



Tony Evers

Office of the Governor | State of Wisconsin

September 27, 2019

Electronic Mail Only

Hello Ms. St. Hilaire:

I am writing in response to your September 18, 2019, request for the following:

“(1) The Governor's calendar(s) from 2019

(2) The Governor's emails (sent and received) from June 14, 2019 through June 30th, 2019 and from September 2, 2019 through September 18, 2019.

(3) Maggie Gau's emails (sent and received) from June 4, 2019 through June 30th, 2019 and from September 2, 2019 through September 18, 2019”

As to request (1), the responsive records are attached.

You will see that the calendar includes some redactions. Personal entries and entries not kept in connection with the official purpose or function of this office have been redacted. *See Schill v. Wis. Rapids Sch. Dist.*, 2010 WI 86, 327 Wis. 2d 572, 786 N.W.2d 177; *State ex rel. Youmans v. Owens*, 28 Wis. 2d 672, 679, 137 N.W.2d 470 (1965); 72 Op. Att’y Gen. 99, 101 (1983).

Under the common law balancing test, I also redacted unpublished cell and office phone numbers of state employees. Making this information available would cause unnecessary and unwarranted interruptions to employees both at work and at home, affecting their ability to work efficiently. There is minimal harm to the public interest given that these same employees are available through publicly available means.

I also redacted information that relates to the Governor’s security detail. Wis. Stat. § 19.35(1)(a). If this information were to be released, it could be used in an action that could threaten the Governor’s security. This poses a significant threat to the security of the Governor and of the State. The public interest in preventing such security threats far outweighs any benefit the public may receive from the release of this information.

Please note that while every effort is made to ensure that the Governor's calendar is accurate, it is always possible that any given event did not occur at the precise scheduled time, or was even canceled, depending on unforeseen circumstances.

Requests (2) and (3) are denied because they lack a subject matter. The public records law provides that a requester may deny a record request that lacks “reasonable limitation as to subject matter or length of time.” Wis. Stat. § 19.35(1)(h).

I had a phone conversation with you to request a subject matter. You declined to give a subject matter. Instead, you offered to make multiple requests for smaller periods that would culminate to cover the same period described above. As I explained on the phone, this does not alleviate the problem or make your request sufficiently specific.

While this was not determinative in the decision to deny requests (2) and (3), as I told you, those requests generated an estimated 10,975 items when I reviewed the identified users email records. Each of those items will generate an unknown amount of pages and often attachments of unknown size.

While there is a presumption that a requester has a right to inspect any record, our office also has a legal responsibility to review all records prior to release to ensure it should not be withheld or redacted. *Osborn v. Bd. of Regents of Univ. Wis. Sys.*, 2002 WI 83, 254 Wis. 2d 266, 647 N.W.2d 158. This is necessary to prevent disclosing material that could compromise state actors’ or constituents’ privacy or safety, or release records that would be outright illegal to release.

As I explained on the phone, we cannot provide you approximately 10,975 items without individualized review. This review would require an employee to devote weeks of time working on your request alone, ignoring their other job responsibilities and all the other requests our office receives. And while you could not be charged for the time it would take to conduct that review, Wisconsin taxpayers should not be asked to pay the salary of a state employee to work exclusively on an insufficiently specific request for weeks, to the detriment of all other requests, requesters, and job responsibilities.

Earlier this month, we took stock of our office’s responsiveness relative to the prior administration. During the first six months of Governor Evers’ administration, our office responded to 149 public record requests with an average response time of 22.78 calendar days. In 2018, Governor Walker’s average reporting time, per their own tracking records, was 26.5 business days, meaning they did not include weekends or holidays in their calculation. Gov. Walker’s office completed 170 requests in all of 2018. As of today, our office has already logged 226 requests since inauguration.

I understand your frustration in our decision to request a subject matter per Wis. Stat. § 19.35(1)(h). However, given the volume of requests our office receives, in order to be fair and responsive to all requesters and fair to the Wisconsin taxpayers paying for the staff needed to fill record requests, it is important we apply the law as written and uniformly to all requesters.

Sincerely,
Erin Deeley
Assistant Legal Counsel