



**Minutes of the Government Records Council
November 9, 2021 Public Meeting – Open Session**

I. Public Session:

- **Call to Order**

The meeting was called to order at 1:33 p.m. by Ms. Robin Berg Tabakin via Microsoft Teams.

- **Pledge of Allegiance**

All stood and recited the pledge of allegiance in salute to the American flag.

- **Meeting Notice**

Ms. Berg Tabakin read the following Open Public Meetings Act statement:

“This meeting was called pursuant to the provisions of the Open Public Meeting Act. Notices of this meeting were faxed to the Newark Star Ledger, Trenton Times, Courier-Post (Cherry Hill), and the Secretary of State on November 4, 2021.

- **Roll Call**

Ms. Bordzoe called the roll:

Present: Robin Berg Tabakin, Esq. (Chairwoman), Salma Chand, Esq. (designee of Department of Education Acting Commissioner Dr. Angelica Allen-McMillan), Gina Trish (designee of Department of Community Affairs Commissioner, Lt. Governor Sheila Y. Oliver), and Steven Ritardi, Esq., Public Member.

GRC Staff in Attendance: Frank F. Caruso (Executive Director), Rosemond Bordzoe (Secretary), Samuel Rosado (Staff Attorney), and Deputy Attorney General Debra Allen. John Stewart (Mediator) was absent.

II. Executive Director’s Report:

Current Statistics

- Since OPRA’s inception in July 2002, the GRC has received 5,864 Denial of Access Complaints. That averages about 303 annual complaints per 19 1/3 program years. So

far in the current program year (FY2022), the GRC has received 129 Denial of Access Complaints.

- 392 of the 5,864 complaints remain open and active (6.7%). Of those open cases:
 - 6 complaint is on appeal with the Appellate Division (1.5%);
 - 42 complaints are currently in mediation (10.7%);
 - 2 complaint are proposed for the Office of Administrative Law (0.5%);
 - 31 complaints await adjudication by the Office of Administrative Law (7.9%);
 - 88 complaints are tentatively scheduled for adjudication at an upcoming GRC meeting, which includes the current meeting (22.4%);
 - 223 complaints are work in progress (56.9%); and
 - 0 complaints are being held in abeyance (0.0%).

- Since Program Year 2004, the GRC has received and responded to 34,791 total inquiries, averaging about 1,898 annual inquiries per 18 1/3 tracked program years (the GRC did not track inquiries in the agency's first year). So far in the current program year (FY2022), the GRC has received 604 inquiries (6.8 inquiries per workday).

GRC Regulations

- The GRC is in the beginning stages of addressing the pending expiration of its regulations in April 2022. To this end, the Council will be convening in closed session later in today's meeting to receive legal advice on potential changes to the current iteration of the regulations.

III. Approval of Minutes of Previous Meetings:

September 28, 2021 Open Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft open session minutes of the September 28, 2021 meeting. Mr. Ritardi made a motion, which was seconded by Ms. Chand. The motion passed by a unanimous vote.

September 28, 2021 Closed Session Meeting Minutes

Ms. Berg Tabakin called for a motion to approve the draft closed session minutes of the September 28, 2021 meeting. Mr. Ritardi made a motion, which was seconded by Ms. Chand. The motion passed by a unanimous vote.

IV. New Business – Cases Scheduled for Adjudication

Ms. Berg Tabakin stated that 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 reason for the Administrative Disposition is under each complaint below:

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

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for Agenda item No. 1 to ensure his non-participation in the item from which he was recused. Mr. Caruso confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda item.

1. **David Weiner v. County of Essex (2020-208) (SR Recusal)**

- No Records Responsive to the Request Exist.
- Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition. Ms. Trish made a motion, which was seconded by Ms. Chand. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

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

1. **Alec Ferretti v. NJ Department of Health (2021-198)**

- No Records Responsive to the Request Exist.
- Ms. Berg Tabakin called for a motion to accept the recommendations as written in the above Administrative Complaint Disposition. Ms. Trish made a motion, which was seconded by Ms. Chand. The motion passed by a unanimous vote.

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

1. **Christopher Taylor v. Borough of Clementon (Camden) (2021-85)**

- Complaint Settled in Mediation.

2. **Sonia L. Bell, Esq. (o/b/o Albert Kopczynski) v. Township of Berlin (Camden) (2021-96)**

- Complaint Settled in Mediation.

3. **Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, & Grace Woko) v. Bernards Township Police Department (Somerset) (2021-149)**

- Complaint Settled in Mediation.

4. **Rotimi Owoh, Esq. (o/b/o Delores Simmons, Obafemi Simmons, & Grace Woko) v. Woolwich Police Department (Gloucester) (2021-150)**

- Complaint Settled in Mediation.

5. **Ibn Jones v. NJ Department of Corrections (2021-162)**

- Complaint Settled in Mediation.

6. **David Weiner v. County of Essex (2021-191)**

- Complaint Settled in Mediation.

7. **Ryan Brenek v. Newark Police Department (Essex) (2021-209)**

- Complaint Voluntarily Withdrawn.

8. **Alec Ferretti v. NJ Department of Health (2021-226)**
 - Complaint Voluntarily Withdrawn.
9. **Anthony C. Halko v. Township of Saddle Brook (Bergen) (2021-228)**
 - Complaint Voluntarily Withdrawn.
10. **Ventnor City P.B.A. Local 97 v. City of Ventnor (Atlantic) (2021-237)**
 - Complaint Voluntarily Withdrawn.

V. New Business – Cases Scheduled for Individual Complaint Adjudication

A. Individual Complaint Adjudications with Recusals:

A brief summary of the Executive Director’s recommended action is under each complaint:

Ms. Berg Tabakin noted that Mr. Ritardi would be muted for Agenda items No. 1 through 4 to ensure his non-participation in the items from which he was recused. Ms. Berg Tabakin confirmed to the public that Mr. Ritardi was muted prior to addressing the below agenda items.

1. **Christopher Tirado v. Rutgers University (2016-165) (SR Recusal)**
 - The Council should adopt the Administrative Law Judge’s September 23, 2021 Initial Decision that no knowing and willful violation occurred, and that the complaint be dismissed, but modify to find that the Complainant is not a prevailing party.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.
2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. City of Paterson (Passaic) (2020-16) (SR Recusal)**
 - The Custodian lawfully denied access to the Complainant’s OPRA request item No. 1 because she certified, and the record reflects, that no records exist. Pusterhofer v. N.J. Dep’t of Educ., GRC Complaint No. 2005-49 (July 2005).
 - The Custodian unlawfully denied access to the Complainant’s OPRA request item Nos. 2 and 3. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-10; Danis v. Garfield Bd. of Educ. (Bergen), GRC Complaint No. 2009-156, *et seq.* (Interim Order dated June 29, 2010). However, the GRC should decline to order disclosure because same occurred on February 14, 2020.
 - 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.

- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Mr. Rosado noted that a cite for Paff v. Galloway Twp., 229 N.J. 340, 355 (2017) was added to paragraph 4 on page 4. Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as edited. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.
3. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Paramus (Bergen) (2020-112) (SR Recusal)**
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.
 4. **David Weiner v. County of Essex (2020-225) (SR Recusal)**
 - The Complainant’s request was invalid because it failed to identify specific government records and would have required research. MAG Entm’t, LLC v. Div. of ABC, 375 N.J. Super. 534, 546 (App. Div. 2005); Lagerkvist v. Office of the Governor, 443 N.J. Super. 230, 237 (App. Div. 2015). Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote; Mr. Ritardi recused.

Ms. Berg Tabakin notified the public that Mr. Ritardi would rejoin the meeting by unmuting himself. Mr. Ritardi rejoined the meeting at that time.

B. Individual Complaint Adjudications with no Recusals:

1. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Middlesex (Middlesex) (2018-70)**
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and

recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

2. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Old Bridge Township (Middlesex) (2018-79)**

- The Custodian complied with the Council's December 15, 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

3. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Township of Washington (Gloucester) (2018-80)**

- The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

4. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Bradley Beach (Monmouth) (2018-157)**

- The Custodian failed to comply with the Council's September 29, 2020 Interim Order.
- The Council's Order is enforceable in Superior Court. N.J. Court Rules, R. 4:67-6; N.J.A.C. 5:105-2.9(c).
- The Custodian's actions may have been knowing and willful. Thus, this complaint should be referred to the Office of Administrative Law ("OAL") for a knowing and willful hearing.
- The Complainant is a prevailing party entitled to an award of attorney's fees. Teeters v. DYFS, 387 N.J. Super. 423, 432 (App. Div. 2006); Mason v. City of Hoboken and City Clerk of the City of Hoboken, 196 N.J. 51 (2008). For administrative ease, the OAL should determine the total fee amount.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and

recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

5. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Rumson Police Department (Monmouth) (2018-163)**

- The Custodian has borne her burden of proof that the proposed special service charge was warranted and reasonable, and that the associated copying costs represented the “actual cost” to disclose responsive records. Courier Post v. Lenape Reg’l High Sch. Dist., 360 N.J. Super. 191, 202 (Law Div. 2002); Paff v. Twp. of Teaneck (Bergen), GRC Complaint No. 2010-09 (Interim Order dated May 24, 2011). However, the GRC declines to order disclosure after payment remittance because the Custodian already sent the responsive records to the Complainant.
- The Complainant is not a prevailing party.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

6. **Rotimi Owoh, Esq. (o/b/o Baffi Simmons & African American Data & Research Institute) v. Township of Berkeley (Ocean) (2018-186)**

- The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Trish made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

7. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of West Cape May (Cape May) (2018-197)**

- The Custodian complied with the Council’s September 28, 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

8. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Avalon (Cape May) (2018-198)**
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

9. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute & Baffi Simmons) v. Township of Pennsville (Salem) (2018-233)**
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

10. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute & Baffi Simmons) v. Elsinboro Township (Salem) (2018-246)**
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

11. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute & Baffi Simmons) v. Borough of Alpha (Warren) (2018-283)**
 - The Council should grant the Custodian's request for reconsideration based on a mistake.
 - The Council should rescind conclusion No. 1 of the August 24, 2021 Interim Order and find that the Custodian complied with same.
 - The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
 - Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and

recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

12. **PBA 400 v. County of Salem (2019-156).**

- The Custodian's failure to timely respond to the subject OPRA request resulted in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- Due to insufficient evidence on the record, this complaint should be referred to the OAL for a hearing to resolve the facts. Semprevivo v. Pinelands Reg'l Sch. Dist. Bd. of Educ. (Burlington), GRC Complaint No. 2007-135 (October 2008). The OAL should also determine whether a knowing and willful violation occurred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

13. **James Brown v. NJ Department of Treasury, Division of Lottery (2019-197)**

- The Custodian lawfully denied access to the requested reports under the "trade secret and proprietary commercial or financial information" exemption. N.J.S.A. 47:1A-1.1; Commc'ns Workers of America v. Rousseau, 417 N.J. Super. 341 (App. Div. 2010); N.J.S.A. 47:1A-6.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

14. **John J. Fano v. NJ Department of Human Services Police (2019-242)**

- The Custodian complied with the Council's September 28, 2021 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

15. **Regina Discenza v. Plumsted Township Board of Education (Ocean) (2020-23)**

- The Custodian complied with the Council's September 28, 2021 Interim Order.
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and

recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

16. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Roselle (Union) (2020-46)**

- The Council should dismiss the complaint because the parties have agreed to a prevailing party fee amount, thereby negating the need for any further adjudication.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

17. **Rotimi Owoh, Esq. (o/b/o African American Data & Research Institute) v. Borough of Lincoln Park (Morris) (2020-49)**

- The Custodian did not fully comply with the Council's April 27, 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

18. **S.V. o/b/o S.V. v. Morris School District (Morris) (2020-74)**

- The Custodian complied with the Council's September 28, 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.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

19. **Anonymous v. Borough of Haledon (Passaic) (2020-136)**

- The Custodian complied with the Council's September 28, 2021 Interim Order.

- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Trish made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

20. **Marcia A. Kleinz v. Atlantic Cape Community College (2020-161)**

- The Custodian's failure to timely respond to the subject OPRA request results in a "deemed" denial of access. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i).
- The Custodian's response was insufficient because she failed to provide a specific lawful basis for denying access and failed to address each OPRA request item. DeAppolonio v. Borough of Deal (Monmouth), GRC Complaint No. 2008-62 (September 2009); Paff v. Willingboro Bd. of Educ. (Burlington), GRC Complaint No. 2007-272 (May 2008).
- The Custodian may have unlawfully denied access to dates of hire, salary, and expense records and must either locate and disclose responsive records or certify if none exist. N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-10; Jackson v. Kean Univ., GRC Complaint No. 2002-98 (February 2004).
- The Custodian lawfully denied access to the requested contributions and health insurance information sought under the personnel exemption. O'Shea v. Twp. of West Milford (Passaic), GRC Complaint No. 2008-283 (November 2009); Palkowitz v. Hasbrouck Heights (Bergen), GRC Complaint No. 2013-199 (Interim Order dated February 25, 2014).
- The knowing and willful and prevailing party analyses are deferred.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

21. **Anonymous v. Borough of Haledon (Passaic) (2020-200)**

- The Custodian's failure to locate additional responsive records until after the filing of the instant complaint resulted in an insufficient search. Weiner v. Cnty. of Essex, GRC Complaint No. 2013-52 (September 2013). However, the GRC declines to order disclosure of the additional records because the Custodian did so as part of the Statement of Information ("SOI").
- There is no knowing and willful violation.
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Mr. Ritardi made a motion and Ms. Chand seconded the motion. The motion passed by a unanimous vote.

22. **Anonymous v. Borough of Haledon (Passaic) (2020-201)**
23. **Anonymous v. Borough of Haledon (Passaic) (2020-202)**
24. **Anonymous v. Borough of Haledon (Passaic) (2020-203) Consolidated**
- The Custodian’s failure to locate additional records responsive to the first (1st) OPRA request until after the filing of the instant complaint resulted in an insufficient search. Weiner, GRC 2013-52. However, the GRC declines to order disclosure of the additional records because the Custodian did so as part of the SOI.
 - The Custodian’s failure to timely respond to the Complainant’s second (2nd) and third (3rd) OPRA requests 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 GRC declines to order disclosure of the additional records because the Custodian did so as part of the SOI.
 - There is no knowing and willful violation.
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.
25. **Anonymous v. Borough of Haledon (Passaic) (2020-204)**
- No unlawful denial of access occurred because the Custodian certified, and the record reflects, that he timely disclosed the responsive records to the Complainant on August 14, 2020. Danis, GRC 2009-156; Burns v. Borough of Collingswood, GRC Complaint No. 2005-68 (September 2005).
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.
26. **Corey Cauthen v. NJ Department of Corrections (2020-215)**
- The Custodian lawfully denied access to the Complainant’s OPRA request seeking visitation logs because they are exempt under the New Jersey Department of Corrections’ (“DOC”) regulations. N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(12)-(13).
 - Ms. Berg Tabakin called for any discussion on the Executive Director’s findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director’s findings and recommendations as written. Mr. Ritardi made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.
27. **Carl Gooding v. NJ Department of Corrections (2020-233)**
- The Custodian lawfully denied access to the Complainant’s OPRA request seeking a list of phone calls because they are exempt under DOC’s regulations. N.J.S.A. 47:1A-9(a); N.J.A.C. 10A:22-2.3(a)(12)-(13).

- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Ms. Trish seconded the motion. The motion passed by a unanimous vote.

28. Craig Francis Szemple v. NJ Department of Corrections (2020-234)

- The Custodian lawfully denied access to the Complainant's OPRA request seeking trust account information because they are exempt under Executive Order No. 26 (Gov. McGreevey 2002). N.J.S.A. 47:1A-6; N.J.S.A. 47:1A-9(a); Farra'D v. N.J. Dep't of Corr., GRC Complaint No. 2010-47 (October 2011); Spillane v. N.J. State Parole Bd., 2017 N.J. Super. Unpub. LEXIS 2392 (App. Div. 2017).
- Ms. Berg Tabakin called for any discussion on the Executive Director's findings and recommendations as written. Hearing none, Ms. Berg Tabakin called for a motion to accept the Executive Director's findings and recommendations as written. Ms. Chand made a motion and Mr. Ritardi seconded the motion. The motion passed by a unanimous vote.

VI. Court Decisions of GRC Complaints on Appeal: None

VII. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court: None

VIII. Public Comment:

- Ms. Dominique Cauthen: Ms. Cauthen asked for clarification regarding the Council's decision in Cauthen v. N.J. Dep't of Corr., GRC Complaint No. 2020-215 so that she could inform the Complainant. Mr. Caruso briefly recounted the decision and stated that Ms. Cauthen and/or the Complainant could contact their case manager with any questions.

IX. Closed Session:

- Deliberate and receive legal advice on GRC's draft regulations proposal (N.J.S.A. 10:4-12(b)(7)).

Ms. Berg Tabakin called for a motion to go into closed session. Ms. Chand made a motion, and Mr. Ritardi seconded the motion. The Council adopted the motion by a unanimous vote. The Council met in closed session from 2:11 p.m. until 3:53 p.m.

Ms. Berg Tabakin called for a motion to end the closed session. Ms. Trish made a motion, which was seconded by Ms. Chand. The Council adopted the motion by a unanimous vote. Open Session reconvened at 3:54 p.m., and Ms. Bordzoe called roll.

- Present: Ms. Berg Tabakin, Ms. Chand, Ms. Trish, and Mr. Ritardi.

X. Adjournment:

Ms. Berg Tabakin called for a motion to end the Council meeting. Mr. Ritardi made a motion, which was seconded by Ms. Chand. The motion passed by a unanimous vote. The meeting adjourned at 3:55 p.m.

Respectfully submitted,

Robin Berg Tabakin, Esq., Chair

Date Approved: December 14, 2021