



THE OPRA ALERT

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GRC WELCOMES BRANDON D. MINDE, ESQ. AS NEW EXECUTIVE DIRECTOR

On April 8, 2013, the Government Records Council (GRC) welcomed Brandon D. Minde, Esq., as its new Executive Director. As Executive Director of the GRC, Minde oversees the GRC's daily activities and manages the investigation and analysis of all denial of access complaints filed with the GRC. In addition to supervising GRC staff, Minde will also conduct various OPRA training sessions for government officials.

"I am committed to making OPRA work for both the public and public agencies, and will work hard to make sure government records are easily accessible," Minde said. "I look forward to working with the Council and staff to maintain the Council's commitment to being the facilitator of open government in New Jersey."

OPRA TRAINING

The GRC is pleased to announce the start of its 2013 OPRA seminar schedule. The following schedule is also available on the GRC's website at <http://www.nj.gov/grc/meetings/schedule/>.

1. **May 16, 2013** - OPRA Panel Discussion at the New Jersey State Bar Association's Annual Conference in Atlantic City, NJ. Registration handled through the State Bar Association.
2. **June 18, 2013** - OPRA Seminar hosted by the League of Municipalities (Crowne Plaza Monroe, NJ). Registration form is available on the GRC's website.
3. **September 18, 2013** - OPRA for Law Enforcement Agencies at the John H. Stamler Police Academy in Scotch Plains, NJ. Registration handled through the Union County Prosecutor's Office. Registration form is available on the GRC's website.
4. **October 3, 2013** - OPRA Seminar for government officials at the Saul Wittes Foundation Educational Conference (PNC Center at Holmdel). Registration handled through the Foundation.
5. **November 21, 2013** - OPRA Seminar at the New Jersey League of Municipalities Annual Conference. Registration handled through the League of Municipalities.

Additionally, the GRC is currently planning the 7th Annual OPRA Seminar for the Public. The GRC will provide more details as they become available.

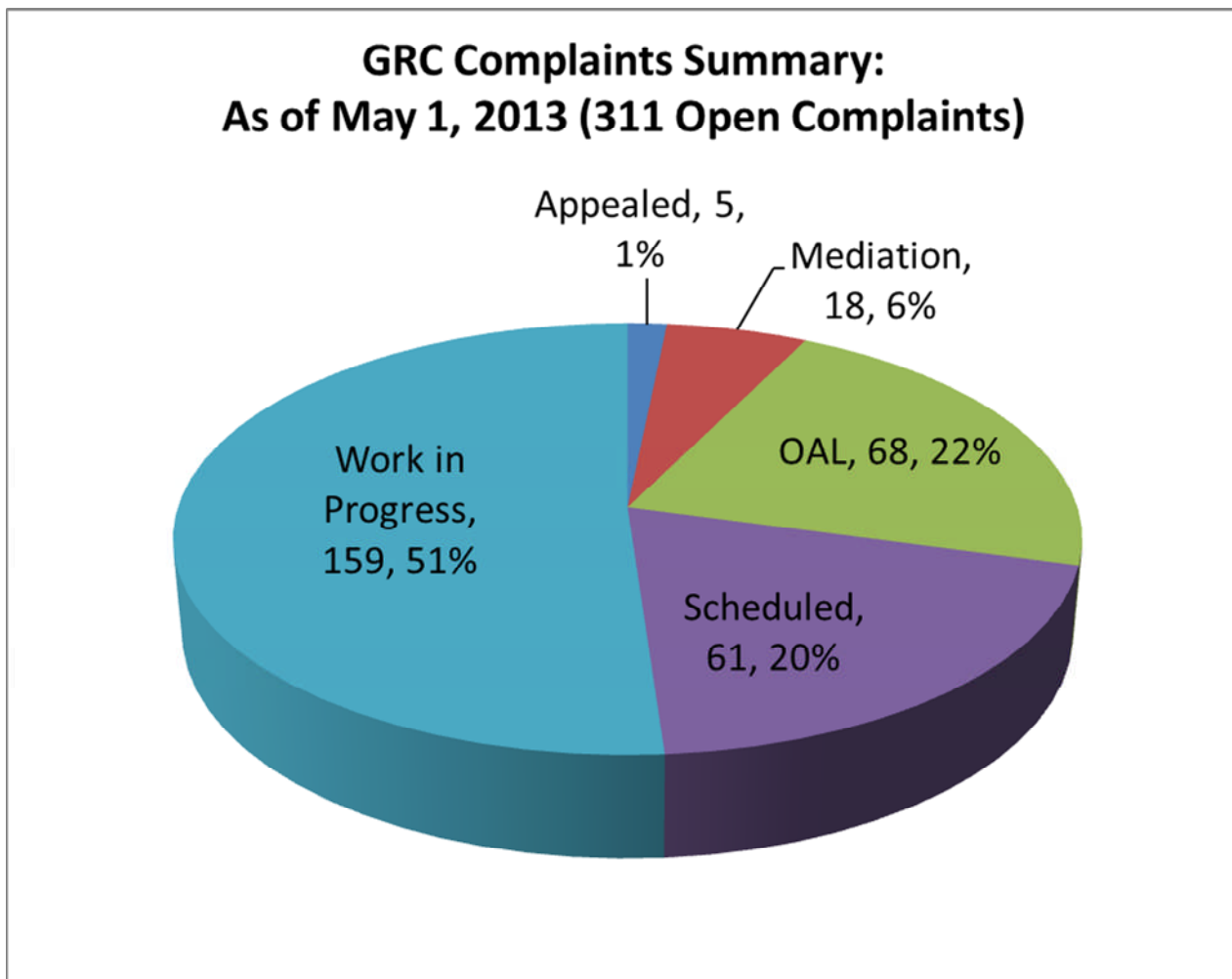
Contact the GRC at grc@dca.state.nj.us for additional training requests. The GRC will accommodate requests based on the GRC's availability.

CURRENT DENIAL OF ACCESS COMPLAINT STATISTICS

Under OPRA, the GRC receives, hears, reviews and adjudicates complaints filed by any person concerning a denial of access to a government record by a records custodian. Since OPRA’s inception in 2002, the GRC has received 3,092 Denial of Access Complaints, an average of 281 complaints per calendar year. In this current fiscal year (July 1, 2012 – June 30, 2013), the GRC has received 256 complaints to date.

At present, 311 (10%) of the 3,092 complaints filed remain open and active. 5 complaints (1%) are on appeal with the Appellate Division of the New Jersey Superior Court. 18 complaints (6%) are in mediation. 68 complaints (22%) are awaiting adjudication by the Office of Administrative Law. 61 complaints (20%) are tentatively scheduled for adjudication at an upcoming Council meeting. 159 complaints (51%) are awaiting GRC adjudication.

Below is a graphical representation of the status of the open complaints as of May 1, 2013:



TIMEFRAMES IN THE GRC COMPLAINT PROCESS

It is the GRC's goal that denial of access complaints filed with the GRC proceed in a timely manner. Towards that end, the GRC's regulations contain specific timeframes during which parties to a complaint must file their submissions with the GRC; adherence to these timeframes allows the Council to process complaints expeditiously. A party's failure to adhere to the established timeframes may result in the complaint being adjudicated based solely on the submissions of the opposing party. A full text of the GRC's regulations is available on the GRC's website at www.nj.gov/grc. A review of the most relevant timeframes is provided below.

Complainant Submissions to the Council - N.J.A.C. 5:105-2.3

Denial of Access Complaints must be submitted to the GRC on a Denial of Access Form, available for download from the GRC's website. A complainant may amend his or her complaint as a matter of right within 30 business days after the filing of the initial complaint. Such amendments must be submitted in writing to the Council with copies served simultaneously on all parties. Additional amendments or supplements to a complaint submitted beyond the 30 business day amendment period shall only be accepted for consideration in the adjudication of a complaint if authorized by the Executive Director.

Mediation - N.J.A.C. 5:105-2.5

Upon receipt of a complaint, the Council shall offer the services of a mediator without charge to the parties. A party who fails to respond to an offer of mediation within 5 business days from the date of its receipt is deemed to have rejected the offer to mediate the complaint.

Custodian Submissions to the Council - N.J.A.C. 5:105-2.4

Custodians shall submit a completed and signed Statement of Information for each complaint to the Council's staff and the complainant not later than 5 business days from the date of receipt of the Statement of Information form. Custodians must sign the Statement of Information. The Council will not accept additional submissions from the custodian unless approved by the Executive Director. Failure to comply with this time period may result in the complaint being adjudicated based solely on the submissions of the complainant.

If a complainant amends his or her complaint, the custodian shall have 5 business days from the date of receipt of same to submit his or her position regarding the complaint amendment with the Council. The Council will not accept additional submissions beyond said time period unless approved by the Executive Director. Failure to comply with this time period may result in the complaint being adjudicated based solely on the submissions of the complainant.

Requests for Reconsideration - N.J.A.C. 5:105-2.10

Requests for reconsideration must be filed within 10 business days following receipt of a Council's decision. Parties must file any objection to the request for reconsideration within 10 business days following receipt of the request.

Appeals of Council's Decisions - N.J.A.C. 5:105-2.11

A final decision of the Council may be appealed to the Appellate Division of the New Jersey Superior Court within 45 days from the date the decision is issued to the parties.

Stays of Council's Decisions - N.J.A.C. 5:105-2.12

Requests for a stay of the effective date of a Council's Interim Order must be made prior to the last day by which action was to have been taken in accordance with the Council's decision. Parties must file any objection to the request for a stay within 10 business days following receipt of the request.

Prevailing Party Attorney's Fees - N.J.A.C. 5:105-2.13

The complainant, or his or her attorney, shall submit an application to the Council for an award of attorney's fees within 20 business days following the effective date of a decision by the Council or a voluntary settlement agreement. Please refer to the full text of the regulations for a detailed description of the application requirements.

MEDIATION TIMELINES

The GRC offers mediation services to resolve disagreements arising from a request for public records. A trained neutral mediator is available to assist the parties - the person who is denied access to a government record and the custodian who denied or failed to provide access - reach a mutually acceptable resolution to their differences. Mediation is 100% voluntary; both parties must agree to participate in mediation. Any party to the mediation may withdraw at any time by notifying the mediator and all other parties involved. The mediator can also terminate the process at any point if it appears that further mediation would be unproductive.

To guide the mediation process, the mediator will establish timelines for the resolution of the complaint based on the perceived complexity of issues involved in the complaint: low, moderate, or high. A complaint established by the mediator to be of low complexity will be afforded a 20 day time period. Moderate complexity complaints will be afforded a 30 day time period. Finally, high complexity complaints will be afforded a 40 day time period. At all levels, the time begins from the date of the first mediation session or teleconferencing. Absent extenuating circumstances, a complaint that is not resolved during the established mediation time periods will be referred back to the GRC for adjudication.

NEW MEETING AGENDA FORMAT

In an effort to facilitate public comment and increase the effectiveness of such comment, the GRC's monthly public meetings now includes two public comment sessions as indicated on the agendas. The first public comment session is reserved solely for suggestions, views and comments relevant to proposed actions on the agenda. A second session of public comment will occur at the end of the meeting to provide an opportunity to present suggestions, views and comments relevant to the Council's functions and responsibilities. Agendas are posted to the GRC's website at <http://www.nj.gov/grc/meetings/minutes/>.

ABOUT THE GRC

The GRC is committed to making OPRA work for the citizens of New Jersey. Since the law's inception, the GRC has worked hard to make government records more easily accessible to the public. The GRC is committed to being the facilitator of open government in New Jersey.

Created under OPRA, the Government Records Council:

- Responds to inquiries and complaints about the law from the public and public agency records custodians
- Issues public information about the law and services provided by the Council
- Maintains a toll-free help-line and Web site to assist the public and records custodians
- Issues advisory opinions on the accessibility of government records
- Delivers training on the law
- Provides mediation of disputes about access to government records
- Resolves disputes regarding access to government records

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