



**State of New Jersey**  
**GOVERNMENT RECORDS COUNCIL**  
101 SOUTH BROAD STREET  
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**CHRIS CHRISTIE**  
*Governor*

**KIM GUADAGNO**  
*Lt. Governor*

**RICHARD E. CONSTABLE, III**  
*Commissioner*

**NOTICE OF MEETING**  
**Government Records Council**  
**September 30, 2014**

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 10:30 a.m., Tuesday, September 30, 2014, 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 10:30 a.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. Public Comment (First Session):**

- This first session of public comment 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.

**IV. Closed Session**

- Jeff Carter v. Franklin Fire District No. 2 (Somerset) (2012-5)
- Michael Doss v. Borough of Paramus (Bergen) (2014-149)

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

- July 29, 2014 Open Session Meeting Minutes (*Pulled due to lack of quorum*)
- July 29, 2014 Closed Session Meeting Minutes (*Pulled due to lake of quorum*)



**VI. 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. Fred Klock v. Newark Public Schools (Essex) (2013-352) **(SR Recusal)**
  - Complaint withdrawn.
2. Chasan Leyner & Lamparello, P.C. (On behalf of Monica Redmon) v. Jersey City Board of Education (Hudson) (2014-243) **(SR Recusal)**
  - Complaint withdrawn.
3. Darlene R. Esposito v. Supreme Court of NJ – District VC Ethics Committee (Essex) (2014-311) **(SR Recusal)**
  - Lack of jurisdiction; GRC does not have jurisdiction over the judiciary.

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

1. Pennie Landry v. Township of Nutley (Essex) (2014-53)
  - Settled in Mediation.
2. James D’Andrea v. NJ Civil Service Commission (2014-208)
  - Settled in Mediation.
3. Robert S. Daniel v. NJ Office of Information Technology (2014-215)
  - Settled in Mediation.
4. Douglas Wicks v. Rockaway Township Board of Education (Morris) (2014-255)
  - Complaint withdrawn.
5. Kathryn DeStefano v. Township of Greenwich (Warren) (2014-260)
  - Complaint withdrawn.
6. Arleen Severino v. East Rutherford School District (Bergen) (2014-282)
  - Complaint withdrawn.
7. Robert Pinero v. Secaucus Police Department (Hudson) (2014-283)
  - Complaint withdrawn.
8. Terrance David Harris v. Atlantic County Superior Court (2014-292)
  - Lack of jurisdiction; GRC does not have jurisdiction over the judiciary.

**VII. 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. Katalin Gordon v. City of Orange (Essex) (2011-256) **(SR Recusal)**
  - Council should reverse its August 28, 2013 decision, conclusion No. 3, to hold that the Complaint’s request is valid because the Custodian had enough information to search and identify responsive records. Custodian must disclose all responsive records.

- Knowing and willful analysis deferred.
2. Renata Wooden v. City of Newark (Essex) (2013-235) **(SR Recusal)**
    - Complaint should be dismissed; complaint withdrawn.
  3. Katalin Gordon v. City of Orange (Essex) (2013-255) **(SR Recusal)**
    - Custodian complied with the Council's April 29, 2014 Interim Order
    - No knowing and willful violation.
  4. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2013-311) **(SR Recusal)**
    - Custodian's failure to timely respond resulted in a deemed denial.
    - Custodian shall disclose records, if any,
    - Knowing and willful and prevailing party fee analyses deferred.
  5. Robert A. Verry v. Borough of South Bound Brook (Somerset) (2013-312) **(SR Recusal)**
    - Custodian's response was proper.
    - Custodian did not unlawfully deny access as no records existed.
    - Complainant is not a prevailing party.
  6. John Martinez v. Morris County Prosecutor's Office (2014-2) **(SR Recusal)**
    - Custodian never received OPRA request, therefore there was no denial of access.
  7. Juan L. Cabral v. Morris County Park Police (2014-298) **(SR Recusal)**
    - Custodian's response was insufficient because the Custodian failed to respond to each request individually.
    - Custodian failed to prove his denial of access was lawful.
    - Custodian disclosed record; no knowing and willful violation.

8. Sabino Valdes v. Union City Board of Education (Hudson) (2013-147) **(DP Recusal)**
  9. Sabino Valdes v. Union City Board of Education (Hudson) (2013-201) **(DP Recusal)**
  10. Sabino Valdes v. Union City Board of Education (Hudson) (2013-298) **(DP Recusal)**
  11. Sabino Valdes v. Union City Board of Education (Hudson) (2013-301) **(DP Recusal)**
- Consolidated**

- Complaints should be dismissed as frivolous.
  - Custodian did not unlawfully deny access because he certified that records could not be located or had been provided.
12. Michael I. Inzelbuch, Esq. v. Lakewood Board of Education (Ocean) (2014-79) **(DP Recusal)**
    - Custodian's failure to timely respond resulted in a deemed denial.
    - Custodian did provide access to the records; no knowing and willful violation found.
  13. Michael I. Inzelbuch, Esq. v. Lakewood Board of Education (Ocean) (2014-92) **(DP Recusal)**
    - Complaint failed to show that he was authorized to have access to the student records; thus, Custodian lawfully denied access.
    - Custodian lawfully denied access to balance of records because no such records exist.
  14. Harry B. Scheeler, Jr. v. NJ Department of Education (2014-172) (2014-172) **(DP Recusal)**
    - Custodian must disclose the records in the medium requested.
    - Knowing and willful analysis deferred.

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

1. Christopher T. Tasiopoulos v. Warren County Prosecutor's Office (2011-231)
  - Custodian complied with the Council's July 30, 2014 Interim Order.
  - Complainant is a prevailing party; thus, he is entitled to submit a fee application.
2. Christopher Lotito v. NJ Department of Labor, Division of Unemployment Insurance (2013-66)
3. Christopher Lotito v. NJ Department of Labor, Division of Unemployment Insurance (2013-67) **Consolidated**
  - Custodian complied with the Council's interim order.
  - Custodian unlawfully denied access to portions of majority of records, and failed to comply fully with the March 25, 2014 interim order, but lawfully denied access to the Examiner's handwritten notes.
  - No knowing and willful violation.
4. Loren B. Cherenky v. Borough of Fanwood (Union) (2013-87)
  - Complainant withdrew complaint; complaint should be dismissed.
5. David J. Roundtree v. NJ Department of State, Division of Elections (2013-133)
  - Custodian failed to fully comply with Council's July 29, 2014 order, as he failed to provide all records. Custodian, however, subsequently disclosed balance of records.
  - Although Custodian initially unlawfully denied access to some requested documents, he complied with the Council's February 25, 2014 order.
  - No knowing and willful violation.
6. Marc E. Chiappini v. Township of Fairfield (Cumberland) (2013-139)
  - Custodian complied with the Council's July 29, 2014 order.
  - Custodian initially unlawfully denied access to records, but ultimately disclosed the records.
  - No knowing and willful violation.
7. Edwin J. Skidmore v. Lebanon Township (Hunterdon) (2013-194)
  - Custodian complied with the Council's July 29, 2014 order.
  - Custodian initially unlawfully denied access to records, but ultimately disclosed the records.
  - No knowing and willful violation.
8. Brian Killion v. Hammonton Police Department (Atlantic) (2013-228)
  - Complainant failed to establish the requisite standard for reconsideration, thus the request for reconsideration should be denied.
9. Lauren Potts v. Ewing Township Board of Education (Mercer) (2013-232)
  - Initially, the Custodian unlawfully denied access to records because he failed to conduct an adequate search.
  - However, Custodian complied with the Council's July 29, 2014 order.
  - No knowing and willful violation.
10. Jeffrey W. Sauter v. Township of Colts Neck (Monmouth) (2013-239)
  - Council should deny Custodian's request for reconsideration because he failed to sustain his burden of proof.
  - Factual questions remain as to whether the Township or the Fire District possessed the records at the time of the Complaint, thus complaint should be referred to OAL.

- OAL should conduct a knowing and willful analysis.
11. Sabino Valdes v. Government Records Council (2013-278)
    - Doctrine of Necessity permits any Council members who may have a conflict of interest to participate in the adjudication of these matters, because the Complainant has chosen to adjudicate the Complaint in this forum, there is a pressing public need to adjudicate same, the Council has unique expertise and experience which cannot be duplicated and the Council could not fulfill its statutory obligation to review and adjudicate this Complaint if its members were required to recuse themselves.
    - Custodian timely responded to the Complaint.
    - Complaint's request No. 2 is invalid because it fails to identify specific records.
  12. June Maxam v. Bloomfield Township Department of Health & Human Services (Essex) (2013-285)
    - Evidence is both insufficient and conflicting. Thus, case should be referred to OAL for a fact finding.
  13. Robert A. Verry v. Franklin Fire District No. 1 (Somerset) (2013-287)
    - The Custodian complied with the Council's July 29, 2014.
    - No knowing and willful violation.
    - The Complainant is a prevailing party entitled to an award of reasonable attorney's fees.
  14. Carolyn Breslin v. Burlington County Special Services School District (2013-295)
    - Custodian failed to comply with Council's April 29, 2014 order.
    - Complainant, if she desires may seek to enforce Council's order in Superior Court.
    - Custodian is in contempt of Council's order.
    - Complaint referred to OAL for a knowing and willful determination.
  15. Daryle L. Pitts v. NJ Department of Corrections (2013-299)
    - Presentence report, although originating from the Judiciary, was kept on file with the NJ State Prison and thus, is a government record.
    - Presentence report contains ACD material and thus is exempt from disclosure.
  16. Frances Hall v. City of Camden (Camden) (2013-305)
    - Custodian complied with the Council's July 29, 2014 order.
    - No knowing and willful violation.
  17. Luis F. Rodriguez v. NJ Division of Law (2013-306)
    - Custodian complied with the Council's July 29, 2014 order.
    - No knowing and willful violation.
  18. Luis Rodriguez v. Kean University (2013-323)
    - Custodian initially failed to comply with the Council's July 29, 2014 order.
    - However, Custodian subsequently complied disclosed the records.
    - No knowing and willful violation.
  19. Stuart J. Alterman, Esq. v. Sussex County Sheriff's Office (2013-353)
    - Complainant's complaint failed to state a claim, and thus should be dismissed.
  20. J.C. McCormack v. NJ Department of Treasury (2013-357)
    - Custodian's failure to timely respond resulted in a deemed denial.
    - Custodian must disclose unreacted copies of the proposals and contract to the GRC for an in camera review.

- TDEC shall provide Custodian with records necessary for Custodian to comply with Council's Order.
- Knowing and willful analysis deferred.

21. Matthew M. Fredericks, Esq. v. State Ethics Commission (2014-3)

- Custodian lawfully denied access to the results of the Preliminary investigation
- Because same are exempt from disclosure under the State Ethics Commission regulations. Custodian could not unlawfully deny access to the results of the Preliminary investigation because the report did not exist at the time of the request.
- Complainant not a prevailing party.

22. Donna Doran v. Little Ferry Board of Education (Bergen) (2014-7)

- The Custodian has not borne his burden of proof that a special service charge is warranted.
- Custodian shall disclose records upon payment of actual costs.
- Knowing and willful analysis deferred.

23. Rene Edwards v. NJ Department of Corrections (2014-8)

- Custodian's failure to timely respond resulted in a deemed denial.
- Custodian, however, lawfully denied access to records regarding another inmate, responsive health charts, and shift schedule.
- No knowing and willful violation.

24. Rotimi Owoh, Esq. v. West Windsor Plainsboro School District (Mercer) (2014-15)  
 25. Rotimi Owoh, Esq. v. West Windsor Plainsboro School District (Mercer) (2014-61)  
 26. Rotimi Owoh, Esq. v. West Windsor Plainsboro School District (Mercer) (2014-105)  
**Consolidated**

- The Custodian disclosed the responsive records in a timely manner and thus did not deny access.
- No unlawful denial of access.

27. Rotimi Owoh, Esq. v. West Windsor Plainsboro School District (Mercer) (2014-16)  
 28. Rotimi Owoh, Esq. v. West Windsor Plainsboro School District (Mercer) (2014-62)  
 29. Rotimi Owoh, Esq. v. West Windsor Plainsboro School District (Mercer) (2014-81)  
**Consolidated**

- The Custodian did not unlawfully deny access to the requested employee information of private, for-profit businesses.
- Complainant is not a prevailing party.

30. Cynthia A. McBride v. City of Camden (Camden) (2014-54)

- Custodian did not bear his burden of proof that the request was overbroad.
- Custodian shall disclose a copy of the requested file to the Complainant.
- Knowing and willful analysis deferred.

31. John Ciszewski v. Newton Police Department (Sussex) (2014-68)

- Custodian's failure to timely respond resulted in a deemed denial.
- No unlawful denial of access because there were no responsive documents.
- No knowing and willful violation.

32. King Victorious v. NJ Department of Corrections (2014-71)

- Custodian lawfully denied access to the records involving another inmate.

- Custodian did not lawfully deny access to the two witness statements because the records do not concern any inmate other than the requestor.
  - Custodian must disclose the witness statements.
  - Knowing and willful analysis deferred.
33. Cherie LaPelusa v. City of Bayonne (Hudson) (2014-72)
- Custodian's failure to timely respond resulted in a deemed denial.
  - Custodian disclosed all responsive records and therefore did not unlawfully deny access.
  - No knowing and willful violation.
34. Michael Doss v. Borough of Paramus (Bergen) (2014-149) (*Tabled for next meeting*)
35. Luis F. Rodriguez v. State Ethics Commission (2014-186)
- The Custodian responded to the Complaint in a timely manner. Thus, paragraphs one and three of the July 29, 2014 order should be stricken.

#### **VIII. Court Decisions of GRC Complaints on Appeal:**

- Cattonar v. Twp. of Jackson Police Dep't (Ocean), 2014 N.J. Super. Unpub. LEXIS 2130, (App. Div. 2014)(appealed from GRC Complaint No. 2011-230)

#### **IX. Complaints Adjudicated in NJ Superior Court & NJ Supreme Court:**

- Gilleran v. Ernship, Inc., 2014 N.J. Super. Unpub. LEXIS 1883 (August 1, 2014)
- Paff v. Ocean Cnty. Prosecutor's Office, 2014 N.J. Super. Unpub. LEXIS 1899 (July 31, 2014)
- N.J. Found. for Open Gov't v. Island Heights Bd. of Educ., 2014 N.J. Super. Unpub. LEXIS 2189 (August 26, 2014)

#### **X. Public Comment (Second Session):**

- This second session of public comment is an opportunity 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**.

#### **XI. 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.**