

WISCONSIN INSTITUTE FOR LAW &  
LIBERTY, INC.,

Petitioner,

v.

Case No. \_\_\_\_\_

MADISON METROPOLITAN SCHOOL  
DISTRICT,

Respondent.

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**AFFIDAVIT OF KYLE KOENEN**

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STATE OF WISCONSIN )  
  ) SS  
WAUKESHA COUNTY )


Being first duly sworn on oath, I state as follows based on personal knowledge or information and belief:

1.     I am the Policy Director at the Wisconsin Institute for Law & Liberty.
2.     During the summer of 2022, I supervised WILL policy intern, Dylan Palmer.
3.     On June 1, 2022, Dylan Palmer submitted the public records request attached as Exhibit 2 to publicrecords@madison.k12.wi.us. Dylan made this request on WILL’s behalf and in his official capacity as a policy intern under my supervision.
4.     On June 2, 2022, Dylan received a response stating that his request had been received, that “responses are handled in the order in which they are received,”

and MMSD is experiencing a delay in responding to requests “due to the COVID-19 pandemic, staff constraints, and the increase of public records requests received.”

5. As of the date of this affidavit, WILL has received no further response and MMSD has not fulfilled the request by Dylan Palmer dated June 1, 2022.

Dated this 17<sup>th</sup> day of January, 2023.

  
\_\_\_\_\_  
Kyle Koenen  
Policy Director  
Wisconsin Institute for Law & Liberty, Inc.

Subscribed and sworn to before me  
this 17<sup>th</sup> day of January, 2023.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission expires does not expire.





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**From:** Wisconsin Institute for Law and Liberty <[willrecordrequests@gmail.com](mailto:willrecordrequests@gmail.com)>  
**Date:** Tuesday, January 3, 2023 at 12:25 PM  
**To:** Cory Brewer <[cbrewer@will-law.org](mailto:cbrewer@will-law.org)>  
**Subject:** Fwd: MMSD Open Records Request

----- Forwarded message -----

**From:** **Public Records MMSD** <[publicrecords@madison.k12.wi.us](mailto:publicrecords@madison.k12.wi.us)>  
**Date:** Thu, Jun 2, 2022 at 3:00 PM  
**Subject:** Re: MMSD Open Records Request  
**To:** Wisconsin Institute for Law and Liberty <[willrecordrequests@gmail.com](mailto:willrecordrequests@gmail.com)>

Dear Dylan Palmer,

Your request dated Wednesday, June 1, 2022 has been received. Please note that responses are handled in the order in which they are received.

Unfortunately, due to the COVID-19 pandemic, staff constraints, and the increase of public records requests received, we are experiencing a delay in responding to requests.

Thank you for your patience and understanding.

On Wed, Jun 1, 2022 at 1:29 PM Wisconsin Institute for Law and Liberty <[willrecordrequests@gmail.com](mailto:willrecordrequests@gmail.com)> wrote:

Hello,

Please see the attached letter. We appreciate your time and assistance.

Thank you,

Dylan Palmer  
Policy Intern  
Wisconsin Institute for Law & Liberty  
414.727.9455



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WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.  
330 E. Kilbourn Avenue, Suite 725, Milwaukee, WI 53202-3141  
414-727-WILL (9455)  
Fax 414-727-6385  
[www.will-law.org](http://www.will-law.org)

June 1<sup>st</sup>, 2022

Re: Open Records Request

To whom it may concern,

This letter is a request for the following records, made under Wisconsin's Open Records Law, Wis. Stats. §§ 19.31-19.39:

- For the 2021-2022 school year, the complete list of school board adopted textbooks on file with the clerk, in accordance with Wis. Stat. § 118.03(1).

The Open Records Law defines "record" to include information that is maintained on paper and electronically, such as data files and unprinted emails. Wis. Stat. § 19.32(2).

If these records are stored electronically, the law requires you to provide them in that electronic format. See *Lueders v. Krug*, 2019 WI App 36. Electronic records can be sent by email to [willrecordrequests@gmail.com](mailto:willrecordrequests@gmail.com). Otherwise, please mail them to the address above.

The Open Records Law "shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business. The denial of access generally is contrary to the public interest, and only in an exceptional case may access be denied." Wis. Stat. § 19.32(1). If you deny my request, the law requires you to do so in writing and state what part of the law you believe entitles you to deny my request. Wis. Stat. § 19.35(4)(a).

The Open Records Law states that you may charge for "the actual, necessary and direct cost" of locating records, if this exceeds \$50, for photocopies, and for postage. Wis. Stat. § 19.35(3). Please advise me before processing this request if the total cost will exceed \$50.

The law requires you to respond to this request "as soon as practicable and without delay." Wis. Stat. § 19.35(4)(a). If you are not the records custodian for this information, please forward this request to the appropriate person. Also, please contact me if I can help clarify or refine this request.

Sincerely,

Dylan Palmer  
Policy Intern  
414.727.9455