

2025 4th Quarter Correspondence

Index

	Page
Public Records – balancing test, court sealed records, denial reasons	2
Public Records – timeframe for response, open communication	5
Public Records – DOJ may be called upon to represent the District Attorney	9
Public Records – DOJ may be called upon to represent UW-Madison	11
Public Records – DOJ may be called upon to represent the Milwaukee Area Technical College	13
Public Records – DOJ may be called upon to represent the University of Wisconsin System	15
Public Records – FOIA, DOJ may be called upon to represent the District Attorney	17
Public Records – currently incarcerated requester, DOJ may be called upon to represent the Office of Lawyer Regulation	19
Public Records – DOJ may be called upon to represent the Wisconsin Department of Corrections	21
Public Records – DOJ may be called upon to represent the Wisconsin Department of Public Instruction	23
Public Records – authority, quasi-governmental corporation, balancing test, timeframe for response, denial reasons, no records exist, DOJ may be called upon to represent the Wisconsin Department of Administration	25
Public Records – duties of records custodian, balancing test, denial reasons, not required to create a new record, no records exist, fees	30
Public Records – outside scope of OOG	35
Public Records – balancing test, timeframe for response, no records exist, denial reasons, fees	37
Open Meetings – meeting requirements, email communications	41
Public Records – balancing test, ongoing investigation or litigation, crime victims, denial reasons	44
Public Records – timeframe for response, open communication, no records exist, denial reasons	47
Public Records – authority, balancing test	50



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili C. Behm
Assistant Attorney General
lili.behm@wisdoj.gov
(608) 266-1221
TTY 1-800-947-3529
FAX (608) 267-2779

October 22, 2025

John Batchelor
batchj9@gmail.com

Dear John Batchelor:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated September 29, 2025, regarding your public records request to the Rice Lake Area School District. You wrote, “The school district has denied my request by citing a court decision from nearly eleven years ago involving the same records I have requested. I believe the record subject, Lee Pritzl, should be required to file a completely new challenge under Wisconsin Statute 19.356 if he wishes to prevent me from obtaining the records I recently requested.” You asked for “help . . . with ‘unsealing’ the records [you] have requested.”

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).

In your correspondence you wrote, “My argument is that the Rice Lake Area School District cannot simply defer to a previous case to avoid releasing the records I have requested pertaining to Lee Pritzl.” (Emphasis in original.) With your correspondence, you provided the Barron County Circuit Court’s Order sealing the records in this case. Even though requesters generally have an “absolute right of inspection” for court records under Wis. Stat. § 59.20(3),

that right can be denied pursuant to a court order sealing the record. *State ex rel. Bilder v. Township of Delavan*, 112 Wis. 2d 539, 554–56, 334 N.W.2d 252 (1983) (court records can be sealed if disclosure infringes on a constitutional right, if the administration of justice requires the limitation of public access, or if there is a statute authorizing the sealing of otherwise public records); *see also* Wis. Stat. § 19.35(1)(a) (“Except as otherwise provided by law”); Wis. Stat. § 19.36(1). Because the records that you seek appear to remain under seal pursuant to court order, it is likely that a reviewing court would conclude that the Rice Lake Area School District did not violate the public records law by denying your request for those records.

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). With your correspondence, you included the Rice Lake Area School District’s September 29 letter to you. This letter does explain that a court order sealing the requested records is in place, and it attaches the court order for your reference. In light of this, it is likely that a reviewing court would conclude that the Rice Lake Area School District’s denial of your request was sufficiently specific to meet the requirements of the public records law.

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, nonetheless, we respectfully decline to pursue an action for mandamus.

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 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.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 is 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

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili C. Behm
Assistant Attorney General
Lili.behm@wisdoj.gov
(608) 266-1221
TTY 1-800-947-3529
FAX (608) 267-2779

October 30, 2025

Duane Jourdeans
duanejourdeans@gmail.com

Dear Duane Jourdeans:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated June 23, 2025, in which you wrote, “I am writing to formally request an investigation into the St. Croix Central School District for improper handling of my personnel records and potentially retaliatory and unethical conduct by Superintendent Tim Widiker, who serves as both the district leader and custodian of records.”

DOJ is also in receipt of your correspondence, dated June 26, 2025, in which you wrote, “I am writing to formally file a complaint regarding the St. Croix Central School District’s ongoing non-compliance with Wisconsin Public Records Law (Wis. Stat. §§ 19.31–19.39). I have experienced repeated and deliberate delays, vague denials, and a refusal to provide itemized cost estimates for clearly specified requests related to Superintendent Tim Widiker’s communications.”

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 discussed matters outside the scope of the OOG’s responsibilities. As a result, we are unable to offer you assistance or insight regarding your allegations that the St. Croix Central School District “[a]cted unethically or retaliated against [you] for protected communication with school board members.” We can, however, address your public records law-related concerns.

After receiving and reviewing both items of correspondence described above, I contacted Superintendent Widiker and the school district’s counsel to seek additional information about the district’s actions in responding to your public records requests. Superintendent Widiker and counsel are copied here for their reference and we encourage them to follow up with our office should questions arise.

In April 2025, you requested your personnel file from the school district. In your June 23 correspondence, you stated that the April 28, 2022 reprimand letter was not included in response to your April 2025 request, but that your June 4, 2022 rebuttal of that reprimand

was included. You stated that you had not been informed that the reprimand letter had been removed from your file. You also stated that, in response to a subsequent third-party records request, the school district informed you that it intended to release records including an unsigned copy of the April 28, 2022 reprimand letter. You alleged that the district had not notified you “of this letter’s reappearance in [your] record” and that the district had a conflict of interest because Superintendent Widiker “oversaw or authored the reprimand” and “is also the custodian of records” for the district.

The school district informed us that your April 2025 records request was responded to by Megan Fern, a human resources employee of the district, and that the omission of the April 28, 2022 letter was a mistake. The district stated, however, that the reprimand letter itself had been retained at all relevant times, as required by applicable records retention and personnel records statutes.

The school district informed us that the third-party records request, dated May 28, 2025, was handled by Jennifer Kleschold, director of business services for the district. The district stated that Ms. Kleschold identified four responsive records that related to you, and that she realized that the signed version of the April 28, 2022 reprimand letter was not in your personnel file at that time. The district stated that it then identified an unsigned electronic copy of this letter on its system. Because the district believed that this letter was responsive to the third-party records request, the district informed you that it would be among the records released to the requester. The district stated that its notice letter to you was dated June 12, 2025.

In your June 23, 2025 correspondence to our office, you also alleged that the school district has a conflict of interest because Superintendent Widiker both authored the reprimand letter and served as the custodian of records for the district. The district stated that Superintendent Widiker did not serve as records custodian and that he did not handle the response to either your April 2025 request or the later third-party request. Our office is unable to determine whether any “conflict of interest” does or does not exist, and the public records law does not speak to such potential conflicts.

In your June 26, 2025 correspondence to our office, you alleged that the district undertook “repeated and deliberate delays, vague denials, and a refusal to provide itemized cost estimates for clearly specific requests” you made. You also stated that you made “good faith efforts to clarify and narrow” your records requests and that the school district’s June 24, 2025 response to you “signals preemptive denials across multiple categories” of your requests.

The school district informed us that you made several records requests on or around May 22, 2025: two on May 19, two on May 20, two on May 21, and two on May 22. The district asserts that it responded to each of these requests and that it subsequently responded to an additional request you sent around June 16. Regarding your May 22, 2025 requests specifically, the district stated that you asked for “all email records, text messages, social media messages/direct messages, and other written or recorded communications’ that were sent or received within [eight] different time periods and included various search terms.” The district stated that, through Ms. Kleschold, it informed you on June 2 that some of your May 22 requests “may not be reasonably limited by time or subject matter as required by law and

that the District would likely be assessing costs as permitted by law.” However, the school district did acknowledge that it declined to provide you with an itemized cost estimate for responding to your request.

Regarding your allegations of delayed responses to public records requests, 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”).

Our office lacks sufficient information to determine that the school district did not respond to any of your records requests within a “reasonable amount of time.” However, the public records law makes clear that responding to public records requests is one of the responsibilities of each “authority,” as that term is defined at Wis. Stat. § 19.32(1). DOJ advises that public records requests be given high priority by each authority. The school district should keep this guidance in mind when responding to future requests.

We are likewise unable to determine whether the school district preemptively denied your records requests, in violation of the public records law. Informing a requester that their request may not be sufficient, or seeking clarification from a requester, does not, on its own, constitute either a denial of a request or a violation of the public records law. However, DOJ does recommend that authorities communicate with requesters regarding costs that may be associated with responding to any given request. Based on the information provided to our office, it appears that attempts to communicate about the scope of your request(s) were ongoing as of the date you wrote to DOJ.

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, nonetheless, we respectfully decline to pursue an action for mandamus.

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 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.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 is 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: Superintendent Tim Widiker, St. Croix Central School District
Attorney Richard F. Verstegen, counsel for St. Croix Central School District



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

November 4, 2025

Peter Berres
oconto.appeal@gmail.com

Dear Peter Berres:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated October 9, 2025, in which you wrote, "Under WI Chapter 19 open records I placed a request for an open records request I made with the Oconto County District Attorney & her office. I put in a written request to the AG office for assistance under state law. I have heard absolutely no reply so please call me 'ASAP!'"

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the Oconto County District Attorney (DA). 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. Because of this conflict, we are unable to discuss this matter further with you.

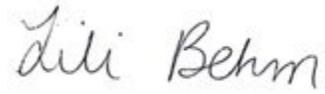
However, I did contact Hannah Schuchart, the Oconto County DA, to ensure that her office is aware of your concerns. I am also copying DA Schuchart on this letter.

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.

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: Oconto County District Attorney's Office



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
Lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

November 5, 2025

Mohamed Fofana
fofana.mohamed1@gmail.com

Dear Mohamed Fofana:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated October 20, 2025, in which you wrote, “I write to request your assistance regarding a public records request submitted to the University of Wisconsin–Madison School of Medicine and Public Health (SMPH). . . . SMPH initially responded by estimating the request would be fulfilled within one week but later informed me the request was ‘back-logged from May’ and would take significantly more time.” You continued, “Because the delay appears unreasonable under Wis. Stats. §§ 19.31–19.39 and I have not yet received all responsive records or a clear timeline, I believe this matter may raise compliance concerns under Wisconsin’s Public Records Law.”

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the University of Wisconsin – Madison (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, UW-Madison is copied on this correspondence to ensure their awareness. We invite UW-Madison to contact the Office of Open Government (OOG) should questions arise.

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 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.

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: University of Wisconsin – Madison, Office of Legal Affairs



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

**Josh Kaul
Attorney General**

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

**Lili Behm
Assistant Attorney General**
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

November 14, 2025

The African American Network
matcaan1@gmail.com

Dear The African American Network:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated September 9, 2025, to the Milwaukee Area Technical College (MATC) regarding your public records request. In that correspondence you wrote, "For transparency, we are copying the Wisconsin Department of Justice, Office of Open Government, so that they are aware of this matter and can provide guidance or intervention if necessary."

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the 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 ensure their awareness 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.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 General Counsel



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

**Josh Kaul
Attorney General**

**17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us**

**Lili Behm
Assistant Attorney General
Lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779**

November 20, 2025

Horace Grumb
hgrumb@gmail.com

Dear Horace Grumb:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated October 19, 2025, in which you wrote, "I have been patient in my request for records made to The University of Wisconsin System (UWS). See email string. Now I am being ignored. Would you help me in this regard, please?"

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent UWS. 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 contacted UWS regarding your records requests and concerns. 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.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: University of Wisconsin System, Office of General Counsel



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

November 20, 2025

Mackenzie Renner
mackenzie@renner-legal.com

Dear Mackenzie Renner:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated October 30, 2025, regarding your public records request to the Kenosha County District Attorney's Office. You wrote, "we requested an update and [were] told that it is still a work in progress. While I understand that FOIA requests can be daunting, the law requires a response within 10 days. Unless I have a response in the near future, I will have to start litigation to receive these documents, and I understand that the DOJ may have to intervene. Hence, I am giving you a heads up and hoping you can assist me in getting compliance with the FOIA requests."

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." 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).

DOJ cannot offer you further information, or legal advice or counsel, concerning this issue as DOJ may be called upon to represent the Kenosha County District Attorney (DA). 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 DA's office 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.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: Kenosha County District Attorney's Office



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

**Josh Kaul
Attorney General**

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

**Lili Behm
Assistant Attorney General**
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

November 24, 2025

Natanael Rivera
#435734
Green Bay Correctional Institution
Post Office Box 19033
Green Bay, WI 54307-9033

Dear Natanael Rivera:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated October 27, 2025, regarding your public records request to the Office of Lawyer Regulation (OLR) for “records related to Attorney Russell J.A. Jones.”

Please note that as an individual who is currently incarcerated, your right to request records under the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39, is limited to records that contain specific references to yourself or your minor children and are otherwise accessible to you by law. *See* Wis. Stat. §§ 19.32(1c) and (3). If the records you requested pertain to you or your minor children, you may request them pursuant to the public records law. However, under the public records law, certain information may still be redacted from the records.

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the OLR. 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, we contacted the OLR to ensure their awareness of your concerns, and the OLR is also copied on this correspondence. We invite them to contact our office with any questions they may have.

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: Wisconsin Office of Lawyer Regulation



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

**Josh Kaul
Attorney General**

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

**Lili Behm
Assistant Attorney General**
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

December 3, 2025

Corey Mueller
Corey.Mueller@wisconsin.gov

Dear Corey Mueller:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated November 12, 2025, in which you wrote, “I have tried several times for open records through the Wisconsin Department of Corrections dba Dodge Correctional Institution with them taking a month to several months to respond to the request. . . . I have reached out to the open records liaison officer at Dodge Correctional Institution asking about my [latest] request, and I don’t receive any answer at all. . . . Any help with this matter would be greatly appreciate[d].”

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

While DOJ is unable to 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: Wisconsin Department of Corrections, Office of Legal Counsel



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

December 5, 2025

Jim Zellmer
jim.zellmer@icloud.com

Dear Jim Zellmer:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated October 17, 2025, regarding your public records request to the Wisconsin Department of Public Instruction (DPI). In response, the DPI stated that the information you requested “will be publicly shared in a report due to the legislature by November 30 each year. Please check online after that date.” You wrote to DOJ that “[t]he curious delay in light of our decades long disastrous literacy results and ACT 20 legislation, surely requires investigation, accountability and immediate publication.”

DOJ cannot offer you legal advice or counsel concerning this issue as DOJ may be called upon to represent the 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's legal counsel to discuss your concerns regarding DPI’s response to your public records request. I am also sending DPI a copy of 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.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.

Jim Zellmer
Page 2

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: Wisconsin Department of Public Instruction



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
lili.behm@wisdoj.gov
(608) 266-1221
TTY 1-800-947-3529
FAX (608) 267-2779

December 12, 2025

Michelle Castile
castilemichelle@gmail.com

Dear Michelle Castile:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated December 27, 2024, in which you wrote, “I am seeking assistance regarding several transparency and accountability concerns involving public agencies in Wisconsin. These matters involve public records, open meetings, and misrepresentation of information that has had significant consequences for myself and my family.”

You first requested assistance regarding your public records request to the Central Wisconsin Community Action Council (CWCAC). You wrote, “CWCAC refused to provide access to these records and cit[ed] no valid reason for the denial.” 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 Wisconsin public records law defines an “authority” as any of the following having custody of a record:

a state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a special purpose district; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50 percent of its funds from a county or a municipality, as defined in s. 59.001(3), and which provides services related to public health or safety to the county or municipality; a university police department under s. 175.42; or a formally constituted subunit of any of the foregoing.

Wis. Stat. § 19.32(1). Only an entity that falls within this definition of “authority” is subject to the provisions of the public records law. Based solely on the limited information provided in your correspondence and the information provided on its website, CWCAC appears to be a non-profit organization.

The definition of a governmental body includes a “quasi-governmental corporation” which is not defined in the statutes. The Wisconsin Supreme Court discussed the definition of “quasi-governmental corporation” in *State v. Beaver Dam Area Development Corp.* (“*BDADC*”). *State v. Beaver Dam Area Dev. Corp.*, 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295. In that decision, the Court held that a “quasi-governmental corporation” does not have to be *created* by the government or be *per se* governmental, but rather is a corporation that significantly resembles a governmental corporation in function, effect, or status. *Id.* ¶¶ 33-36. The Court further held that each case must be decided on its own particular facts, under the totality of the circumstances. The Court set forth a non-exhaustive list of factors to be examined in determining whether a particular corporation sufficiently resembles a governmental corporation to be deemed quasi-governmental, while emphasizing that no single factor is outcome determinative. *Id.* ¶¶ 7-8, 63 n.14, and 79. The factors set out by the Court in *BDADC* fall into five basic categories: (1) the extent to which the private corporation is supported by public funds; (2) whether the private corporation serves a public function and, if so, whether it also has other, private functions; (3) whether the private corporation appears in its public presentations to be a governmental entity; (4) the extent to which the private corporation is subject to governmental control; and (5) the degree of access that government bodies have to the private corporation’s records. *Id.* ¶ 62.

In applying the *BDADC* analysis to any matter, a court would look at all relevant factors before deciding whether the entity is a “quasi-governmental corporation” subject to the requirements of the public records law, and it is important that all relevant information be available. Here, we do not have sufficient information to fully evaluate whether CWCAC is a “quasi-governmental corporation.”

Next, you requested assistance regarding your public records requests to multiple agencies. You requested assistance regarding your public records request to the Wisconsin Department of Administration’s (DOA) Division of Energy Housing and Community Resources (DEHCR) and the Columbia County Southern Housing Region Committee (Columbia County) for records regarding the denial of your Community Development Block Grant application. You wrote, “there was no documentation regarding the reasons for the denial or any appeals process.” You requested assistance regarding another public records request to DOA and DEHCR for records regarding the Home Energy Plus Furnace Program. You wrote, “Despite submitting a request for records to understand why assistance was denied, I have not received any documentation or explanation for this information as well.” You requested assistance regarding a third public records request to DOA and DEHCR for records regarding the ventilation system recommendations for your home. You also requested assistance regarding your public records request to Sauk County for all records related to your grievance with the Sauk County Children’s Long-Term Support (CLTS) Program and appeal submissions. You also requested assistance regarding your public records request to the Division of Hearings and Appeals (DHA) for records regarding your appeal hearing. Lastly, you requested assistance regarding your public records request to the CLTS Program for records related to the denial of transportation services.

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 portions of

your correspondence pertained to the public records law, it also discussed matters outside the scope of the OOG's responsibilities. As a result, we are unable to offer you assistance or insight regarding your Community Development Block Grant denial, the appeal process, denials for assistance, alleged edits or alterations made to home diagnostic reports, and your grievance filed with the Sauk County CLTS Program, denials of eligibility and services, and appeal process.

Regarding your public records requests to DOA, DEHCR, and DHA, DOJ cannot offer you legal advice or counsel as DOJ may be called upon to represent DOA, which includes its divisions DEHCR and DHA, among others. 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 DOA about your concerns, and I am also copying them on this letter.

Regarding your public records requests to Columbia County and Sauk County, 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).

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), "[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.

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 Columbia County and Sauk County on this letter to ensure that they are aware of the concerns you raised last year. I invite them to contact me with any questions they may have.

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,

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 Administration
Columbia County – Accounting Department
Sauk County – Human Services Department



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili C. Behm
Assistant Attorney General
lili.behm@wisdoj.gov
(608) 266-1221
TTY 1-800-947-3529
FAX (608) 267-2779

December 15, 2025

The Gutmiester
thegutmiester@gmail.com

Dear The Gutmiester:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated June 10, 2025, regarding your public records request to the Wisconsin Dells Police Department for a “[r]ecorded phone conversation about [a] citation.” You wrote, “My first request for the conversation [w]as rejected. No specific time. So I asked for all phone call records between myself and Sergeant Parkhurst where he stated ‘I gave you the citation solely based on the other drivers statement.’ On my second request they mentioned nothing about the recording and not being there and gave me a lot of confusing information to bury non-compliance to my request.” You requested that “all three of these requests to be investigated because the phone call happened on a particular date and time on a particular line.” You also wrote, “It’s in my request that they charged me over \$100 to go through phone records to suppress them.”

DOJ is also in receipt of your correspondence, dated August 7, 2025, regarding your request to the Wisconsin Dells City Administrator for “a detailed map of their parking lots with detailed information [on] spot numbers and revenue generated.” You wrote, “She told me I can get a map on her website. She constantly states she doesn’t have to answer my questions.”

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 claims of a “selective enforcement” and civil rights violation, your municipal court proceedings, your request for “investigation [of] multiple crimes which you have on video,” and your rights as a person with a disability. We can, however, address your public records law-related concerns and provide you with some general information about the public records law that we hope you will find helpful.

In your August 7 correspondence, you wrote that you made a request to the Wisconsin Dells City Administrator for “a detailed map of their parking lots with detailed information [on] spot numbers and revenue generated.” You continued, “She told me I can get a map on

her website. She constantly states she doesn't have to answer my questions." Based solely on the information in your correspondence, OOG is unable to conclude whether the city violated the public records law when it informed you that the record was available online. The public records law provides that a records custodian, to the extent that responsive records exist, must respond to a public records request either by fulfilling the request or denying the request. The public records law presumes that a record custodian will provide some assistance to a person requesting a record and requires an authority to do more than simply directing a requester to "a public library or the authority's voluminous records." See Letter from James E. Doyle, Wisconsin Attorney General, to James Muench (July 24, 1998), at <https://www.wisdoj.gov/Open%20Government/19980724-muench.pdf>. As such, if the city provided "some assistance" by directing you to a specific URL or page on its website, where the requested map is located, that may constitute an acceptable response.

Your August 7 correspondence suggests that, in addition to the map of parking lots, you also asked for "information [on] spot numbers and revenue generated." Based only on the details provided in your correspondence, the city's response that it "doesn't have to answer [your] questions" does not seem to violate the public records law. 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 Bd. of Police and Fire Comm'rs*, 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). Furthermore, the public records law "does not require an authority to create a new record by extracting information from existing records and compiling the information in a new format." Wis. Stat. § 19.35(1)(L).

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).

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), "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).

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).

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 allow an authority to charge fees for certain costs incurred during the fulfillment of public records requests. 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. *Milwaukee Journal Sentinel*, 2012 WI 65, ¶¶ 1 & n.4, 6, 58 (Abrahamson, C.J., lead opinion); *Id.* ¶ 76 (Roggensack, J., concurring). Likewise, if an authority uses a contractor to assist in processing the authority’s public records requests, the authority cannot pass along the contractor’s redaction costs to the requester. Except for certain circumstances as provided in Wis. Stat. § 19.35(3)(h), the costs of redaction are not a permissible fee under the public records law, no matter if the fees are incurred by the authority itself or by the contractor.

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). “Locating” a record means to find it by searching, examining, or experimenting. Subsequent review and redaction of the record are separate processes, not included in location of the record, for which a requester may not be charged. *Milwaukee Journal Sentinel*, 2012 WI 65, ¶ 29 (Abrahamson, C.J., lead opinion). Only actual, necessary, and direct location costs are permitted. 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 (https://www.wisdoj.gov/Documents/8.8.18_OOG_Advisory_Fees_0.pdf).

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.

The OOG also encourages authorities and requesters to maintain an open line of communication. This helps to avoid misunderstandings between an authority and a requester. It is also helpful in resolving issues such as those related to fees. If a requester is concerned about potential fees, it may be helpful that he or she express such concerns in the request.

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, nonetheless, we respectfully decline to pursue an action for mandamus.

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 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.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 is 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**

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
Lili.Behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/266-2779

December 17, 2025

Teresa Lien
teresadewey1979@gmail.com

Dear Teresa Lien:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 24, 2024, in which you wrote, “I delivered a formal petition to recall the School District of Baraboo School Board President. . . . On May 24, I received a certified letter by mail and hours later, the same letter from a Sauk Co Sheriff, to cease and desist for ‘defamation against school district of Baraboo and its employees.’” You wrote, “I am threatened with civic and criminal legal action and I feel it is to intimidate me from leading the recall on the school board president. Please advise.”

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 discusses matters 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 “formal petition to recall the School District of Baraboo School Board President” or the “cease and desist” letter you received.

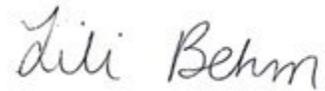
The open meetings law acknowledges that the public is entitled to the fullest and most complete information regarding government affairs as is compatible with the conduct of governmental business. Wis. Stat. § 19.81(1). All meetings of governmental bodies shall be held publicly and be open to all citizens 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).

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

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
Lili.behm@wisdoj.gov
(608) 266-1221
TTY 1-800-947-3529
FAX (608) 267-2779

December 18, 2025

Jake Flannery
jadamflannery85@gmail.com

Dear Jake Flannery:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 29, 2024, in which you wrote, "I'm writing about several concerns regarding the School District of Crandon and their Administration not responding to open records requests." You asked, "What do I do to receive a response and or the records I request? I can also imagine, I will in retaliation, receive a huge payment request to receive the records, can you please explain how this works?"

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).

In your correspondence you wrote, "It seems as though the District Administrator is not understanding he is the legal custodian of records and that the records are to be disclosed within 10 days." Please note that 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 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 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).

In your correspondence, you also raised concerns about potential fees. The public records law does allow an authority to charge fees for certain costs incurred during the fulfillment of public records requests. 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). Based on the information provided in your correspondence, it seems that the authority is a school district, not a law enforcement agency, and, as such, would not be permitted to charge for redaction of recordings.

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. *Milwaukee Journal Sentinel*, 2012 WI 65, ¶¶ 1 & n.4, 6, 58 (Abrahamson, C.J., lead opinion); *Id.* ¶ 76 (Roggensack, J., concurring). Likewise, if an authority uses a contractor to assist in processing the authority’s public records requests, the authority cannot pass along the contractor’s redaction costs to the requester. Except for certain circumstances

as provided in Wis. Stat. § 19.35(3)(h), the costs of redaction are not a permissible fee under the public records law, no matter if the fees are incurred by the authority itself or by the contractor.

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). “Locating” a record means to find it by searching, examining, or experimenting. Subsequent review and redaction of the record are separate processes, not included in location of the record, for which a requester may not be charged. *Milwaukee Journal Sentinel*, 2012 WI 65, ¶ 29 (Abrahamson, C.J., lead opinion). Only actual, necessary, and direct location costs are permitted. 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 (https://www.wisdoj.gov/Documents/8.8.18_OOG_Advisory_Fees_0.pdf).

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.

The OOG also encourages authorities and requesters to maintain an open line of communication. This helps to avoid misunderstandings between an authority and a requester. It is also helpful in resolving issues such as those related to fees. If a requester is concerned about potential fees, it may be helpful that he or she express such concerns in 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:

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



**STATE OF WISCONSIN
DEPARTMENT OF JUSTICE**

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili C. Behm
Assistant Attorney General
Lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

December 18, 2025

Eric Moe
norsemangray@gmail.com

Dear Eric Moe:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated May 22, 2024, in which you wrote, “I am part of a parks and environment committee. Can you give me directions on what we can email in between our monthly meetings . . . as far as open records and open meetings[?]”

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).

A meeting occurs when a convening of members of a governmental body satisfies two requirements. *See State ex rel. Newspapers, Inc. v. Showers*, 135 Wis. 2d 77, 398 N.W.2d 154 (1987). The first requirement under the so-called *Showers* test is that there must be a purpose to engage in governmental business (the purpose requirement). Second, the number of members present must be sufficient to determine the governmental body’s course of action (the numbers requirement). A meeting does not include any social or chance gathering or conference that is not intended to avoid the requirements of the open meetings law.

It is important to note that the phrase “convening of members” in Wis. Stat. § 19.82(2) is not limited to situations in which members of a body are simultaneously gathered in the same location, but may also include other situations in which members are able to effectively communicate with each other and to exercise the authority vested in the body, even if they are not physically present together. Whether such a situation qualifies as a “convening of members” under the open meetings law depends on the extent to which the communications in question resemble a face-to-face exchange.

The Attorney General has previously opined that, if email communications closely resemble an in-person discussion, then they may constitute a meeting if they involve enough members to control an action by the body. *See Krischan Correspondence* (Oct. 3, 2000).

Although no Wisconsin court has applied the open meetings law to these kinds of electronic communications, it is likely that the courts will try to determine whether the communications in question are more like an in-person discussion—*e.g.*, a rapid back-and-forth exchange of viewpoints among multiple members—or more like non-electronic written correspondence, which generally does not raise open meetings law concerns. In addressing these questions, courts are likely to consider such factors as the following: (1) the number of participants involved in the communications; (2) the number of communications regarding the subject; (3) the time frame within which the electronic communications occurred; and (4) the extent of the conversation-like interactions reflected in the communications. *See Schmieg Correspondence* (Aug. 22, 2018).

In short, a court could construe back and forth communication on electronic media as a convening of members under the open meetings law, because it resembles an in-person discussion. *See Krischan Correspondence* (Oct. 3, 2000). A court could also find that there is a “close proximity” of time of the exchanges over electronic media if a single official uses electronic media to communicate with others in succession, asking—explicitly or tacitly—for their support of a particular position. *See Benson Correspondence* (Mar. 12, 2004). Regardless of how a court would view such communications, however, in the interest of government openness and transparency such discussions and decisions should occur in the light of a properly noticed open meeting.

For these reasons, the Attorney General has cautioned that members of governmental bodies should reduce any possible appearance of impropriety by minimizing inter-member communications. *See Kay Correspondence* (Apr. 25, 2007). With respect to email specifically, the Attorney General has strongly discouraged the members of every governmental body from using email to communicate about issues within the body’s realm of authority. *See Krischan Correspondence* (Oct. 3, 2000); *Benson Correspondence* (Mar. 12, 2004); *Schmieg Correspondence* (Aug. 22, 2018).

Because the applicability of the open meetings law to such electronic communications depends on the particular way in which a specific message technology is used, these technologies create special dangers for governmental officials trying to comply with the law. Features like “forward” and “reply to all” common in electronic mail programs deprive a sender of control over the number and identity of the recipients who eventually may have access to the sender’s message. Moreover, it is quite possible that, through the use of electronic mail, a quorum of a governmental body may receive information on a subject within the body’s jurisdiction in an almost real-time basis, just as they would receive it in a physical gathering of the members.

Inadvertent violations of the open meetings law through the use of electronic communications can be reduced if electronic mail is used principally to transmit information one-way to a body’s membership; if the originator of the message reminds recipients to reply only to the originator, if at all; and if message recipients are scrupulous about minimizing the content and distribution of their replies. Because of the absence of judicial guidance on the subject, and because electronic mail creates the risk that it will be used to carry on private debate and discussion on matters that belong at public meetings subject to public scrutiny, the Attorney General’s Office strongly discourages the members of every governmental body from using electronic mail to communicate about issues within the body’s realm of authority.

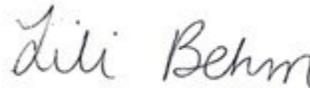
See Krischan Correspondence (Oct. 3, 2000); Benson Correspondence (Mar. 12, 2004); Schmiege Correspondence (Aug. 22, 2018). Further, members of a governmental body may not decide matters by email voting, even if the result of the vote is later ratified at a properly noticed meeting. I-01-10 (Jan. 25, 2010).

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 public records law and maintains an Open Meetings Law Compliance Guide and Public Records Law Compliance Guide on its website. The Open Meetings Law Compliance Guide, available at <https://www.wisdoj.gov/Pages/AboutUs/open-meetings.aspx>, may be particularly helpful to you and your fellow committee members.

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 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

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
Lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

December 18, 2025

Brandon Roberts
brandon.r.roberts@att.net

Dear Brandon Roberts:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated June 5, 2024, regarding your public records request for police department body camera footage. You asked, “Can you please get an answer to me to why they would purposely cut out a part of a[n] open records request on the body cam footage[?]”

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 discussed matters outside the scope of the OOG’s responsibilities. As a result, we are unable to offer you assistance or insight regarding the alleged violations of your “constitutional rights and civil rights.” We can, however, provide you with some information about the public records law and how it may apply to your situation.

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).

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).

In your correspondence you wrote, “And [if] it has anything to do about some sort of excuse that they have some kind of investigation. I have copies of paperwork proving knowledge of this so it’s no secret and whatever seal they think they have or NDA’s so they got to play by the rules.” Whether an investigation or litigation is ongoing and whether the confidentiality of the requested records is material to that ongoing investigation or litigation are factors that an authority may consider in applying the balancing test. *Cf. Linzmeyer v. Forcey*, 2002 WI 84, ¶¶ 30, 32, 39, 41, 254 Wis. 2d 306, 646 N.W.2d 811; *Journal/Sentinel, Inc. v. Aagerup*, 145 Wis. 2d 818, 824-27, 429 N.W.2d 772 (Ct. App. 1988); *Democratic Party of Wisconsin v. Wisconsin Dep’t of Justice*, 2016 WI 100, ¶ 12, 372 Wis. 2d 460, 888 N.W.2d 584. An authority could determine that release of records while an investigation or litigation is in progress could compromise the investigation or litigation. Therefore, when performing the public records balancing test, an authority could conclude that the public interest in effectively investigating and litigating a case and in protecting the integrity of the current investigation or litigation outweighs the public interest in disclosing the requested records at that time. *Id.*; Wis. Stat. § 19.35(1)(a). In light of this, a reviewing court would consider the totality of the circumstances to determine if the Eau Claire County Sheriff’s Office erred in performing the balancing test and deciding to deny your records request.

Wisconsin Const. art. I, § 9m provides, in part, that crime victims are entitled to the rights “to be treated with dignity, respect, courtesy, sensitivity, and fairness” and to privacy. Related Wisconsin statutes recognize that these self-executing state constitutional rights must be vigorously honored by law enforcement agencies and that crime victims include both persons against whom crimes have been committed and the family members of those persons. Wis. Stat. §§ 950.01 and 950.02(4)(a). The Wisconsin Supreme Court, speaking about both Wis. Const. art. I, § 9m, and related victim rights statutes, has instructed that “justice requires that all who are engaged in the prosecution of crimes make every effort to minimize further suffering by crime victims.” *Schilling v. Crime Victim Rights Bd.*, 2005 WI 17, ¶ 26, 278 Wis. 2d 216, 692 N.W.2d 623.

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 solely on the information provided in your correspondence, we are unable to determine whether the redactions and/or withholding from the record you received did or did not comply with the public records law.

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 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

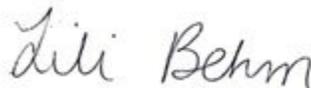
<http://www.wisbar.org/forpublic/ineedalawyer/pages/lris.aspx>

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>). 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



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

December 22, 2025

Dave Beaulieu
taanru@hotmail.com

Dear Dave Beaulieu:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated August 2, 2023, in which you wrote, "I am writing to request that you enforce action on the City of Lake Geneva Record keeper, Lana Kropf to provide my requested responses to my requests, which have gone far beyond the specified time limitations. These are really simple requests that have gone un-responded to."

DOJ's Office of Open Government (OOG) recognizes that a significant amount of time has elapsed since you sent your correspondence. Due to a technical issue, OOG did not identify your correspondence until this year. We regret the time it has taken to respond to you.

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 to avoid 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.

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).

It is possible that, in the time since you sent your correspondence, you have received a response to your public records requests. The City of Lake Geneva Board of Review Clerk is copied on this letter and I invite her to contact our office should she wish to discuss your requests and concerns.

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. As your matter does not appear to present novel issues of law that coincide with matters of statewide concern, we respectfully decline to pursue an action for mandamus on your behalf at this time.

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

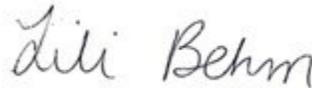
<http://www.wisbar.org/forpublic/ineedalawyer/pages/lris.aspx>

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: Lake Geneva City Clerk Lacey Reynolds (via email: cityclerk@cityoflakegeneva.com)



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Lili Behm
Assistant Attorney General
lili.behm@wisdoj.gov
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

December 22, 2025

Steve Hill
wordsareroads@gmail.com

Dear Steve Hill:

The Wisconsin Department of Justice (DOJ) is in receipt of your correspondence, dated February 15, 2022, in which you wrote that you were “one of three colleagues who filed a grievance against four administrators at [y]our place of employment.” You asked if a “grievance report is a public record” and stated, “We understand that, under Wi. 19.35, most grievance-related documents should be.” You wrote, “Our concern is whether all or parts of the document might not be considered public information” and you asked if you “need to have an attorney review the report to be able to assess whether parts (or even all) of it are NOT information to which the public would have rights?”

DOJ’s Office of Open Government (OOG) recognizes that a significant amount of time has elapsed since you sent your correspondence. Due to a technical issue, OOG did not identify your correspondence until this year. We regret the time it has taken to respond to you.

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 defines an “authority” as any of the following having custody of a record:

a state or local office, elective official, agency, board, commission, committee, council, department or public body corporate and politic created by the constitution or by any law, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a special purpose district; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50 percent of its funds from a county or a municipality, as defined in s. 59.001(3), and which provides services related to public health or safety to the county or

municipality; a university police department under s. 175.42; or a formally constituted subunit of any of the foregoing.

Wis. Stat. § 19.32(1). Only an entity that falls within this definition of “authority” is subject to the provisions of the public records law. From the limited information provided in your correspondence, it is unclear if your employer is an “authority” as defined above.

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 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