)
  - The parties settled the matter through mediation.

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

1. Harry B. Scheeler, Jr. v. NJ Department of Children and Families (2015-47)
2. Harry B. Scheeler, Jr. v. NJ Department of Children and Families (2015-180)
3. Harry B. Scheeler, Jr. v. NJ Department of Children and Families, Division of Child Protection and Permanency (2015-382)
4. Harry B. Scheeler, Jr. v. NJ Department of Children and Families, Division of Child Protection and Permanency (2015-383)
5. Harry B. Scheeler, Jr. v. NJ Department of Children and Families (2015-392)
6. Harry B. Scheeler, Jr. v. NJ Department of Children and Families (2015-412)
7. Beverly McCall, Esq. (o/b/o The American Legion Morvay Miley) v. City of Ocean City (Cape May) (2016-11)
8. Harry B. Scheeler, Jr. v. NJ Department of Children and Families (2016-15)

**VI. New Business – Cases Scheduled for Individual Complaint Adjudication**

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

**A. Individual Complaint Adjudications with Recusals:**

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| <ol style="list-style-type: none"><li>1. Shawn G. Hopkins v. Monmouth County Board of Taxation (2014-1) <b>(RBT Recusal)</b></li><li>2. Shawn G. Hopkins v. Sussex County Board of Taxation (2014-10) <b>(RBT Recusal)</b></li><li>3. Shawn G. Hopkins v. Morris County Board of Taxation (2014-11) <b>(RBT and SR Recusals) Consolidated</b></li></ol> |
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- On the advice of legal counsel, the GRC should table the matter.
4. Thomas Caggiano v. Township of Green (Sussex) (2014-418) **(RBT Recusal)**
    - On the advice of legal counsel, the GRC should table the matter.
  5. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-56) **(SR Recusal)**
    - On the advice of legal counsel, the GRC should table the matter.
  6. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2015-59) **(SR Recusal)**
    - On the advice of legal counsel, the GRC should table the matter.
  7. Bruce Shapiro v. City of Newark (Essex) (2015-79) **(SR Recusal)**
    - Based on the evidence provided, the GRC cannot determine who, if anyone, might have violated N.J.S.A. 47:1A-5(h).
    - The request was invalid, because it is overly broad, fails to identify government records, and would require the Custodian to conduct research.
    - There is no knowing and willful violation.
  8. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-123) **(DR Recusal)**
    - The original Custodian properly requested an extension of time and provided a specific deadline by which the requested records would be made available.
    - The Custodian's second request was proper because he responded prior to the expiration of the first extended time frame and provided a new date by which he would respond.
    - The complaint is materially defective and must be dismissed because the Complainant verified the complaint prior to the expiration of the second extension.
  9. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-423) **(DR Recusal)**
    - On the advice of legal counsel, the GRC should table the matter.

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

1. Harry B. Scheeler, Jr. v. NJ Office of the Governor (2014-67)
  - The Custodian's response was insufficient because the Custodian failed to sign and date the response, which is inconsistent with N.J.S.A. 47:1A-5(f).
  - The GRC should hold the matter in abeyance until the Appellate Division rules in Scheeler v. Office of the Governor, et al, Docket No. A-1236-14T3.
  - The knowing and willful analysis is deferred pending the Custodian's compliance.
2. Dudley Burdge v. NJ Civil Service Commission (2014-168)
  - The Custodian complied with the Council's May 26, 2015 Interim Order.
  - The IT Title Consolidation Committee is a "public agency" subject to OPRA.
  - The Custodian must comply with the Council's Findings of the *In Camera* Examination and simultaneously provide certified confirmation of compliance to the Executive Director.
  - The knowing and willful analysis is deferred pending the Custodian's compliance.

3. Paul R. Rizzo (On behalf of Borough of South Plainfield) v. Middlesex County Prosecutor's Office (2014-284)
  - Despite the agency's mistake, the Custodian lawfully denied access to the records sought to be copied. As criminal investigative records, the documents are nonetheless exempt from disclosure.
4. David Marc Drukaroff v. NJ State Parole Board (2014-379)
  - The requested records are exempt pursuant to N.J.A.C. 10A:71-2.2(a)(7).
5. Gregory W. Kasko v. Town of Westfield (Union) (2014-389)
  - On the advice of legal counsel, the GRC should table the matter.
6. Agustin Garcia v. NJ Office of the Public Defender (2015-75)
  - The requested records are exempt pursuant to N.J.S.A. 47:1A-5(k).
7. Harry B. Scheeler, Jr. v. NJ State Police (2015-80)
  - On the advice of legal counsel, the GRC should table the matter.
8. Harry B. Scheeler, Jr. v. City of Cape May (Cape May) (2015-91)
  - On the advice of legal counsel, the GRC should table the matter.

9. Richard Spillane v. NJ Department of Corrections (2015-129)
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10. Richard Spillane v. NJ Department of Corrections (2015-267) <b>Consolidated</b>
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- The Custodian lawfully denied access, because disclosure would be contrary to regulations that prohibit inmates from obtaining records concerning other inmates and could jeopardize the safety and security of any person or a correctional facility.
11. Abdiel F. Avila v. NJ State Parole Board (2015-153)
    - There is no unlawful denial of access, because the requested records are exempt from disclosure pursuant to Executive Order No. 9 (Hughes, 1963).
  12. Abdiel F. Avila v. NJ Department of Corrections (2015-154)
    - The Custodian certified that no responsive records exist, and the Complainant provides no competent, credible evidence to refute the Custodian's certification.
  13. Robert Kovacs v. Manchester Township (Ocean) (2015-170)
    - On the advice of legal counsel, the GRC should table the matter.
  14. Kojo Muata v. NJ Division on Civil Rights (2015-211)
    - Based on the evidence provided, the GRC cannot determine who might have violated N.J.S.A. 47:1A-5(h).
    - The Custodian certified that no responsive records exist, and the Complainant provides no competent, credible evidence to refute the Custodian's certification.
    - The Complainant's second records request was an invalid request for information and not a valid request for identifiable government records.

15. Robert Kovacs v. Town of Kearny Police Department (Hudson) (2015-218)
  - On the advice of legal counsel, the GRC should table the matter.
16. Carol Thompson v. Township of Mansfield (Warren) (2015-309)
  - The Custodian's failure to respond within the extended deadline results in a "deemed" denial.
  - The Custodian must disclose all responsive records, if any, and provide a document index showing any redactions.
  - Should there be no responsive records, the Custodian must certify to that fact.
  - The knowing and willful analysis is deferred pending the Custodian's compliance.
17. Luis F. Rodriguez v. Kean University (2015-331)
  - The Custodian did not respond immediately to immediate access documents, thus resulting in a "deemed" denial.
  - There is no need for the GRC to order disclosure, as the Custodian released all responsive documents to the Complainant.
  - There is no knowing and willful violation.
18. Harry B. Scheeler, Jr. v. NJ State Police (2015-369)
  - On the advice of legal counsel, the GRC should table the matter.

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

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

**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.