

## 2025 1st Quarter Correspondence

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**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul  
Attorney General**

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January 10, 2025

Christian Aguirre-Hodge, #558038  
New Lisbon Correctional Institution  
Post Office Box 2000  
New Lisbon, WI 53950-2000

Dear Christian Aguirre-Hodge:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated December 10, 2024, in which you requested that “an Action of Mandamus be brought against the State Public Defenders Office[ ]” by the Attorney General. You further stated that the “Public Defender’s Office responded to [your] request to obtain information regarding [your] case” but you “did not receive any of the information that was supposedly sent.”

The Attorney General and DOJ’s Office of Open Government (OOG) appreciate your concerns. DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Office of the Wisconsin State Public Defender. DOJ strives to provide the public with guidance on the interpretation of our State’s public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

The Attorney General and DOJ’s Office of Open Government are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.doj.state.wi.us/office-open-government/office-open-government>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin’s proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



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DEPARTMENT OF JUSTICE**

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January 15, 2025

John L. Dye Jr., #207379  
Fox Lake Correctional Institution  
Post Office Box 200  
Fox Lake, WI 53933

Dear John L. Dye Jr.:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated January 21, 2024, in which you wrote, "Having submitted a request per the [Freedom of Information Act] here at the residing facility requesting certain information and/or record(s), my request was denied . . . as of this date neither this Office nor the 'DOJ' has responded to my appeal to obtain the record(s) requested."

In your correspondence you wrote, "your prompt response to my previously submitted 'Appeal' is hereby respectfully requested." Please note, the DOJ's Office of Open Government (OOG) has not received the "Appeal" you reference, dated December 11, 2023.

Your correspondence references the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. For your information, FOIA applies to federal agencies and helps ensure public access to records of federal agencies. In Wisconsin, the state counterpart to FOIA is the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority."

The Attorney General and DOJ's OOG appreciate your concerns. DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Wisconsin Department of Corrections (DOC). DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I did contact the DOC to make them aware of your concerns, and I am also copying them on this letter.

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Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Wisconsin Department of Corrections



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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January 15, 2025

Kallin Janzen  
kalthetrucker@gmail.com

Dear Kallin Janzen:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 2, 2024, in which you wrote, “County law enforcement and non elected positions conceal, withhold and/or mismanage storage and retrieval of reports, records and don’t want the wi Doj involved. How does one get the Doj involved?”

Your correspondence did not name the county law enforcement agency or the “non elected positions” in question, so our office was unable to contact them and was unable to copy the law enforcement agency or individuals on this letter. Based on the limited information provided in your correspondence, we are providing you with the following general information regarding the public records law that we hope you will find helpful. The discussion that follows includes a description of the remedies available to individuals dissatisfied with responses to public records requests.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. See Wis. Stat. § 19.36(6).

Pursuant to Wis. Stat. § 19.35(4)(b), “[i]f an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request.” Specific policy reasons, rather than mere statements of legal conclusion or recitation of exemptions, must be given. *Pangman & Assocs. v. Zellmer*, 163 Wis. 2d 1070, 1084, 473 N.W.2d 538 (Ct. App. 1991); *Vill. of Butler v. Cohen*, 163 Wis. 2d 819, 824-25, 472 N.W.2d 579 (Ct. App. 1991). In every written denial, the authority must also inform the requester that “if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37(1) or upon application to the attorney general or a district attorney.” Wis. Stat. § 19.35(4)(b).

The public records law “does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester.” *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; *see also State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). An authority cannot fulfill a request for a record if the authority has no such record. While the public records law does not require an authority to notify a requester that the requested record does not exist, it is advisable that an authority do so.

Records retention is a subject that is generally related to, but different from, the access requirements imposed by the public records law. The public records law only addresses how long an authority must keep its records once an authority receives a public records request. Although the public records law addresses the duty to *disclose* records, it is not a means of enforcing the duty to *retain* records, except for the period after a request for particular records is submitted. *See State ex rel. Gehl v. Connors*, 2007 WI App 238, ¶ 15 n.4 (citing Wis. Stat. § 19.35(5)) (citation omitted). When a requester submits a public records request, the authority is obligated to preserve the requested records until after the request is granted or until at least 60 days after the request is denied (90 days if the requester is a committed or incarcerated person). Other retention periods apply if an authority receives written notice that the requester has commenced a mandamus action (an action to enforce the public records law).

Other than this, the public records law does not address how long an authority must keep its records, and the public records law cannot be used to address an authority’s alleged failure to retain records required to be kept under other laws. Instead, records retention is governed by other statutes. Specifically, Wisconsin Stat. § 16.61 addresses the retention of records for state agencies, and Wisconsin Stat. § 19.21 deals with records retention for local government entities. The general statutory requirements for records retention apply equally to electronic records. Most often, records retention schedules, created in accordance with these statutes, govern how long an authority must keep its records and what it must do with them after the retention period ends. The Wisconsin Public Records Board’s website, <http://publicrecordsboard.wi.gov/>, has additional information on records retention.

The public records law provides several remedies for a requester dissatisfied with an authority’s response, or lack of response, to a public records request. A requester may file an



action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus on your behalf.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney's fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service  
State Bar of Wisconsin  
P.O. Box 7158  
Madison, WI 53707-7158  
(800) 362-9082  
(608) 257-4666

<http://www.wisbar.org/forpublic/ineedalawyer/pages/lris.aspx>

The Attorney General and the Office of Open Government are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.doj.state.wi.us/office-open-government/office-open-government>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

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Sincerely,



Lili C. Behm  
Assistant Attorney General  
Office of Open Government



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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Josh Kaul  
Attorney General

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January 15, 2025

Lona Mleziva  
lona.mleziva@icloud.com

Dear Lona Mleziva:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 5, 2024, in which you wrote, “I have requested public records from the Denmark Fire Department approximately 6 times via email, voicemail, and Facebook Messenger between 1/18/24 and 1/31/24 and received no response.” You stated that the last communication you received regarding your request was a message that said: “we are in discussions with our legal counsel, we will have a response shortly.” You wrote, “I have not heard back from them yet. . . . Please advise what my next steps would be.”

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

The public records law does not require a response to a public records request within a specific timeframe. In other words, after a request is received, there is no set deadline by which the authority must respond. However, the law states that upon receipt of a public records request, the authority “shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority’s determination to deny the request in whole or in part and the reasons therefor.” Wis. Stat. § 19.35(4)(a). A reasonable amount of time for a response “depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations.” *WIREdata, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, 751 N.W.2d 736; see *Journal Times v. Police & Fire Comm’rs Bd.*, 2015 WI 56, ¶ 85, 362 Wis. 2d 577, 866 N.W.2d 563 (an authority “can be swamped with public records requests and may need a substantial period of time to respond to any given request”).

Pursuant to Wis. Stat. § 19.35(4)(b), “If an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request.” Specific policy reasons, rather than mere statements of legal conclusion or recitation of exemptions, must be given. *Pangman & Assocs. v. Zellmer*,

163 Wis. 2d 1070, 1084, 473 N.W.2d 538 (Ct. App. 1991); *Vill. of Butler v. Cohen*, 163 Wis. 2d 819, 824-25, 472 N.W.2d 579 (Ct. App. 1991). In every written denial, the authority must also inform the requester that “if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37(1) or upon application to the attorney general or a district attorney.” Wis. Stat. § 19.35(4)(b).

The public records law “does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester.” *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; see also *State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). An authority cannot fulfill a request for a record if the authority has no such record. While the public records law does not require an authority to notify a requester that the requested record does not exist, it is advisable that an authority do so.

In your correspondence you wrote, “Please advise what my next steps should be.” The public records law provides several remedies for a requester dissatisfied with an authority’s response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus.

However, I am copying the Village of Denmark to make them aware of your concerns, and I invite them to contact me should they have questions.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney’s fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service  
State Bar of Wisconsin  
P.O. Box 7158  
Madison, WI 53707-7158  
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Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Village of Denmark Clerk-Treasurer and Deputy Clerk-Treasurer



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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behml@doj.state.wi.us  
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FAX 608/267-2779

January 15, 2025

Jacketus Presswood  
jacketus@hotmail.com

Dear Jacketus Presswood:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated January 9, 2025, in which you wrote, "I am writing to express concerns regarding my efforts to obtain a public record held by the Wisconsin Department of Public Instruction (DPI). I am seeking guidance on how to proceed, as I believe the issue may involve challenges related to the Wisconsin Public Records Law."

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent DPI. DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I did contact DPI to make them aware of your concerns, and I am also copying them on this letter.

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ's Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.doj.state.wi.us/office-open-government/office-open-government>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

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Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Wisconsin Department of Public Instruction



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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FAX 608/267-2779

March 6, 2025

Emma Torgerson  
[emmajorgerson10@gmail.com](mailto:emmajorgerson10@gmail.com)

Dear Emma Torgerson:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 4, 2025, in which you submitted a “formal Request for Review pursuant to Wis. Stat. § 19.37(1)(b) regarding the denial of [your] public records request for the autopsy and forensic investigation records of Stephanie Ann Low” by the University of Wisconsin-Madison (UW-Madison).

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent UW-Madison. DOJ strives to provide the public with guidance on the interpretation of our State’s public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic. For these same reasons, DOJ must decline your request for a Writ of Mandamus.

However, I did contact UW-Madison to make them aware of your concerns, and I am also copying them on this letter.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

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A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: University of Wisconsin – Madison, Office of Legal Affairs





**STATE OF WISCONSIN  
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**Josh Kaul**  
Attorney General

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FAX 608/267-2779

March 6, 2025

Emma Torgerson  
[emmajorgerson10@gmail.com](mailto:emmajorgerson10@gmail.com)

Dear Emma Torgerson:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 4, 2025, in which you “formally request[ed] a review of the denial of public records by the Marathon County Medical Examiner’s Office [and Corporation Counsel] regarding [your] request for records related to the autopsy and forensic investigation of Stephanie Ann Low (DOB: September 29, 1988).”

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent county corporation counsels, including the Marathon County Corporation Counsel, who issued the denial letter to you regarding the above-described public records request. DOJ strives to provide the public with guidance on the interpretation of our State’s public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic. For these same reasons, DOJ must decline your request for a Writ of Mandamus.

However, I did contact the Marathon County Corporation Counsel to make them aware of your concerns, and I am also copying them on this letter.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

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Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Marathon County Corporation Counsel



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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Attorney General

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Lili C. Behm  
Assistant Attorney General  
behml@doj.state.wi.us  
608/266-1221  
TTY 1-800-947-3529  
FAX 608/267-2779

March 26, 2025

William Armstrong  
Williamlouisarmstrong93@gmail.com

Dear William Armstrong:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 16, 2024 and March 1, 2024, regarding your public records request to the Milwaukee Police Department. You wrote, "I recieved [sic] body cam from police, cad 232261388, Milwaukee. The sheet said that it redacted the footage showing the police computer. . . . I believe that the extent of the redactions far exceed what is required for compelling reasons." You wrote, "I'm going to file a mandamus [sic] action unless we can figure something out."

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. While a portion of your correspondence pertained to the public records law, it also concerned matters outside the scope of the OOG's responsibilities. As a result, we are unable to offer you assistance or insight regarding your accident and referenced interactions with the police officers and firefighter. We can, however, provide you with some general information about the public records law that we hope you will find helpful.

The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

Regarding your concerns about redactions, records are presumed to be open to public inspection and copying, but there are exceptions. *See* Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy

concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. See Wis. Stat. § 19.36(6). Based on your correspondence, we have insufficient information to determine what material was redacted from the footage you received and whether those redactions may have failed to comply with the requirements of the public records law.

Pursuant to Wis. Stat. § 19.35(4)(b), “If an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request.” Specific policy reasons, rather than mere statements of legal conclusion or recitation of exemptions, must be given. *Pangman & Assocs. v. Zellmer*, 163 Wis. 2d 1070, 1084, 473 N.W.2d 538 (Ct. App. 1991); *Vill. of Butler v. Cohen*, 163 Wis. 2d 819, 824-25, 472 N.W.2d 579 (Ct. App. 1991). In every written denial, the authority must also inform the requester that “if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37(1) or upon application to the attorney general or a district attorney.” Wis. Stat. § 19.35(4)(b).

The public records law provides several remedies for a requester dissatisfied with an authority’s response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). Importantly, please note that, in Milwaukee County, it is the Milwaukee County Office of Corporation Counsel, and not the district attorney, that serves as legal counsel for the purposes of enforcing the public records law. Therefore, in Milwaukee County, requesters would submit their written requests to the Office of Corporation Counsel. The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus on your behalf.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney’s fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service  
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The Attorney General and the Office of Open Government are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance

in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

---

**Josh Kaul**  
Attorney General

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P.O. Box 7857  
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Lili Behm  
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March 26, 2025

Rich Busalacchi  
rabusalacchi@gmail.com

Dear Rich Busalacchi:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 27, 2024, in which you request “that an action for mandamus be brought against the Milwaukee Area Technical College (MATC) asking the court to order the release of public records according to Wisconsin statute 19.37(1).” You “claim that MATC has intentionally not provided the open records requested.”

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Milwaukee Area Technical College (MATC) which is part of the Wisconsin Technical College System. DOJ strives to provide the public with guidance on the interpretation of our State’s public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I did contact MATC to make them aware of your concerns, and I am also copying them on this letter.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ’s Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in black ink that reads "Lili Behm". The signature is written in a cursive, slightly slanted style.

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Milwaukee Area Technical College (via email: [generalcounsel@matc.edu](mailto:generalcounsel@matc.edu))



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

---

**Josh Kaul**  
Attorney General

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TTY 1-800-947-3529  
FAX (608) 267-2779

March 26, 2025

Michael Czarny  
[mrcrej@gmail.com](mailto:mrcrej@gmail.com)

Dear Michael Czarny:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 21, 2024, in which you wrote, "Our town has stopped publishing town meeting minutes on the 3 town bulletin boards as well as on the town website. I personally have gone into the town offices and requested hard copies of meeting minutes, dating back to mid Dec 2023. Unfortunately, nobody could provide me copies." You asked, "In the absence of hard copies even being posted at the 3 designated town bulletin board(s), what options do I have?"

The Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, acknowledges that the public is entitled to the fullest and most complete information regarding government affairs as is compatible with the conduct of governmental business. Wis. Stat. § 19.81(1). All meetings of governmental bodies shall be held publicly and be open to all citizens at all times unless otherwise expressly provided by law. Wis. Stat. § 19.81(2). The provisions of the open meetings law are to be construed liberally to achieve that purpose. Wis. Stat. § 19.81(4).

In an effort to increase transparency, DOJ recommends that governmental bodies keep minutes of all meetings. However, there is no requirement under the open meetings law for a governmental body to do so. The open meetings law only requires a governmental body to create and preserve a record of all motions and roll-call votes at its meetings. Wis. Stat. § 19.88(3). This requirement applies to both open and closed sessions. *See De Moya Correspondence* (June 17, 2009). Written minutes are the most common method used to comply with the requirement, but they are not the only permissible method. It can also be satisfied if the motions and roll-call votes are recorded and preserved in some other way, such as on a tape recording. *See I-95-89* (Nov. 13, 1989).

Thus, as long as the body creates and preserves a record of all motions and roll-call votes, the Wis. Stat. § 19.88(3) requirement is satisfied, and the open meetings law does not require the body to take more formal or detailed minutes of other aspects of the meeting. Other statutes outside the open meetings law, however, may prescribe particular minute-taking requirements for certain governmental bodies and officials that go beyond what is required by the open meetings law. *I-20-89* (Mar. 8, 1989). *See, e.g.*, Wis. Stat. §§ 59.23(2)(a)



(county clerk); 60.33(2)(a) (town clerk); 61.25(3) (village clerk); 62.09(11)(b) (city clerk); 62.13(5)(i) (police and fire commission); 66.1001(4)(b) (plan commission); 70.47(7)(bb) (board of review).

Thus, as can be seen from the discussion above, the open meetings law itself does not require governmental bodies to publish minutes or to post minutes online. However, the open meetings law also does not prohibit such practices. In the interest of government transparency, DOJ's Office of Open Government (OOG) encourages the dissemination of meeting minutes.

We were able to locate meeting minutes on the Town of Presque Isle's website at <https://presqueislewi.gov>. You may be able to locate the records you seek specifically here, <https://presqueislewi.gov/your-government/board-agendas-minutes>, or you may submit a public records request for them. From your correspondence, it appears that you may have requested these records from the town in person. You wrote, "Unfortunately, nobody could provide me copies, stating they were either too busy to get me a hard copy or there were 'issues' with the website, as stated by the town chair."

We are copying the Town of Presque Isle on this correspondence to make them aware of your concerns. We invite the town to contact us with any questions they have regarding the application of the public records law and/or the open meetings law.

The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). In order to submit a public records request, there are no "magic words" that are required and an authority may not require that a requester fill out a specific form in order to submit a request. One may submit a request verbally or in writing. A request for records is sufficient if it is directed to an authority and reasonably describes the records or information requested. Wis. Stat. § 19.35(1)(h). Under the public records law, a request need not be made in person, and generally, a requester is not required to identify themselves or to state the purpose of the request. *See* Wis. Stat. § 19.35(1)i ("Except as authorized under this paragraph, no request . . . may be refused because the person making the request is unwilling to be identified or to state the purpose of the request").

Pursuant to Wis. Stat. § 19.35(4)(b), "If an authority denies a written request in whole or in part, the requester shall receive from the authority a written statement of the reasons for denying the written request." Specific policy reasons, rather than mere statements of legal conclusion or recitation of exemptions, must be given. *Pangman & Assocs. v. Zellmer*, 163 Wis. 2d 1070, 1084, 473 N.W.2d 538 (Ct. App. 1991); *Vill. of Butler v. Cohen*, 163 Wis. 2d 819, 824-25, 472 N.W.2d 579 (Ct. App. 1991). In every written denial, the authority must also inform the requester that, "if the request for the record was made in writing, then the determination is subject to review by mandamus under s. 19.37(1) or upon application to the attorney general or a district attorney." Wis. Stat. § 19.35(4)(b).

Based on your correspondence, we are unable to conclude whether your request constituted a sufficient public records request and, if so, whether the Town of Presque Isle provided a sufficient response to the request.

The public records law provides several remedies for a requester dissatisfied with an authority's response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus on your behalf.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney's fees. You may reach the service using the contact information below:

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DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. §§ 19.39 and 19.98 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Town of Presque Isle (via email: [clerk@presqueislewi.gov](mailto:clerk@presqueislewi.gov))



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

17 W. Main Street  
P.O. Box 7857  
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www.doj.state.wi.us

Lili Behm  
Assistant Attorney General  
behml@doj.state.wi.us  
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FAX 608/267-2779

March 26, 2025

Cleo Fluker  
fluker247@gmail.com

Dear Cleo Fluker:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 1 and 8, 2024, in which you wrote, "I requested specific documents from MATC in an email dated February 29, 2024. For the past two months, I have received one documents [sic] out a plethora of documents. The once [sic] I received., [sic] the retainer fee that MATC paid to Michael Best and Frederick Law Firm was redacted, because of client/Attorney privileges." You also wrote that, "MATC has failed to make available to me documents I requested under the State's Open Record Statute. I seek documents regarding as [sic] I climbed the pinnacle of management [,] MATC paid me less than those who were in a lower position by as much as \$15,360."

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Milwaukee Area Technical College (MATC), which is part of the Wisconsin Technical College System. DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I am copying MATC on this letter to ensure that they are aware of your concerns.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ's Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website

(<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Milwaukee Area Technical College (via email: [generalcounsel@matc.edu](mailto:generalcounsel@matc.edu))



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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Lili Behm  
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behml@doj.state.wi.us  
608/266-1221  
TTY 1-800-947-3529  
FAX 608/267-2779

March 26, 2025

Chad Hayes  
haymel69@hotmail.com

Dear Chad Hayes:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated June 25, 2024, regarding “how the town [of Caledonia] board is conducting town business.” In your correspondence, you described several questions and concerns.

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. While a portion of your correspondence pertained to the open meetings law, it also concerned matters outside the scope of the OOG’s responsibilities. As a result, we are unable to offer you assistance or insight on matters outside this scope. We can, however, address your questions and concerns about the posted and actual time of the June 24, 2024 town board meeting.

The open meetings law requires that public notice of all meetings of a governmental body must be given by communication from the governmental body’s chief presiding officer or his or her designee to the following: (1) the public; (2) to news media who have filed a written request for such notice; and (3) to the official newspaper (designated under Wis. Stat. §§ 985.04, 985.05, and 985.06) or, if there is no such paper, to a news medium likely to give notice in the area. Wis. Stat. § 19.84(1). In addition to these requirements, other statutes may also set forth the type of notice required for a meeting of a governmental body.

Every public notice of a meeting must give the time, date, place and subject matter of the meeting, and the notice must be in such a form so as to reasonably apprise the public of this information. Wis. Stat. § 19.84(2). The notice requirement gives the public information about the business to be conducted that will alert them to the importance of the meeting, so that they can make an informed decision whether to attend. *State ex rel. Badke v. Vill. Bd. of Vill. of Greendale*, 173 Wis. 2d 553, 573–78, 494 N.W.2d 408 (1993).

Public notice of every meeting of a governmental body must be provided at least 24 hours prior to the commencement of such a meeting. Wis. Stat. § 19.84(3). If, for good cause, such notice is impossible or impractical, shorter notice may be given, but in no case may the notice be less than two hours in advance of the meeting. *Id.* Furthermore, the law requires

separate public notice for each meeting of a governmental body at a time and date “reasonably proximate to the time and date of the meeting.” Wis. Stat. § 19.84(4).

The open meetings law does not require “that the notice provided be exactly correct in every detail.” *State ex rel. Olson v. City of Baraboo*, 2002 WI App 64, ¶ 14, 252 Wis.2d 628, 643 N.W.2d 796. However, the time and date of a public meeting are crucially important details that the public needs in order to attend the meeting. Even when a meeting notice provides sufficient information about the business to be conducted, if the public is given an incorrect meeting time, they will still be, in effect, barred from the meeting. As such, a reviewing court would probably find that the Town of Caledonia violated the open meetings law by publishing the incorrect time for the June 24, 2024 public meeting.

We contacted the Town of Caledonia to (1) ensure that the town is aware of the concerns you raised in your correspondence, and (2) impress upon the town the importance of compliance with the open meetings law. The Town of Caledonia is copied on this correspondence, and we invite them to contact us with any further questions.

Under the open meetings law, the Attorney General and the district attorneys have authority to enforce the law. Wis. Stat. § 19.97(1). However, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. While you did not specifically request the Attorney General to file an enforcement action, nonetheless, we respectfully decline to file an enforcement action on your behalf.

More frequently, the district attorney of the county where the alleged violation occurred may enforce the law. However, in order to have this authority, an individual must file a verified complaint with the district attorney. Wis. Stat. § 19.97(1). If the district attorney refuses or otherwise fails to commence an action to enforce the open meetings law within 20 days after receiving the verified complaint, the individual may bring an action in the name of the state. Wis. Stat. § 19.97(4). (Please note a district attorney may still commence an enforcement action even after 20 days have passed.) Such actions by an individual must be commenced within two years after the cause of action accrues. Wis. Stat. § 893.93(2)(a).

You may wish to contact a private attorney regarding this matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney’s fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service  
State Bar of Wisconsin  
P.O. Box 7158  
Madison, WI 53707-7158  
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DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah





STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

---

Josh Kaul  
Attorney General

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TTY 1-800-947-3529  
FAX 608/266-2779

March 26, 2025

Charles Nagle  
chuck@nagle.com

Dear Charles Nagle:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 22, 2024, in which you wrote, “I am seeking information regarding governmental public meetings where information distributed to all elected officials is not available to the public much less in advance of the meeting and then the public can not [sic] hear all of the discussion.”

Your correspondence did not provide details, including information regarding a specific governmental body; therefore, we have insufficient information to evaluate your matter. However, you may wish to use the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, to obtain the information you seek by submitting a public records request to the appropriate authority. The public records law authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

When submitting a public records request, a requester should take care to ask for *records* containing the information they seek, as opposed to simply asking a question or asking for information. This is important because the public records law “does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester.” *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; *see also State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). An authority is not required to create a new record by extracting and compiling information from existing records in a new format. *See* Wis. Stat. § 19.35(1)(L). *See also George v. Record Custodian*, 169 Wis. 2d 573, 579, 485 N.W.2d 460 (Ct. App. 1992). Additionally, an authority cannot fulfill a request for a record if the authority has no such record. While the public records law does not require an authority to notify a requester that the requested record does not exist, it is advisable that an authority do so.

In order to submit a public records request, there are no “magic words” that are required, and an authority may not require that a requester fill out a specific form in order to submit a request. One may submit a request verbally or in writing. A request for records is sufficient if it is directed to an authority and reasonably describes the records or information requested. Wis. Stat. § 19.35(1)(h). Under the public records law, a request need not be made in person, and generally, a requester is not required to identify themselves or to state the purpose of the request. *See* Wis. Stat. § 19.35(1)i (“Except as authorized under this paragraph, no request . . . may be refused because the person making the request is unwilling to be identified or to state the purpose of the request”).

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. Requested records fall into one of three categories: (1) absolute right of access; (2) absolute denial of access; and (3) right of access determined by the balancing test. *Hathaway v. Joint Sch. Dist. No. 1 of Green Bay*, 116 Wis. 2d 388, 397, 342 N.W.2d 682 (1984). If neither a statute nor the common law requires disclosure or creates a general exception to disclosure, the records custodian must decide whether the strong public policy favoring disclosure is overcome by some even stronger public policy favoring limited access or nondisclosure. This balancing test determines whether the presumption of openness is overcome by another public policy concern. *Hempel v. City of Baraboo*, 2005 WI 120, ¶ 4, 284 Wis. 2d 162, 699 N.W.2d 551. If a records custodian determines that a record or part of a record cannot be disclosed, the custodian must redact that record or part of that record. *See* Wis. Stat. § 19.36(6).

If an authority denies a written request, in whole or in part, the authority must provide a written statement of the reasons for such a denial and inform the requester that the determination is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to the attorney general or a district attorney. *See* Wis. Stat. § 19.35(4)(b).

Alternatively, you may be concerned about whether the governmental body you referred to in your correspondence is complying with the requirements of the Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98. The open meetings law acknowledges that the public is entitled to the fullest and most complete information regarding government affairs as is compatible with the conduct of governmental business. Wis. Stat. § 19.81(1). The provisions of the open meetings law are to be construed liberally to achieve that purpose. Wis. Stat. § 19.81(4).

The open meetings law requires that “all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times.” Wis. Stat. § 19.81(2). Similarly, an “open session” is defined in Wis. Stat. § 19.82(3) as “a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times.” A meeting must be preceded by notice providing the time, date, place, and subject matter of the meeting, generally, at least 24 hours before it begins. Wis. Stat. § 19.84. Every meeting of a governmental body must initially be convened in “open session.” *See* Wis. Stat. §§ 19.83, 19.85(1). All business of any kind, formal or informal, must be initiated, discussed, and acted upon in “open session,” unless one of the exemptions set forth in Wis. Stat. § 19.85(1) applies. Wis. Stat. § 19.83.

The requirement that meeting locations be reasonably accessible to the public and open to all citizens at all times means that governmental bodies must hold their meetings in places that are reasonably calculated to be large enough to accommodate all citizens who wish to attend the meetings. *State ex rel. Badke v. Vill. Bd. of Greendale*, 173 Wis. 2d 553, 580-81, 494 N.W.2d 408 (1993). Absolute access is not, however, required. *Id.* In *Badke*, for instance, the Wisconsin Supreme Court concluded that a village board meeting that was held in a village hall capable of holding 55–75 people was reasonably accessible, although three members of the public were turned away due to overcrowding. *Id.* at 561, 563, 581. Additionally, body members must take reasonable steps to make it possible to be heard.

Whether a meeting place is reasonably accessible depends on the facts in each individual case. Any doubt as to whether a meeting facility—or remote meeting platform—is large or sufficient enough to satisfy the requirement should be resolved in favor of holding the meeting in a larger facility or with a remote meeting platform with sufficient capacity and with acoustics that make it possible for the public to hear.

If you would like to learn more about the public records law and the open meetings law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and open meetings law and maintains a Public Records Law Compliance Guide and Open Meetings Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,



Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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P.O. Box 7857  
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FAX 608/267-2779

March 26, 2025

Brenda Nordin  
brendaln1@charter.net

Dear Brenda Nordin:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated January 28, 2024, regarding the Shawano School District in which you wrote, “A sexual discrimination issue was brought forth regarding our Activities Director . . . I have requested numerous open record requests over two weeks ago and I have not received any sort of response.” You “submitted a FOIA request to said person[']s former employer, the Superintendent at the Clintonville School District.” You wrote, “The response I received from Superintendent Kuhn [was] ‘As the new superintendent, I wouldn’t even know where to look. In addition, I would need to seek legal council [sic] if there was an official open records request regarding this and we would need to follow open request policy.’” You asked DOJ to contact you regarding this matter.

Your correspondence references the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. FOIA applies to federal agencies and helps ensure public access to records of federal agencies. In Wisconsin, the state counterpart to FOIA is the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). The public records law authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.”

In order to submit a public records request, there are no “magic words” that are required and an authority may not require that a requester fill out a specific form in order to submit a request. One may submit a request verbally or in writing. A request for records is sufficient if it is directed to an authority and reasonably describes the records or information requested. Wis. Stat. § 19.35(1)(h). Under the public records law, a request need not be made in person, and generally, a requester is not required to identify themselves or to state the purpose of the request. *See* Wis. Stat. § 19.35(1)(i) (“Except as authorized under this paragraph, no request . . . may be refused because the person making the request is unwilling to be identified or to state the purpose of the request”). Based solely on the information provided in your correspondence, it seems likely that a reviewing court would conclude that

your "FOIA request" to Clintonville School District Superintendent Kuhn sufficiently constituted a public records request pursuant to the public records law.

The public records law does not require a response to a public records request within a specific timeframe. In other words, after a request is received, there is no set deadline by which the authority must respond. However, the law states that upon receipt of a public records request, the authority "shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor." Wis. Stat. § 19.35(4)(a). A reasonable amount of time for a response "depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations." *WIREData, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, 751 N.W.2d 736; see *Journal Times v. Police & Fire Comm'rs Bd.*, 2015 WI 56, ¶ 85, 362 Wis. 2d 577, 866 N.W.2d 563 (an authority "can be swamped with public records requests and may need a substantial period of time to respond to any given request").

We contacted Superintendent Kuhn regarding your correspondence and he indicated that neither he nor his colleagues provided a further response to your public records request other than the language you included in your correspondence with our office. While we are unable to state with certainty whether a reviewing court would find Superintendent Kuhn's reply a sufficient response under the public records law, it seems likely that a court would conclude that his reply, standing alone, neither "fill[ed] the request" nor "notif[ie]d the requester of the authority's determination to deny the request in whole or in part and the reasons therefor."

Records are presumed to be open to public inspection and copying, but there are exceptions. Wis. Stat. § 19.31. A statute may provide such an exception. If a federal or state statute prohibits the release of a record in response to a public records request, an authority's records custodian cannot release the record. Wis. Stat. § 19.36(1). (The common law and the public records law balancing test, which weighs the public interest in disclosure of a record against the public interest in nondisclosure, also provide other exceptions to disclosure.)

The public records law "does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester." *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; see also *State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). An authority cannot fulfill a request for a record if the authority has no such record. While the public records law does not require an authority to notify a requester that the requested record does not exist, it is advisable that an authority do so. Based on our communication with Superintendent Kuhn, it appears possible that no records responsive to your request exist. If that is true, in such situations, our office encourages the superintendent, and any authority, to notify the requester that no responsive records exist.

If an authority denies a written request, in whole or in part, the authority must provide a written statement of the reasons for such a denial and inform the requester that the determination is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to the attorney general or a district attorney. See Wis. Stat. § 19.35(4)(b).

The public records law provides several remedies for a requester dissatisfied with an authority's response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus on your behalf.

However, I did contact the Clintonville School District regarding your matter, and I am also copying them on this letter. I invite them to contact me with any questions regarding your matter, or regarding compliance with public records law obligations more broadly.

You may wish to contact a private attorney regarding this matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney's fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service  
State Bar of Wisconsin  
P.O. Box 7158  
Madison, WI 53707-7158  
(800) 362-9082  
(608) 257-4666

<http://www.wisbar.org/forpublic/ineedalawyer/pages/lris.aspx>

The Attorney General and the Office of Open Government are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx><https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Troy Kuhn, Superintendent, Clintonville School District (via email:  
[tkuhn@clintonville.k12.wi.us](mailto:tkuhn@clintonville.k12.wi.us))



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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Lili Behm  
Assistant Attorney General  
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FAX 608/267-2779

March 27, 2025

Thomas Prust  
tprust58@gmail.com

Dear Thomas Prust:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 19, 2024, in which you wrote, "Attached is a FOIA for the Register of Deeds for [Sarah R. Van Camp] for [Outagamie County Justice Facility Association] and her response which is NOT Acceptable and Appears to be Fraudulent. . . . Please consider looking into these matters."

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. While a portion of your correspondence pertained to the public records law, it also concerned matters outside the scope of the OOG's responsibilities. As a result, we are unable to offer you assistance or insight regarding elected officials' surety bonds or the process for obtaining a certified copy of a warranty deed and chain of title. We can, however, provide you with some general information about the public records law that we hope you will find helpful.

Your correspondence references the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. FOIA applies to federal agencies and helps ensure public access to records of federal agencies. In Wisconsin, the state counterpart to FOIA is the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998). The public records law authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority."

Please note, in Outagamie County Clerk's partial response to your public records request it states that the clerk's office does not have part of the records you seek and suggests contacting the finance department for the remainder of your request. From your correspondence, it was not immediately clear whether you contacted the finance department before writing to our office. If you have not already contacted the finance department at the phone number provided in the County Clerk's partial response, you might consider doing so.



The public records law “does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester.” *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; *see also State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). An authority cannot fulfill a request for a record if the authority has no such record. While the public records law does not require an authority to notify a requester that the requested record does not exist, it is advisable that an authority do so.

If you would like to learn more about the public records law, DOJ’s Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin’s proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,



Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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608/266-1221  
TTY 1-800-947-3529  
FAX 608/267-2779

March 27, 2025

Sawyer Cornelius II  
[lavalle73@yahoo.com](mailto:lavalle73@yahoo.com)

Dear Sawyer Cornelius II:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 4, 2025, in which you wrote, "I am looking at my first mandamus filing in which DWD told the DOJ they gave me records[.] [T]hey now say I need to file once more to get what they stated they gave me[.] [T]his is fishy[.] I have asked for mediation and a hearing. [F]alse reporting to the DOJ is a crime."

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Wisconsin Department of Workforce Development (DWD). DOJ strives to provide the public with guidance on the interpretation of our State's public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic. For these same reasons, DOJ must decline your request for assistance.

However, I did contact DWD to make them aware of your concerns, and I am also copying them on this letter.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ's Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Deputy Chief Legal Counsel, Wisconsin Department of Workforce Development  
(via email: [JenniferL.Wakerhauser@dwd.wisconsin.gov](mailto:JenniferL.Wakerhauser@dwd.wisconsin.gov))



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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Lili Behm  
Assistant Attorney General  
behml@doj.state.wi.us  
608/266-1221  
TTY 1-800-947-3529  
FAX 608/267-2779

March 27, 2025

Lisa Schuh  
lmschuh2002@gmail.com

Dear Lisa Schuh:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 25, 2024, in which you asked, "How long is acceptable for an open records request to be addressed and responded to?" You wrote, "My initial Buffalo County open records request was back in January and got a response 2 weeks later but it wasn't what I asked for which I took to be maybe misinterpreted so I clarified. Sent a 2nd request. I got a response a week ago that it was being worked on and I would receive a response last week. No response."

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

The public records law does not require a response to a public records request within a specific timeframe. In other words, after a request is received, there is no set deadline by which the authority must respond. However, the law states that upon receipt of a public records request, the authority "shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor." Wis. Stat. § 19.35(4)(a). A reasonable amount of time for a response "depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations." *WIREdata, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, 751 N.W.2d 736; see *Journal Times v. Police & Fire Comm'rs Bd.*, 2015 WI 56, ¶ 85, 362 Wis. 2d 577, 866 N.W.2d 563 (an authority "can be swamped with public records requests and may need a substantial period of time to respond to any given request").

The Office of Open Government encourages authorities and requesters to maintain an open line of communication. This helps prevent misunderstandings between an authority and a requester. For example, if it becomes apparent to an authority that a public records request may require a longer response time, it may be prudent for the authority to send the requester

a letter providing an update on the status of the response and, if possible, indicating when a response might be anticipated. Similarly, if an authority receives an inquiry from a requester seeking an update on the status of the request, it is advisable for the authority to respond to the requester with an update.

The public records law “does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester.” *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; *see also State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). An authority cannot fulfill a request for a record if the authority has no such record. While the public records law does not require an authority to notify a requester that the requested record does not exist, it is advisable that an authority do so.

The public records law does provide several remedies for a requester who may be dissatisfied with an authority’s response or lack of response to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, we nonetheless respectfully decline to pursue an action for mandamus on your behalf.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney’s fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service  
State Bar of Wisconsin  
P.O. Box 7158  
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DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
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March 27, 2025

Daniel Spatchek  
Antigo Journal  
dspatchek@antigojournal.com

Dear Daniel Spatchek:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 19, 2024, in which you wrote, “Recently here in Langlade County, there have been a number of accusations that our county board is breaking open meetings statutes.” You asked questions regarding two “specific instances people have raised complaints” about to you regarding the county board and its “power to select several members of the Antigo Public Library (APL) board.”

The Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, acknowledges that the public is entitled to the fullest and most complete information regarding government affairs as is compatible with the conduct of governmental business. Wis. Stat. § 19.81(1). All meetings of governmental bodies shall be held publicly and be open to all citizens at all times unless otherwise expressly provided by law. Wis. Stat. § 19.81(2). The provisions of the open meetings law are to be construed liberally to achieve that purpose. Wis. Stat. § 19.81(4).

In your correspondence you provided the following details regarding a complaint raised with you regarding the county board. You wrote, “There was a county board meeting last night at 5:30 p.m. The library people say that at noon, the county board amended their agenda to go into closed session to talk about the business of the Antigo Public Library and possibly to remove two library board members.” You asked, “Is it illegal to amend an agenda so late before an actual meeting, in this case, just about five hours prior to the meeting? And is it illegal to talk about these library board members, if they are technically volunteers, in a closed session?”

The open meetings law provides for the level of specificity required in agenda items for open meetings as well as the timing for releasing agendas in order to provide proper notice. Wis. Stat. § 19.84(2). Public notice of every meeting of a governmental body must be provided at least 24 hours prior to the commencement of such a meeting. Wis. Stat. § 19.84(3). If, for good cause, such notice is impossible or impractical, shorter notice may be given, but in no case may the notice be less than two hours in advance of the meeting. *Id.* Furthermore,

the law requires separate public notice for each meeting of a governmental body at a time and date “reasonably proximate to the time and date of the meeting.” Wis. Stat. § 19.84(4).

You stated that the county board caused the meeting agenda to be amended about five hours before the meeting in question. While we are unable to confirm whether or when the meeting agenda was amended to include notice of a closed session, we can note that, pursuant to Wis. Stat. § 19.84(3), this timing would not necessarily be unlawful, so long as additional public notice was provided when the meeting agenda was amended, and there was good cause, such that notice at least 24 hours in advance was impossible or impractical. Although we are unable to conclude with certainty whether the county board violated the open meetings law regarding notice, we are providing you with some general information regarding closed session meetings that we hope you will find helpful

Wisconsin Stat. § 19.85 lists exemptions in which meetings may be convened in closed session. Any exemptions to open meetings are to be viewed with the presumption of openness in mind. Such exemptions should be strictly construed. *State ex rel. Hodge v. Turtle Lake*, 180 Wis. 2d 62, 71, 508 N.W.2d 603 (1993). The exemptions should be invoked sparingly and only where necessary to protect the public interest and when holding an open session would be incompatible with the conduct of governmental affairs. “Mere government inconvenience is . . . no bar to the requirements of the law.” *State ex rel. Lynch v. Conta*, 71 Wis. 2d 662, 678, 239 N.W.2d 313 (1976).

Notice of a contemplated closed session (and any motion to enter into closed session) must contain the subject matter to be considered in closed session. Merely identifying and quoting a statutory exemption is not sufficient. The notice or motion must contain enough information for the public to discern whether the subject matter is authorized for closed session. If a body intends to enter into closed session under more than one exemption, the notice or motion should make clear which exemptions correspond to which subject matter.

Furthermore, some specificity is required since many exemptions contain more than one reason for authorizing a closed session. For example, Wis. Stat. § 19.85(1)(c) provides an exemption for the following: “Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.” Merely quoting the entire exemption, without specifying the portion of the exemption under which the body intends to enter into closed session, may not be sufficient. Only aspects of a matter that fall within a specific exemption may be discussed in a closed session. If aspects of a matter do not properly fall within an exemption, those aspects must be discussed in an open meeting.

The second complaint raised with you was that “[t]here are no vacancies on the Antigo Public Library Board as originally stated on the February 26 county board consent agenda. The agenda was amended and put on the public agenda and again it stated there were two vacancies. There are no vacancies. The agenda should have stated that the County Board Chairman was removing the library board members from the APL board.” You asked, “Is it illegal to word an agenda improperly like this?”



We do not have sufficient information to properly evaluate the agenda item you referenced in this complaint. However, we can provide you with some general information regarding notice and agendas that we hope you will find helpful.

A governmental body, when conducting a meeting, is free to discuss any aspect of any subject identified in the public notice of that meeting, as well as issues reasonably related to that subject, but may not address any topics that are not reasonably related to the information in the notice. *State ex rel. Buswell v. Tomah Area Sch. Dist.*, 2007 WI 71, ¶ 34, 301 Wis. 2d 178, 732 N.W.2d 804. There is no requirement, however, that a governmental body must follow the agenda in the order listed on the meeting notice, unless a particular agenda item has been noticed for a specific time. Stencil Correspondence (Mar. 6, 2008). Nor is a governmental body required to actually discuss every item contained in the public notice. It is reasonable, in appropriate circumstances, for a body to cancel a previously planned discussion or postpone it to a later date. Black Correspondence (Apr. 22, 2009); Krueger Correspondence (Feb. 13, 2019).

If you would like to learn more about the open meetings law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin open meetings law and maintains an Open Meetings Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.98 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,



Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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Lili Behm  
Assistant Attorney General  
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FAX 608/267-2779

March 27, 2025

Jacob Thums  
thumsjacob@gmail.com

Dear Jacob Thums:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 5, 2024, regarding the Joint Rib Lake Area Fire Commission's response to your public records request. You wrote, "I have several issues with their letter that I'm looking for clarification if it's allowed. . . . Based on this letter and the time it took them to respond, I feel they are not being transparent and do not want the documents requested to be reviewed by the public. I also find it difficult to believe 1100 pages is accurate."

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of "records" created or maintained by an "authority." The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

In your correspondence you wrote, "\$1 per page for copies seems outrageous" and asked, "Can they charge for labor? The records I requested should not be that labor intensive to locate." Under the public records law, "[A]n authority may charge a fee not exceeding the actual, necessary, and direct costs of *four specific tasks*: (1) 'reproduction and transcription'; (2) 'photographing and photographic processing'; (3) 'locating'; and (4) 'mailing or shipping.'" *Milwaukee Journal Sentinel v. City of Milwaukee*, 2012 WI 65, ¶ 54, 341 Wis. 2d 607, 815 N.W.2d 367 (citation omitted) (emphasis in original). (In certain circumstances, an authority that is a law enforcement agency may also charge for redaction of audio and video recordings. See Wis. Stat. § 19.35(3)(h).)

The amount of such fees may vary depending on the authority. However, an authority may not profit from complying with public records requests. *WIREDATA, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶¶ 103, 107, 310 Wis. 2d 397, 751 N.W.2d 736 (concluding an authority may not profit from its response to a public records request but may recoup all its actual costs). An authority may choose to provide copies of a requested record without charging fees or by reducing fees where an authority determines that waiver or reduction of the fee is in the public interest. Wis. Stat. § 19.35(3)(e). An authority may not charge for the time it takes to redact records (except as provided in Wis. Stat. § 19.35(3)(h)). *Milwaukee Journal Sentinel*,

2012 WI 65, ¶¶ 1 & n.4, 6, 58 (Abrahamson, C.J., lead opinion); *Id.* ¶ 76 (Roggensack, J., concurring). Based solely on the information provided in your correspondence, we are unable to conclude whether the \$1.00 per page copying fee reflects “actual, necessary, and direct costs” only. If the “actual, necessary, and direct costs” of copying totaled less than \$1.00 per page, than that charge would be impermissible under the public records law. (By comparison, currently, DOJ’s fee schedule lists DOJ’s per page cost of a black and white copy at \$0.0135 per page.)

The law permits an authority to impose a fee for locating records if the cost is \$50.00 or more. Wis. Stat. § 19.35(3)(c). An authority may require a requester prepay any such fees if the total amount exceeds \$5.00. Wis. Stat. § 19.35(3)(f). Generally, the rate for an actual, necessary, and direct charge for staff time should be based on the pay rate (including fringe benefits) of the lowest paid employee capable of performing the task. For more information on permissible fees, please see the Office of Open Government Advisory: Charging Fees under the Wisconsin Public Records Law, which was issued on August 8, 2018, and can be found on DOJ’s Website, at [https://www.doj.state.wi.us/sites/default/files/news-media/8.8.18\\_OOG\\_Advisory\\_Fees\\_0.pdf](https://www.doj.state.wi.us/sites/default/files/news-media/8.8.18_OOG_Advisory_Fees_0.pdf).

A court reviewing your records request and the Joint Rib Lake Area Fire Commission’s response to it might conclude that the labor cost charged to you, or some portion of it, constitutes permissible location fees, if that cost or portion thereof reflects time spent locating responsive records. Based solely on the information in your correspondence, OOG is unable to state with certainty whether a reviewing court would hold that the labor cost was permissibly charged.

There may be other laws outside of the public records law establishing fees for the records in question, potentially rendering those fees permissible under the public records law. *See* Wis. Stat. § 19.35(3) (allowing fees outside the public records law if those fees are established by another law). However, the Office of Open Government (OOG) is unable to offer you assistance regarding other laws that are outside the scope of the OOG’s responsibilities and authority under the public records law.

In your correspondence you mentioned “the time it took for [the Rib Lake Fire Department] to respond” to your public records request. The public records law does not require a response to a public records request within a specific timeframe. In other words, after a request is received, there is no set deadline by which the authority must respond. However, the law states that upon receipt of a public records request, the authority “shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority’s determination to deny the request in whole or in part and the reasons therefor.” Wis. Stat. § 19.35(4)(a). A reasonable amount of time for a response “depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and other related considerations.” *WIREData, Inc. v. Vill. of Sussex*, 2008 WI 69, ¶ 56, 310 Wis. 2d 397, 751 N.W.2d 736; *see Journal Times v. Police & Fire Comm’rs Bd.*, 2015 WI 56, ¶ 85, 362 Wis. 2d 577, 866 N.W.2d 563 (an authority “can be swamped with public records requests and may need a substantial period of time to respond to any given request”).

In your correspondence you wrote, “I requested [the records] digitally, if I provide them with a USB drive, do they have to provide them digitally?” An authority is not required

to create a new record by extracting and compiling information from existing records in a new format. *See* Wis. Stat. § 19.35(1)(L). *See also* *George v. Record Custodian*, 169 Wis. 2d 573, 579, 485 N.W.2d 460 (Ct. App. 1992). However, we recommend communicating with an authority if you would like the records in a specific format, and we would encourage an authority to accommodate a requester’s request for a different format if possible.

If a requester appears personally to request a copy of a record, Wis. Stat. § 19.35(1)(b) requires that copies of written documents be “substantially as readable” as the original. *Lueders v. Krug*, 2019 WI App 36, ¶ 6, 388 Wis. 2d 147, 931 N.W.2d 898. Wisconsin Stat. § 19.35(1)(c) and (d) also require that audiotapes be “substantially as audible,” and copies of videotapes be “substantially as good” as the originals.

By analogy, providing a copy of an electronic document that is “substantially as good” as the original is a sufficient response where the requester does not specifically request access in the original format. *See WIREdata, Inc. v. Vill. of Sussex (“WIREdata II”)*, 2008 WI 69, ¶¶ 97–98, 310 Wis. 2d 397, 751 N.W.2d 736 (provision of records in PDF format satisfied requests for records in “electronic, digital” format); *State ex rel. Milwaukee Police Ass’n v. Jones*, 2000 WI App 146, ¶ 10, 237 Wis. 2d 840, 615 N.W.2d 190 (holding that provision of an analog copy of a digital audio tape (“DAT”) complied with Wis. Stat. § 19.35(1)(c) by providing a recording that was “substantially as audible” as the original); *see also Autotech Techs. Ltd. P’ship v. Automationdirect.com, Inc.*, 248 F.R.D. 556, 558 (N.D. Ill. 2008) (where litigant did not specify a format for production during civil discovery, responding party had option of providing documents in the “form ordinarily maintained or in a reasonably usable form”).

The court of appeals provided some guidance in *Lueders* on whether an authority needs to provide records in a format specified by the requester, holding that the requester in that case was “entitled to the e-mails in electronic form” when the request was for emails “in electronic form.” *Lueders*, 2019 WI App 36, ¶ 15. The court also stated that the authority must provide “electronic copies,” not paper copies of records, to a requester who asks for records in electronic format. *Id.* In light of this, a court considering your records request and the Rib Lake Joint Fire Commission’s response might conclude that the Commission should have provided electronic copies rather than paper copies, especially if the requested records were originally in electronic format (such as emails or PDF documents).

The public records law provides several remedies for a requester dissatisfied with an authority’s response, or lack of response, to a public records request. A requester may file an action for mandamus, with or without an attorney, asking a court to order release of the records. Wis. Stat. § 19.37(1)(a).

Alternatively, the requester may submit a written request for the district attorney of the county where the record is found, or the Attorney General, to file an action for mandamus seeking release of the requested records. Wis. Stat. § 19.37(1)(b). The Attorney General is authorized to enforce the public records law; however, the Attorney General normally exercises this authority in cases presenting novel issues of law that coincide with matters of statewide concern. Although you did not specifically request the Attorney General to file an action for mandamus, nonetheless, we respectfully decline to pursue an action for mandamus on your behalf.

However, I am copying the Rib Lake Fire Department on this letter to make them aware of your concerns. I invite them to contact our office should they wish to discuss your request and concerns.

You may wish to contact a private attorney regarding your matter. The State Bar of Wisconsin operates an attorney referral service. The referral service is free; however, a private attorney may charge attorney's fees. You may reach the service using the contact information below:

Lawyer Referral and Information Service

State Bar of Wisconsin

P.O. Box 7158

Madison, WI 53707-7158

(800) 362-9082

(608) 257-4666

<http://www.wisbar.org/forpublic/ineedalawyer/pages/lris.aspx>

The Attorney General and the Office of Open Government are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,



Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Rib Lake Fire Department, Post Office Box 304, Rib Lake, WI 54470



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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FAX 608/266-2779

March 27, 2025

Robin Untz  
townoflakemillsclerk@gmail.com

Dear Robin Untz:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 8, 2024, in which you wrote, "I have an open meeting legal question in regards to posting an agenda for a special meeting brought forth by two Cambridge Fire and EMS Commission members . . . . [T]hey are asking all of the clerks of the municipalities that are represented on this commission post this agenda they have provided even without the approval of the chairperson. I have always been taught that the agendas need to be approved by the chair. Any guidance would be appreciated."

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. Your correspondence pertains to the Cambridge Fire and EMS Commission meeting agenda approval process, the specific details of which are outside the scope of the open meetings law and, therefore, outside the scope of the OOG's responsibilities. As a result, we are unable to offer you assistance or insight regarding your concerns.

The open meetings law acknowledges that the public is entitled to the fullest and most complete information regarding government affairs as is compatible with the conduct of governmental business. Wis. Stat. § 19.81(1). All meetings of governmental bodies shall be held publicly and be open to all citizens at all times unless otherwise expressly provided by law. Wis. Stat. § 19.81(2). The provisions of the open meetings law are to be construed liberally to achieve that purpose. Wis. Stat. § 19.81(4).

The open meetings law provides for the level of specificity required in agenda items for open meetings as well as the timing for releasing agendas in order to provide proper notice. Wis. Stat. § 19.84(2). However, as stated above, we are unable to offer you insight regarding the commission's agenda approval process because it is outside the scope of the open meetings law. Generally, the open meetings law requires that public notice of all meetings of a governmental body must be given by communication from the governmental body's chief presiding officer or his or her designee to the following: (1) the public; (2) to news media who have filed a written request for such notice; and (3) to the official newspaper

(designated under Wis. Stat. §§ 985.04, 985.05, and 985.06) or, if there is no such paper, to a news medium likely to give notice in the area. Wis. Stat. § 19.84(1). In addition to these requirements, other statutes may also set forth the type of notice required for a meeting of a governmental body.

If you would like to learn more about the open meetings law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin open meetings law and maintains an Open Meetings Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.98 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in cursive script that reads "Lili Behm".

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

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**Josh Kaul**  
Attorney General

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FAX (608) 267-2779

March 27, 2025

Shelly Viater  
[shellyviater@gmail.com](mailto:shellyviater@gmail.com)

Dear Shelly Viater:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 20, 2024, in which you wrote, “The superintendent has formed a community task force to review [music education] scheduling [at our junior high]. Although community input is valuable, the committee should not replace Boardroom discussion. . . . I have asked that this topic be included on the agenda. . . . The superintendent and the board president refuse to add this topic to the agenda.” You asked, “Is refusing to add an agenda item simply to avoid public discussion a violation of the intent of the open meeting law?”

The DOJ Office of Open Government (OOG) works to increase government openness and transparency with a focus on the Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, and the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39. The OOG is only authorized to provide assistance within this scope. Based on the information you provided, it appears that the subject matter of your correspondence is outside the OOG’s scope. Therefore, the OOG cannot provide assistance regarding your question about the superintendent and the board president “refusing to add an agenda item” to the school board meeting agenda, as this topic relates to the school board’s own process for compiling meeting agendas. However, we can provide you with some general information about the open meetings law that you may find helpful.

The Wisconsin Open Meetings Law, Wis. Stat. §§ 19.81 to 19.98, acknowledges that the public is entitled to the fullest and most complete information regarding government affairs as is compatible with the conduct of governmental business. Wis. Stat. § 19.81(1). All meetings of governmental bodies shall be held publicly and be open to all citizens at all times unless otherwise expressly provided by law. Wis. Stat. § 19.81(2). The provisions of the open meetings law are to be construed liberally to achieve that purpose. Wis. Stat. § 19.81(4).

The open meetings law provides the timing for releasing agendas, as well as the level of specificity required in agenda items for open meetings, in order to provide proper notice. Wis. Stat. § 19.84(2). However, as stated above, we are unable to offer you insight regarding the school board’s process for adding items to the agenda because it is outside the scope of the open meetings law. While the open meetings law addresses topics such as public notice



and public comment periods, it does not prescribe specific procedures that governmental bodies must follow when compiling meeting agendas.

A governmental body, when conducting a meeting, is free to discuss any aspect of any subject identified in the public notice of that meeting, as well as issues reasonably related to that subject, but may not address any topics that are not reasonably related to the information in the notice. *State ex rel. Buswell v. Tomah Area Sch. Dist.*, 2007 WI 71, ¶ 34, 301 Wis. 2d 178, 732 N.W.2d 804. There is no requirement, however, that a governmental body must follow the agenda in the order listed on the meeting notice, unless a particular agenda item has been noticed for a specific time. Stencil Correspondence (Mar. 6, 2008). Nor is a governmental body required to actually discuss every item contained in the public notice. It is reasonable, in appropriate circumstances, for a body to cancel a previously planned discussion or postpone it to a later date. Black Correspondence (Apr. 22, 2009); Krueger Correspondence (Feb. 13, 2019).

In your correspondence, you stated the superintendent formed a community task force to review music education scheduling. It is also worth noting that this community task force may itself be a governmental body subject to the requirements of the open meetings law. However, based on the limited information provided in your correspondence, we cannot properly evaluate this.

If you would like to learn more about the open meetings law, DOJ's Office of Open Government offers several open government resources through the Wisconsin DOJ website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin open meetings law and maintains an Open Meetings Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.98 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,



Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah



**STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE**

---

**Josh Kaul**  
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March 31, 2025

Michael Pitsch  
[mpitsch@tcw.org](mailto:mpitsch@tcw.org)

Dear Michael Pitsch:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated March 25, 2025, regarding your public records request to the Department of Agriculture, Trade and Consumer Protection (DATCP). You stated, “what was produced by the DATCP was incomplete, disjointed, un-curated, and a disgracefully formatted set of documents.” You asked DOJ “to force compliance by the DATCP to meet the conditions of [your] PRR” and “for a refund if this cannot be accomplished.”

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the DATCP. DOJ strives to provide the public with guidance on the interpretation of our State’s public records and open meetings statutes. However, DOJ must balance that role with its mandatory obligation to defend state agencies and employees in litigation pursuant to Wis. Stat. § 165.25(6). Where that statutory obligation is at play, DOJ has a conflict in providing advice on the same topic.

However, I did contact DATCP to make them aware of your concerns, and I am also copying them on this letter.

The Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, authorizes requesters to inspect or obtain copies of “records” created or maintained by an “authority.” The purpose of the public records law is to shed light on the workings of government and the official acts of public officers and employees. *Bldg. & Constr. Trades Council v. Waunakee Cmty. Sch. Dist.*, 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

While DOJ is unable offer legal advice or counsel in this instance, the Attorney General and DOJ’s Office of Open Government (OOG) are committed to increasing government openness and transparency, and DOJ endeavors to offer guidance in these areas. DOJ offers several open government resources through its website (<https://www.wisdoj.gov/Pages/AboutUs/office-of-open-government.aspx>). DOJ provides the full Wisconsin public records law and maintains a Public Records Law Compliance Guide on its website.

DOJ appreciates your concern. We are dedicated to the work necessary to preserve Wisconsin's proud tradition of open government. Thank you for your correspondence.

The information provided in this letter is provided pursuant to Wis. Stat. § 19.39 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

Sincerely,

A handwritten signature in black ink that reads "Lili Behm". The signature is written in a cursive, slightly slanted style.

Lili C. Behm  
Assistant Attorney General  
Office of Open Government

LCB:lah

cc: Legal Counsel, Department of Agriculture, Trade and Consumer Protection (via email: Sheri.Walz@wisconsin.gov)