

STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY
BRANCH __

INSTITUTE FOR REFORMING GOVERNMENT
INC., a domestic non-stock corporation,
Post Office Box 180291
Delafield, WI 53018,

Petitioner,

v.

SARAH GODLEWSKI, in her official
capacity as Wisconsin Secretary of State,
Room B41 West, State Capitol
Post Office Box 7848
Madison, WI 53707-7848,

Respondent.

Petition for
Writ of Mandamus
Case Code: 30952
Case No. 23-CV-

PETITION FOR WRIT OF MANDAMUS

This is an action to enforce Wisconsin's Public Records Laws, Wis. Stat. §§ 19.31–19.39. These laws provide that citizens requesting records from public officials are presumptively entitled to complete and timely access to those records. Petitioner Institute for Reforming Government Inc., by its undersigned attorneys, hereby applies to this Court for a writ of mandamus ordering Sarah Godlewski, in her official capacity as Secretary of State, to produce records that Petitioner requested months ago. Petitioner alleges:

1. Petitioner is a non-stock corporation incorporated under Wisconsin law.
2. Petitioner's registered physical address is 701 East Washington Avenue, Suite 201, Madison, WI 53703. Petitioner's mailing address is Post Office Box 180291,

Delafield, WI 53018. Petitioner operates via a virtual office with staff located throughout Wisconsin, including in Waukesha County.

3. Through its Center for Investigative Oversight, Petitioner's mission includes promoting accountability, transparency, and conservative governance in Wisconsin by conducting and supporting rigorous, independent, and objective oversight of state government.

4. Respondent Sarah Godlewski is named in her official capacity as the Wisconsin Secretary of State. Secretary Godlewski maintains an office in Room B41 West of the State Capitol, Madison, WI 53702.

5. Secretary Godlewski's mailing address is Post Office Box 7848, Madison, WI 53707.

6. As a state officer, Secretary Godlewski does substantial business in all 72 Wisconsin counties, including Waukesha County.

7. Secretary Godlewski is an "authority" pursuant to Wis. Stat. § 19.32(1) and an "elective official" as defined by Wis. Stat. § 19.32(1bd) because the secretary is "an individual who holds an office that is regularly filled by vote of the people."¹

8. As an elective official, Secretary Godlewski is the "legal custodian of . . . her records and the records of . . . her office" under Wis. Stat. § 19.33(1).

9. Wisconsin Stat. § 19.37(1)(a) provides requesters, like Petitioner, with a private right of action against authorities, like Secretary Godlewski, for a writ of

¹ Although Secretary Godlewski was appointed, not elected, to the office of Secretary of State, she still meets the statutory definition of "elective official."

mandamus ordering release of public records if an authority “withholds” or “delays” access to the records.

10. This Court has jurisdiction to hear and decide this petition pursuant to Wis. Const. Art. VII, § 8 and Wis. Stat. § 19.37(1)(a).

11. Venue is proper in Waukesha County under Wis. Stat. § 801.50(2)(a) because this is the county where the action arose (this is the county from which the public records request was sent), Wis. Stat. § 801.50(2)(c) because this is a county in which the Respondent does substantial business, and because Petitioner designates Waukesha County as venue pursuant to Wis. Stat. § 801.50(3)(a).

12. On March 17, 2023, Governor Tony Evers announced that longtime Secretary of State Doug La Follette was retiring a mere two months into a new term of office.

13. On March 17, 2023, Governor Evers announced that he had appointed Secretary Godlewski to serve the remainder of the term.

14. On March 17, 2023, Petitioner’s Chief Legal Counsel & Director of Oversight, Anthony LoCoco, who lives and works in Waukesha County, sent an email to Secretary Godlewski’s office at statesec@wisconsin.gov requesting “[a]ll correspondence” from March 17, 2022 to March 17 2023 between:

- a. “Douglas La Follette and Governor Tony Evers”;
- b. “Douglas La Follette and Sarah Godlewski”; and
- c. “Douglas La Follette and any Wisconsin Deputy Secretary of State.”

15. A true and correct copy of that March 17, 2023 email is attached hereto as Exhibit A.

16. On or about March 17, 2023, LoCoco sent the same public records request by United States mail to the Office of the Secretary of State consistent with directions on the Secretary's website² directing that requests be made in writing.

17. On March 23, 2023, LoCoco sent a follow up email, stating: "I am emailing to ensure that this request, which was also sent by mail, has been received. Could someone in your office please confirm receipt"?

18. A true and correct copy of that March 23, 2023 email is attached hereto as Exhibit B.

19. The March 23, 2023 email from LoCoco was not responded to.

20. On or about March 27, 2023, and March 29, 2023, LoCoco called the Office of the Secretary of State for information on the status of his request.

21. On April 27, 2023, LoCoco sent a second follow up email, stating: "Good afternoon, I am writing to ask for an update on the status of my request, which was submitted over one month ago."

22. A true and correct copy of that April 27, 2023 email is attached hereto as Exhibit C.

23. The April 27, 2023 email from LoCoco was not responded to.

² Available at: https://sos.wi.gov/open_records.htm.

24. On May 9, 2023, LoCoco sent a third follow up email, stating: “I am writing to ask for an update on the status of my request, which was submitted almost two months ago. I have not received a response to my initial request for an update.”

25. A true and correct copy of that May 9, 2023 email is attached hereto as Exhibit D.

26. More than two weeks after his third request for an update, and more than two months after submitting his initial request, on May 25, 2023, LoCoco, for the first time, received confirmation, by email, that Petitioner’s public records request had been received and was in the process of being fulfilled.

27. The confirmation email explained, “[w]e are in the process of gathering records and will be in touch soon.”

28. A true and correct copy of that May 25, 2023 email is attached hereto as Exhibit E.

29. As of the filing of this petition, months after the Office of the Secretary of State promised it would be in touch “soon,” LoCoco has not received the requested records, a denial letter, or even a status update on the public records request.

30. The Attorney General has made clear to state officials that ten working days is generally a reasonable amount of time to respond to a simple public records request. *See Wisconsin Public Record Law Compliance Guide* 15 (2019).³

³ Available online at: <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf>.

31. This request has been pending for more than five months, and no records have been produced.

32. Secretary Godlewski has effectively denied Petitioner's public records request by unreasonably delaying access to the records.

33. Secretary Godlewski's delay has been arbitrary and capricious.

RELIEF REQUESTED

WHEREFORE, Petitioner demands a writ of mandamus, under Wis. Stat. § 19.37(1)(a), to issue against Secretary Godlewski:

1. Compelling Secretary Godlewski to immediately produce the requested records;
2. Awarding Petitioner damages of not less than \$100 and other actual costs under Wis. Stat. § 19.37(2);
3. Awarding Petitioner its attorneys' fees;
4. Awarding punitive damages; and
5. Awarding such other relief as the Court deems appropriate.

Dated this 22nd day of August, 2023.

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

/s/ Electronically Signed by Skylar Croy

Lucas T. Vebber (WI Bar No. 1067543)
Katherine D. Spitz (WI Bar No. 1066375)
Skylar Croy (WI Bar No. 1117831)
330 E. Kilbourn Avenue, Suite 725
Milwaukee, WI 53202
Telephone: (414) 727-9455
Facsimile: (414) 727-6385
Lucas@will-law.org
Kate@will-law.org
Skylar@will-law.org

Attorneys for Petitioner

From: Anthony LoCoco al@reforminggovernment.org
Subject: Public Records Request
Date: March 17, 2023 at 1:19 PM
To: statesec@wisconsin.gov



Good afternoon,




Pursuant to Wisconsin's Public Records Law, Wis. Stat. §§ 19.31-.39, I am requesting the records below. The time period for each request is the previous 12 months (i.e. from March 17, 2022 to March 17, 2023).

1. All correspondence between Douglas La Follette and Governor Tony Evers.
2. All correspondence between Douglas La Follette and Sarah Godlewski.
3. All correspondence between Douglas La Follette and any Wisconsin Deputy Secretary of State.

Please contact me before processing this request if the total cost will exceed \$150 and please let me know if I can clarify the request in any way.

Thank you for your assistance.

Anthony LoCoco
Chief Legal Counsel &
Director of Oversight
Institute for Reforming Government

 414-719-2679
 al@reforminggovernment.org
 reforminggovernment.org



INSTITUTE FOR
REFORMING GOVERNMENT



From: Anthony LoCoco al@reforminggovernment.org
Subject: Re: Public Records Request
Date: March 23, 2023 at 3:34 PM
To: statesec@wisconsin.gov



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On Fri, Mar 17, 2023 at 1:19 PM Anthony LoCoco <al@reforminggovernment.org> wrote:

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INSTITUTE FOR
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From: Anthony LoCoco al@reforminggovernment.org
Subject: Re: Public Records Request
Date: April 27, 2023 at 3:46 PM
To: statesec@wisconsin.gov



Good afternoon, I am writing to ask for an update on the status of my request, which was submitted over one month ago.

Thank you,

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EXHIBIT C

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Chief Legal Counsel &

Director of Oversight

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al@reforminggovernment.org



reforminggovernment.org



INSTITUTE FOR
REFORMING GOVERNMENT



From: Anthony LoCoco al@reforminggovernment.org
Subject: Re: Public Records Request
Date: May 9, 2023 at 3:43 PM
To: statesec@wisconsin.gov



Good afternoon,

I am writing to ask for an update on the status of my request, which was submitted almost two months ago. I have not received a response to my initial request for an update.

Thank you,

Anthony LoCoco
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EXHIBIT D



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 reforminggovernment.org



INSTITUTE FOR REFORMING GOVERNMENT



From: SOS Records SOSRecords@wisconsin.gov 
Subject: RE: Public Records Request
Date: May 25, 2023 at 3:13 PM
To: Anthony LoCoco al@reforminggovernment.org



Hello –

Thank you for your email and your patience. We are confirming receipt of your request. We are in the process of gathering records and will be in touch soon.

Thank you.



Office of the Secretary of State, Wisconsin
statesec@wisconsin.gov
www.sos.wi.gov
Phone: 608-266-8888

From: Anthony LoCoco <al@reforminggovernment.org>
Sent: Tuesday, May 9, 2023 4:43 PM
To: Office of the Secretary of State WI <statesec@wisconsin.gov>
Subject: Re: Public Records Request

CAUTION: This email originated from outside the organization.
Do not click links or open attachments unless you recognize the sender and know the content is safe.




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EXHIBIT E




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