



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 27, 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, July 27, 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**

- Marcella Aylwin v. Egg Harbor City (Atlantic) (2019-191) *In Camera* Review (N.J.A.C. 5:105-2.8(g)).

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

June 29, 2021 Open Session Meeting Minutes  
June 29, 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):**

1. David Weiner v. County of Essex (2020-128) (SR Recusal)
  - No Records Responsive to the Request Exist.

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

1. Kevin Alexander v. Middlesex County Board of Chosen Freeholders (2021-110)
  - No Records Responsive to the Request Exist.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Nutley (Essex) (2020-47)
  - Complaint Voluntarily Withdrawn.
2. Michael I. Inzelbuch, Esq. (o/b/o DAG, JAYS, Semanton) v. Monmouth Ocean Educational Services Commission (2020-249)
  - Complaint Voluntarily Withdrawn.
3. Brian McBride v. Manchester Township (Ocean) (2021-22)
  - Complaint Voluntarily Withdrawn.
4. Justin Klabin v. Montclair Board of Education (Essex) (2021-32)
  - Complaint Voluntarily Withdrawn.
5. Lynn Petrovich v. NJ Department of Health (2021-35)
  - Complaint Settled in Mediation.
6. Brady Montalbano Connaughton, Esq. (o/b/o Local 125, International Brotherhood of Teamsters) v. Township of Maplewood (Essex) (2021-42)
  - Complaint Settled in Mediation.
7. Rotimi Owoh, Esq. (o/b/o Delores Simmons & Grace Woko) v. Township of South Brunswick (Middlesex) (2021-104)
  - Complaint Voluntarily Withdrawn.
8. Scott Madlinger v. Berkeley Township Police Department (Ocean) (2021-123)
  - Complaint Voluntarily Withdrawn.
9. Steven J. Kossup, Esq. v. Police and Firemen's Retirement System of NJ (2021-128)
  - Complaint Voluntarily Withdrawn.
10. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons & Grace Woko) v. Bridgewater Police Department (Somerset) (2021-146)
  - Complaint Voluntarily Withdrawn.
11. Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons & Grace Woko) v. Stratford Police Department (Camden) (2021-148)
  - 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. Scott Madlinger v. Atlantic City Police Department (Atlantic) (2019-206) (**GT Recusal**)
  - The Custodian's response was insufficient because he failed to provide a specific lawful basis for his denial. N.J.S.A. 47:1A-5(g); Morris v. Trenton Police Dep't (Mercer), GRC Complaint No. 2007-160 (May 2008).
  - The Custodian shall disclose the requested summonses in accordance with Simmons v. Mercado, \_\_\_ N.J. \_\_\_ (2021).
  - The knowing and willful analysis is deferred.
2. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Hoboken (Hudson) (2020-51) (**SR Recusal**)
  - The Custodian may have unlawfully denied access to the requested records. Simmons, \_\_\_ N.J. \_\_\_. Thus, the Custodian shall either locate and disclose responsive records, pending a special service charge if applicable, or certify if none exist.
  - The knowing and willful and prevailing party fee analyses are deferred.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Paterson Police Department (Passaic) (2020-56) (**SR Recusal**)
  - The Custodian did not fully comply with the Council's June 29, 2021 Interim Order; however, the Complainant took no action to pay the applicable special service charge.
  - The Council should decline to analyze the knowing and willful issue because no violation of OPRA occurred.
  - The Complainant is not a prevailing party.
4. David Weiner v. County of Essex (2020-129) (**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). However, the Council should decline to order disclosure because the Custodian did so on August 18, 2020.
  - There is no knowing and willful violation.

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

1. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. South Brunswick Township (Middlesex) (2018-63)
  - The Custodian complied with the Council's February 26, 2020 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.

2. Wayne Levante v. Town of Newton (Sussex) (2018-127)
  - The Custodian complied with the Council's June 29, 2021 Interim Order.
  - There is no knowing and willful violation.
3. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Buena Borough (Atlantic) (2018-184)
  - The Custodian did not fully comply with the Council's June 30, 2020 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.
4. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Egg Harbor City Police Department (Atlantic) (2018-190)
  - The current Custodian complied with the Council's June 30, 2020 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. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Lacey (Ocean) (2018-193)
  - The Custodian did not fully comply with the Council's July 28, 2020 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.
6. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Pennsville (Salem) (2018-233)
  - The Custodian may have unlawfully denied access to the requested records. Simmons, \_\_\_ N.J. \_\_\_. Thus, the Custodian shall either locate and disclose responsive records, pending a special service charge if applicable, or certify if none exist.
  - The knowing and willful and prevailing party fee analyses are deferred.
7. Mitchell Kotler v. Town of Morristown (Morris) (2019-99)
  - The Council should award prevailing party attorney's fees in the amount of \$1,800.00 representing four (4) hours at \$450.00 per hour, in addition to \$3.80 in expenses.

8. Luis F. Rodriguez v. Kean University (2019-109)
  - The Council should dismiss this complaint because Complainant's Counsel withdrew it in an e-mail to the GRC on July 26, 2021. No further action is required.
9. Benjamin Palombi v. NJ Department of Labor and Workforce Development (2019-122)
  - The GRC must conduct an *in camera* review of the responsive records to determine the validity of the Custodian's assertion that same were lawfully denied under the privacy, deliberative, and personnel exemptions. N.J.S.A. 47:1A-1; N.J.S.A. 47:1A-1.1; N.J.S.A. 47:1A-10. Paff v. N.J. Dep't of Labor, Bd. of Review, 379 N.J. Super. 346 (App. Div. 2005).
  - The knowing and willful analysis is deferred.
10. Marcella Aylwin v. Egg Harbor City (Atlantic) (2019-191)
  - The Custodian complied with the Council's April 27, 2021 Interim Order.
  - The Custodian shall comply with the Council's *In Camera* Examination Findings.
  - The knowing and willful analysis is deferred.
11. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Lacey (Ocean) (2020-44)
  - The Custodian complied with the Council's June 29, 2021 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.
12. Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Roselle (Union) (2020-46)
  - Ms. Ruiz's response was insufficient because she failed to definitively state whether any responsive records existed. N.J.S.A. 47:1A-5(g); Shanker v. Borough of Cliffside Heights (Bergen), GRC Complaint No. 2007-245 (March 2009).
  - The Custodian may have unlawfully denied access to the requested records. Simmons, \_\_\_ N.J. \_\_\_. Thus, the Custodian shall either locate and disclose responsive records, pending a special service charge if applicable, or certify if none exist.
  - The knowing and willful and prevailing party fee analyses are deferred.
13. Anonymous v. Borough of Haledon (Passaic) (2020-82)
  - The Custodian complied with the Council's June 29, 2021 Interim Order.
  - There is no knowing and willful violation.
14. Anonymous v. Borough of Haledon (Passaic) (2020-98)
  - The Custodian complied with the Council's June 29, 2021 Interim Order.
  - There is no knowing and willful violation.

15. Anonymous v. Borough of Haledon (Passaic) (2020-103)
  - The Custodian and Mr. Ramadan conducted an insufficient search. N.J.S.A. 47:1A-6; Schneble v. N.J. Dep't of Env'tl. Prot., GRC Complaint No. 2007-220 (April 2008).
  - The Council should decline to order any further disclosures because the Custodian reasonably believed he disclosed the record sought based on the original OPRA request. N.J. Builders Ass'n v. N.J. Council on Affordable Hous., 390 N.J. Super. 166, 178 (App. Div. 2007).
  - There is no knowing and willful violation.
  
16. Anonymous v. Borough of Haledon (Passaic) (2020-107)
  - Mr. Ramadan conducted an insufficient search. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the Council should decline to order disclosure of fifty-four (54) summonses because the Custodian disclosed them as part of the Statement of Information.
  - The Custodian may have unlawfully denied access to additional summonses associated with twenty (20) computer aided dispatch (“CAD”) reports. Macek v. Bergen Cnty. Sheriff's Office, GRC Complaint No. 2017-156, *et seq.* (Interim Order dated June 25, 2019). The Custodian shall perform a search and either disclose located records or certify if none exist.
  - The knowing and willful analysis is deferred.
  
17. Anonymous v. Borough of Haledon (Passaic) (2020-108)
  - 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 at least six (6) summonses associated with CAD report 18-17463. Macek, GRC 2017-156. The Custodian shall perform a search and either disclose located records or certify if none exist.
  - The knowing and willful analysis is deferred.
  
18. Anonymous v. Borough of Haledon (Passaic) (2020-109)
  - The Custodian conducted an insufficient search. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the Council should decline to order disclosure of the Rules and Regulations because the Custodian did so as part of the Statement of Information.
  - The Custodian lawfully denied access to the Public Employment Relations Commission certification because no records existed Pusterhofer v. N.J. Dep't of Educ., GRC Complaint No. 2005-49 (July 2005).
  - There is no knowing and willful violation.
  
19. Anonymous v. Borough of Haledon (Passaic) (2020-117)
  - Mr. Ramadan conducted an insufficient search. N.J.S.A. 47:1A-6; Schneble, GRC 2007-220. However, the Council should decline to order disclosure of the outstanding summonses because the Custodian did so on December 9, 2020.
  - There is no knowing and willful violation.

20. Carl Moore v. NJ Department of Corrections (2020-121)

- The Custodian lawfully denied access to the subject OPRA request because the records sought are exempt under New Jersey Department of Corrections' regulations. N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(12).

21. Kevin O'Connor v. Borough of Fort Lee (Bergen) (2020-126)

- The Custodian timely responded to the Complainant's OPRA request; as such, no "deemed" denial occurred. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).

**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.