



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 23, 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, February 23, 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**

- Rick Robinson v. NJ Department of Human Services, Division of Medical Assistance and Health Services (2015-410) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).
- Joseph M. Longo v. Camden County Municipal Utilities Authority (2018-124) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

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

January 26, 2021 Open Session Meeting Minutes  
January 26, 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): None**

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

1. Scott Madlinger v. Berkeley Township Police Department (Ocean) (2020-246)
  - All Records Responsive Provided in a Timely Manner.
2. Scott Madlinger v. Berkeley Township (Ocean) (2021-4)
  - All Records Responsive Provided in a Timely Manner.

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

1. Tony Paskitti v. Township of Aberdeen (Monmouth) (2020-12)
  - Complaint Voluntarily Withdrawn.
2. David Weiner v. County of Essex (2020-155)
  - Complaint Settled in Mediation.
3. David Weiner v. County of Essex (2020-156)
  - Complaint Settled in Mediation.
4. David Weiner v. County of Essex (2020-160)
  - Complaint Settled in Mediation.
5. Ryan Felton v. NJ Department of Environmental Protection (2020-178)
  - Complaint Voluntarily Withdrawn.
6. David Weiner v. County of Essex (2020-180)
  - Complaint Settled in Mediation.
7. David Weiner v. County of Essex (2020-181)
  - Complaint Settled in Mediation.
8. David Weiner v. County of Essex (2020-184)
  - Complaint Settled in Mediation.
9. David Weiner v. County of Essex (2020-187)
  - Complaint Settled in Mediation.
10. Brian F. McBride v. Township of Washington (Gloucester) (2020-235)
  - Complaint Voluntarily Withdrawn.
11. Brian F. McBride v. Montclair Public Schools (Essex) (2020-243)
  - Complaint Voluntarily Withdrawn.
12. Brian F. McBride v. City of Wildwood (Cape May) (2021-24)
  - Complaint Voluntarily Withdrawn.
13. Brian F. McBride v. Camden County Prosecutor's Office (2021-25)
  - 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. Ali Ibn Karim v. Essex County Prosecutor's Office (2020-22) (**SR Recusal**)
  - The Custodian lawfully denied access to the Complainant's OPRA request seeking interview statements. N.J.S.A. 47:1A-1.1; N. Jersey Media Grp, Inc. v. Twp. of Lyndhurst, 229 N.J. 541 (2017); Parker v. Essex Cnty. Prosecutor's Office, GRC Complaint No. 2009-225 (October 2010).

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

1. Rick Robinson v. NJ Department of Human Services, Division of Medical Assistance and Health Services (2015-410)

The Council should table this complaint for further review.
2. Richard A. Cielez v. NJ State SPCA (2017-218)
  - The Council should accept the Administrative Law Judge's decision to dismiss this complaint without prejudice.
3. David Scott Carew v. City of Woodbury (Gloucester) (2018-47)
  - The current Custodian complied with the Council's January 26, 2021 Interim Order.
  - There is no knowing and willful violation.
4. Joseph M. Longo v. Camden County Municipal Utilities Authority (2018-124)
  - The Custodian complied with the Council's May 19, 2020 Interim Order.
  - The *In Camera* examination revealed that the Custodian lawfully denied access to the responsive "bid breakdown." N.J.S.A. 47:1A-1.1; Newark Morning Ledger Co. v. N.J. Sports & Exposition Auth., 423 N.J. Super. 140, 169 (App. Div. 2011); Commc'ns Workers of America v. Rousseau, 417 N.J. Super. 341, 361 (App. Div. 2010).
5. Rotimi Owoh, Esq. (o/b/o Baffi Simmons and African American Data and Research Institute) v. Lower Township Police Department (Cape May) (2018-201)
  - The Custodian lawfully denied access to the Complainant's OPRA request. Simmons v. Mercado, 464 N.J. Super. 77 (App. Div. 2020).
  - The Complainant is not a prevailing party.
6. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Borough of Washington (Warren) (2018-281)
  - The Custodian unlawfully denied access to the requested records based on a shared services agreement. N.J.S.A. 47:1A-6; Burnett v. Cnty. of Gloucester, 415 N.J. Super. 506 (App. Div. 2010); Michalak v. Borough of Helmetta (Middlesex), GRC Complaint No. 2010-220 (Interim Order dated January 31, 2012). However, the Council should decline to order disclosure because the Complainant acknowledged receipt of said records on March 20, 2019.
  - There is no knowing and willful violation.
  - The Complainant is not a prevailing party. Nuckel v. N.J. Econ. Dev. Auth., 2020 N.J. Super. Unpub. LEXIS 948, 6-7 (App. Div. 2020).

7. Christopher C. McFarland v. NJ Institute of Technology (2018-289)
    - The Custodian complied with the Council’s January 26, 2021 Interim Order.
    - There is no knowing and willful violation.
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| <ol style="list-style-type: none"> <li>8. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. City of Camden (Camden) (2018-291)</li> <li>9. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. City of Camden (2018-306) <b>Consolidated</b> <ul style="list-style-type: none"> <li>• The Council should deny the Custodian’s request for reconsideration. The Council’s November 10, 2020 Interim Order remains in effect.</li> </ul> </li> </ol> |
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10. Shane P. Walsh v. NJ Office of the Governor (2019-26)
    - 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 Complainant’s request is invalid because it failed to identify specific government records. MAG Entm’t, LLC v. Div. of Alcoholic Beverage Control, 375 N.J. Super. 534, 546 (App. Div. 2005); Armenti v. Robbinsville Bd. of Educ. (Mercer), GRC Complaint No. 2009-154 (Interim Order dated May 24, 2011).
    - There is no knowing and willful violation.
  11. Rotimi Owoh, Esq. (o/b/o African American Data and Research Institute) v. Stockton Borough (Hunterdon) (2019-35)
    - The Custodian may have unlawfully denied access to the requested records based on a shared services agreement. Burnett, 415 N.J. Super. 506; Michalak, GRC 2010-220.
    - The knowing and willful and prevailing party analyses are deferred.
  12. Carol Scutro v. County of Union (2019-41)
    - The Custodian failed to comply with the Council’s Interim Order.
    - This complaint should be referred to the Office of Administrative Law based on contested facts.
  13. Alberto Larotonda v. Borough of Red Bank (Monmouth) (2019-97)
    - The Custodian did not fully comply with the Council’s November 10, 2020 Interim Order.
    - Although the Custodian unlawfully denied access to some portions of the responsive e-mails, the Council should decline to order disclosure because the Complainant already received them from the New Jersey Department of Environmental Protection.
    - There is no knowing and willful violation.
  14. Jonathan L. Leitman, Esq. v. Borough of Paramus (Bergen) (2019-127)
    - The Council should table this complaint for further review.

15. Robert C. Scutro v. City of Linden (Union) (2019-167)
- 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 the Custodian did so on September 23, 2019.
  - There is no knowing and willful violation.
16. Robert C. Scutro v. City of Linden (Union) (2019-179)
- 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 portion of the Complainant’s request seeking a “full detail” of each case handled by Chasan, Lamparello, Mallon & Cappuzzo, P.C. is invalid because it sought information. MAG, 375 N.J. Super. 534; LaMantia v. Jamesburg Pub. Library (Middlesex), GRC Complaint No. 2008-140 (February 2009).
  - The Custodian did not deny access to the remainder of the OPRA request because she disclosed the only record that existed. Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated April 28, 2010).
  - There is no knowing and willful violation.
17. Robert C. Scutro v. City of Linden (Union) (2019-180)
- The Custodian’s response was insufficient because she failed to respond to each request item. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008). Thus, the Custodian may have unlawfully denied access responsive records and must disclose those located after a sufficient search. Should no records exist, the Custodian shall certify to this fact.
  - The knowing and willful analysis is deferred.
18. David O’Sullivan v. Borough of Montvale (Bergen) (2019-193)
- The Custodian’s response was insufficient because she failed to provide a specific lawful basis for the redacted portions of the responsive executive session minutes. N.J.S.A. 47:1A-5(g); Paff v. Borough of Lavallette, GRC Complaint No. 2007-209 (Interim Order dated June 25, 2008).
  - The GRC must conduct an *in camera* review of the redacted minutes to determine the validity of the Custodian’s assertion that same are exempt under the attorney-client privilege, “inter-agency or intra-agency advisory, consultative, or deliberative material,” and personnel exemptions. Paff v. N.J. Dep’t of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005).
  - The knowing and willful and prevailing party analyses are deferred.
19. Mario Drozd v. Township of Belleville (Essex) (2019-194)
- The Custodian complied with the Council’s January 26, 2021 Interim Order.
  - There is no knowing and willful violation.
20. James Pappas v. West Morris Regional High School District (Morris) (2019-229)
- The portion of the Complainant’s request seeking “any and all records” including “files, documents . . . memos, e-mails, text messages” and “everything involving” “Harassment, Intimidation, and Bullying” allegations filed on behalf of F.P. is invalid because it failed to identify a specific record or

include the required criteria. MAG, 375 N.J. Super. 534; Lewis-Gallagher v. Monroe Twp. Pub. Sch. Dist. (Gloucester), GRC Complaint No. 2018-8 (September 2019).

- The Custodian unlawfully denied access to reports, notes and electronic audio and video recordings on the basis that the Complainant was an excepted person under N.J.A.C. 6A:32-7.5(e)(1). See L.R. v. Camden City Pub. Sch. Dist., 452 N.J. Super. 56 (App. Div. 2017). The Custodian shall search for responsive records and either: 1) provide them for *in camera* review; or 2) certify if no records exist.
- The knowing and willful analysis is deferred.

21. Kevin Alexander v. NJ Office of the Public Defender (2020-2)

- The Custodian lawfully denied access to the requested letters under N.J.S.A. 47:1A-5(k). N.J.S.A. 47:1A-6; Lemon v. Office of the Pub. Defender, GRC Complaint No. 2015-297 (November 2015).

22. Kevin Alexander v. NJ Office of the Public Defender (2020-3)

- The Custodian lawfully denied access to the requested letters under N.J.S.A. 47:1A-5(k). N.J.S.A. 47:1A-6; Lemon, GRC 2015-297.

23. Quinn Latney v. NJ Office of the Public Defender (2020-4)

- The Custodian lawfully denied access to the requested letters under N.J.S.A. 47:1A-5(k). N.J.S.A. 47:1A-6; Lemon, GRC 2015-297.

24. Michael Camacho v. NJ Department of Corrections (2020-6)

- The GRC must conduct an *in camera* review of the requested correspondence to determine the validity of the Custodian's assertion that same are exempt under N.J.A.C. 10A:22-2.3(a)(4). Paff, 379 N.J. Super. 346.
- The knowing and willful analysis is deferred.

25. Luis F. Rodriguez v. Kean University (2020-26)

- The Custodian's extensions were warranted and substantiated. Ciccarone v. N.J. Dep't of Treasury, GRC Complaint No. 2013-280 (Interim Order dated July 29, 2014).
- The Custodian lawfully denied access to the Complainant's OPRA request because no records exist. Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).

## **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.