

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

WISCONSIN INSTITUTE FOR
LAW & LIBERTY, INC.,
1241 North Franklin Place
Milwaukee, Wisconsin 53202

Plaintiff,

Writ of Mandamus
Case Code: 30952

v.

WISCONSIN DEPARTMENT OF
PUBLIC INSTRUCTION,
201 West Washington Avenue
Madison, Wisconsin 53703

Defendant

COMPLAINT

Plaintiff Wisconsin Institute for Law & Liberty, Inc. (“WILL”), by its undersigned attorneys, hereby allege the following:

INTRODUCTION

1. This is an action brought pursuant to Wisconsin’s Open Records Law, Wis. Stat. §§ 19.31 *et seq.*

2. State law declares it is the public policy of Wisconsin that every citizen is “entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them.” Wis. Stat. § 19.31.

3. Wis. Stat. 19.35(4)(a) states that each agency “upon request for any record, 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.” Thus, receipt of an open records request triggers a duty to respond to the request and either deny it or to produce the requested records. *ECO, Inc. v. City of Elkhorn*, 2002 WI App 302, ¶ 24, 259 Wis. 2d 276, 655 N.W.2d 510.

4. The open records law also provides that when an agency “withholds a record or part of a record or delays granting access to a record . . . after a written request for disclosure is made, the requester may . . . bring an action for mandamus asking a court to order the release of the record.” Wis. Stat. 19.37(1)(a).

5. WILL hereby files this action seeking a writ of mandamus directing the Department of Public Instruction (“DPI”) to produce the records requested by WILL.

PARTIES

6. WILL is a non-stock corporation incorporated under the laws of the State of Wisconsin with a business address of 1241 North Franklin Place, Milwaukee, Wisconsin, 53202.

7. DPI, is an agency of the State of Wisconsin and maintains its office and principal place of business at 201 West Washington Avenue, Madison, Wisconsin, 53703.

8. DPI is an “authority” as the term is defined in Wis. Stat. § 19.32(1).

JURISDICTION AND VENUE

9. This is a mandamus action for relief under Wis. Stat. § 19.37.
10. Venue in this Court is proper pursuant to Wis. Stat § 801.50(2).

BACKGROUND

11. On August 13, 2025, WILL sent an email to the DPI's Office of Legal Counsel initiating an open records request asking for three categories of records. A true and accurate copy of this request is attached hereto as Exhibit 1.

12. This mandamus complaint relates solely to the third request in Exhibit 1, namely records of “[a]ny applicants for an educator license under § PI 34 that have been denied, at least in part, for failure to complete ‘an approved program’ since August 1, 2018.”

13. WILL did not receive a prompt response, so on August 21, 2025, WILL sent a follow-up email asking if the request initiated on August 13, 2025, had been received. Deputy State Superintendent Thomas McCarthy confirmed that DPI had received the record requests but provided no further information.

14. By October 30, 2025, DPI had still not provided a denial or responsive documents to the request.

15. On that date, WILL sent a follow-up email to DPI's Office of Legal Services asking for a status update and explaining that WILL would accept responsive documents on a rolling basis rather than waiting to receive every requested document at one time. DPI did not respond to this email.

16. On December 1, 2025, WILL sent an email to DPI's newly appointed General Counsel, Kyle Olsen, to alert him to the outstanding record requests. WILL re-attached the request included in the August 13, 2025, email, however, General Counsel Olsen never responded.

17. On January 13, 2026, WILL sent an email to General Counsel Olsen again requesting a status update of the outstanding records request. WILL received no response. A true and accurate copy of this email thread is attached hereto as Exhibit 2.

18. As of early March 2026, DPI had not acknowledged or contacted WILL regarding the records request since August 21, 2025.

19. Therefore, on March 11, 2026, WILL sent a letter to General Counsel Olsen demanding that the aforementioned records request be fulfilled by March 18, 2026. A true and accurate copy of the March 11, 2026 letter is attached hereto as Exhibit 3.

20. The March 18, 2026 deadline passed and DPI had not provided the records.

21. On March 23, 2026, General Counsel Olsen finally responded but not with the requested records, but rather, "asking for clarification. Specifically, what sort of licensing information are you still seeking?" A true and accurate copy of the March 23, 2026 email is attached hereto as Exhibit 4.

22. However, the request from August of 2025 was very clear. It requested records of "[a]ny applicants for an educator license under § PI 34 that have been

denied, at least in part, for failure to complete ‘an approved program’ since August 1, 2018.”

23. WILL attorneys then had a virtual meeting with General Counsel Olsen on March 31, 2026, to discuss DPI’s reasons for not responding.

24. After the virtual meeting on March 31, 2026, General Counsel Olsen followed up with an email stating, “DPI will review its license applications since 2018, to determine how many would need to be reviewed to respond to your 34.007 (sic) request 3. We would also provide an estimated cost to conduct such a review.” A true and accurate copy of this March 31, 2026 email is attached hereto as Exhibit 5.

25. On April 15, 2026, WILL again emailed General Counsel Olsen to determine the status of the request. General Counsel Olsen responded, explaining that the DPI “licensing team located 1,381 applications that would need to be reviewed by hand. They estimated a review time of 15 minutes per application. The lowest-priced employee capable of performing the work earns \$49.26 per hour. That adds up to a cost estimate of \$17,007 to fulfill this open records request.” A true and accurate copy of this cost estimate is attached hereto as Exhibit 6.

26. General Counsel Olsen did not say why the records “would need to be reviewed by hand” or why someone making \$49.26 per hour would need to review them.

27. Public records law details only four tasks for which an authority may impose fees on a requester: “reproduction and transcription of the record; photographing and photographic processing; locating a record; and mailing or

shipping of any copy or photograph of a record.” *Milwaukee J. Sentinel v. City of Milwaukee*, 2012 WI 65, ¶ 23, 341 Wis. 2d 607, 815 N.W.2d 367.

28. The statute does not authorize a charge by DPI for a prior “review” of the documents prior to production, whether “by hand” or otherwise. DPI has located 1,381 responsive documents, and they should have been, but were not produced.

29. Instead, DPI would only produce the records if WILL paid \$17,007 in advance for them to be “reviewed by hand.”

30. WILL assumed that the “review by hand” was to determine which of the 1,381 applications had been “denied, at least in part, for failure to complete ‘an approved program’ since August 1, 2018,” which was the subject of the original request (“Any applicants for an educator license under § PI 34 that have been denied, at least in part, for failure to complete “an approved program” since August 1, 2018.”).

31. Based on that assumption, to avoid the need for any review to pick and choose between the 1,381 denied applications that had already been located by the DPI licensing team, WILL decided to amend its request to simply ask for all 1,381 denied applications. WILL believed it could sort the records much more quickly and inexpensively than DPI’s claimed cost of \$17,007. By requesting all the denials, the DPI licensing team would no longer need to “review” the applications to determine whether they were denied for failure to complete an approved program or for any other reason.

32. However, when WILL requested all the denials, General Counsel Olsen responded that such a request would actually double the cost estimate, bringing the

total to \$34,014. A true and accurate copy of this cost estimate is attached hereto as Exhibit 7.

33. DPI's alleged reason for this \$34,014 cost estimate was that in order to send these records to WILL, the DPI licensing team would need "to screenshot, page by page all of the embedded content." Then, any content uploaded by the applicant would "have to be individually downloaded, compiled and organized." A true and accurate copy of this explanation is attached hereto as Exhibit 7.

34. It makes no sense for the costs to double when WILL simplified its request. First, it is clear from the information provided by DPI that the documents exist in DPI's electronic licensing system. A simple database query or export function should be able to pull them in bulk—not one at a time. In fact, that has presumably already occurred given that DPI knows that there are 1,381 records.

35. Second, the core technical claim—that a web-based system with electronic records *cannot* be bulk-exported and requires manual screenshotting page by page—is extremely hard to believe. Web applications store their data in databases. Those databases can be queried. Someone with basic database or IT access could almost certainly produce these records in electronic format far more efficiently than DPI's proposed page by page review.

36. While the process DPI has described *could* provide the records WILL is seeking, it seems unlikely, if not nearly impossible, that this is the only way to produce these records. It appears that the DPI has chosen the most cumbersome and expensive way to reproduce the records.

37. But under the Open Records Law, if an authority does impose a fee, it may not exceed the “actual, necessary and direct” cost. Wis. Stat. § 19.35(3)(a). That means that DPI cannot lawfully adopt the most cumbersome and expensive method to reproduce the records. Doing so in the clumsy and expensive manner proposed by DPI is certainly not necessary and it is also neither an actual nor a direct cost.

38. On June 12, 2026, WILL sent one final communication to DPI to attempt to get more information or to resolve the matter. A true and accurate copy of WILL’s June 12, 2026 communication is attached hereto as Exhibit 8.

39. On June 26, 2026, General Counsel Kyle Olsen responded, saying “our position as to the time and cost remains the same.” A true and accurate copy of this response is attached hereto as Exhibit 9.

40. The Wisconsin Supreme Court has stated that imposing fees on requestors inhibits access. *Milwaukee J. Sentinel*, 2012 WI 65, ¶ 5, 341 Wis. 2d 607, 815 N.W.2d 367. Specifically, “[t]he greater the fee imposed on a requester of a public record, the less likely the requester will be willing and able to successfully make a record request,” and as such, “the imposition of fees limits and may even serve to deny access to government records.” *Id.*

41. That is exactly what happened here. After over seven months of trying to get the DPI to properly respond to the request for certain applications for an educator license under § PI 34 that were denied, WILL has received nothing except a demand by DPI that WILL pay \$34,014 in order to receive the 1,381 electronic public records that DPI had already located (about \$25 per record for electronically stored

records that DPI has already located and that WILL would gladly accept in electronic format).

42. DPI's conduct effectively amounts to an unlawful denial of the request.

43. When "an authority withholds a record or delays granting access to a record," Wisconsin law allows a requester to "bring an action for mandamus asking a court to order release of the record." Wis. Stat. § 19.37(1)(a). As such, WILL is bringing this mandamus action.

CAUSES OF ACTION

CLAIM ONE: Violation of Wis. Stat. § 19.35(3)

44. Plaintiff realleges and incorporates the preceding allegations of the complaint.

45. Wisconsin's open records law only allows for the imposition of fees on a requester for four reasons: "reproduction and transcription of the record; photographing and photographic processing; locating a record; and mailing or shipping of any copy or photograph of a record." *Milwaukee J. Sentinel*, 2012 WI 65, ¶ 23; Wis. Stat. § 19.35(3).

46. Even if an authority imposes a fee for one of the four enumerated tasks, it can only do so for the "actual, necessary and direct" cost. Wis. Stat. § 19.35(3)(a).

47. Here, DPI is refusing to produce the records unless and until WILL pays \$34,014 to obtain the records based on a claim that the licensing team needs to "review by hand" each denied application and then individually screenshot each page.

DPI's proposed charge is not an actual, necessary or direct cost and Wisconsin law does not permit an authority to charge such a fee.

48. DPI's demand for an unlawful fee to obtain records is a violation of Wis. Stat. § 19.35(3).

CLAIM TWO: Imposition of excessive fees and unreasonable delay resulting in an unlawful denial of public records

49. Plaintiff realleges and incorporates the preceding allegations of the complaint.

50. The Wisconsin Supreme Court has explained that “the imposition of fees limits and may even serve to deny access to government records.” *Milwaukee J. Sentinel*, 2012 WI 65, ¶ 5.

51. Wisconsin public records law specifically imposes penalties and punitive damages for “delay” and “excessive fees.” Wis. Stats. §§ 19.37(3) and (4).

52. DPI has unreasonably delayed responding to this request and charged an excessive fee. Unless DPI can explain why its demand for \$34,014 to produce the already located public records is an actual, necessary and direct cost for producing the electronic records in issue, and why DPI has dragged its feet in responding to this request, the Court should determine whether penalties or punitive damages are appropriate in this situation.

REQUEST FOR RELIEF

Plaintiff therefore requests the following relief:

A. A writ of mandamus against the Defendant pursuant to Wis. Stat. § 19.37(1) compelling the Defendant to immediately produce the requested public records and declaring Plaintiff's rights and limiting Defendant's conduct with respect to the requested records;

B. Award the Plaintiff its reasonable attorney fees, damages of not less than \$100.00, and other actual costs under Wis. Stat. § 19.37(2) and penalties and punitive damages if DPI's demand for \$34,014 to produce public records is deemed to be excessive and its delay unreasonable.

C. Dated this 30th day of June, 2026.

Respectfully Submitted,

WISCONSIN INSTITUTE FOR
LAW & LIBERTY

*Electronically signed by
Lauren L. Greuel*

Cory J. Brewer (#1105913)
Erin E. Gamble (#1125977)
Lauren L. Greuel (#1127844)

1241 N. Franklin Place
Milwaukee, WI 53202
Phone: (414) 727-9455

Cbrewer@will-law.org
Erin@will-law.org
Lauren@will-law.org

Attorneys for Plaintiff



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.
330 E. Kilbourn Ave., Suite 725, Milwaukee, WI 53202-3141
414-727-WILL
Fax 414-727-6385
www.will-law.org

August 13, 2025

Via Electronic Mail

The Wisconsin Department of Public Instruction
Office of Legal Services (*ols@dpi.wi.gov*)
Cc: Tom McCarthy (*thomas.mccarthy@dpi.wi.gov*)

Dear Wisconsin Department of Public Instruction Office of Legal Services:

Under Wisconsin's open records law (Wis. Stat. § 19.31-39), I hereby request the following records:

- (1) Any entities that have applied to be an approved program under Wis. Admin. Code § PI 34.007 that have been denied for failing to meet the eligibility requirement in § PI 34.007(1) since August 1, 2018;
- (2) Any entities that have applied to be an approved program under Wis. Admin. Code § PI 34.007 that are not located in Wisconsin since August 1, 2018;
- (3) Any applicants for an educator license under § PI 34 that have been denied, at least in part, for failure to complete "an approved program" since August 1, 2018.

I would prefer to receive these documents in electronic form. If you have any questions about my requests, please feel free to give me a call at (262) 361-2827 or send me a return email at lauren@will-law.org.

Please be aware that the open records law "shall be construed in every instance with the 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 exceptional cases can access be denied." Wis. Stat. § 19.31. If you deny this 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).

As you know, 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.

If not all the requested information is available at once, we ask that you provide responsive records on a rolling basis, as each portion becomes available, rather than waiting to send everything at once. The open records law states that you may charge for the “actual, necessary and direct” cost of locating records, but only if the total exceeds \$50. Wis. Stat. § 19.35(3)(c). While we are not requesting physical copies, only electronic ones, please provide us with an estimated cost before processing this request if the total cost may exceed \$50.

We would like to note that the Wisconsin Department of Justice Office of Open Government public records states “even if the lowest paid employee capable of reviewing and locating responsive records within the search result is not actually doing the reviewing and location, authorities should still always utilize the rate of pay of the lowest paid employee capable of reviewing and locating responsive records within the search results.”¹

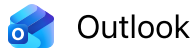
Thank you for your time.

Sincerely,
WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

A handwritten signature in black ink that reads "Lauren Greuel". The signature is written in a cursive, flowing style.

Lauren Greuel
Associate Counsel

¹ Brad D. Schimel Wisconsin Attorney General, *Office of Open Government Advisory: Charging Fees Under the Wisconsin Public Records Law*, August 8, 2018 (available at: https://www.wisdoj.gov/Documents/8.8.18_OOG_Advisory_Fees_0.pdf).



Re: Open Records Requests

From Lauren Greuel <lauren@will-law.org>

Date Tue 1/13/2026 12:22 PM

To KYLE.OLSEN@DPI.WI.GOV <KYLE.OLSEN@DPI.WI.GOV>

Cc Arnott, Stephanie J. DPI <stephanie.arnott@dpi.wi.gov>; ols@dpi.wi.gov <ols@dpi.wi.gov>; McCarthy, Thomas G. DPI <thomas.mccarthy@dpi.wi.gov>

Good afternoon,

I am again requesting an update on the below open records requests originally sent August 13, 2025, and acknowledged by the DPI on August 21, 2025.

Please provide an update on the status of these requests, including when I can expect they be filled an or a reason for this five month delay.

Sincerely,

Lauren Greuel | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
[330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202](#)
(414) 727-WILL

From: Lauren Greuel <lauren@will-law.org>

Sent: Monday, December 1, 2025 11:16 AM

To: KYLE.OLSEN@DPI.WI.GOV <KYLE.OLSEN@DPI.WI.GOV>

Subject: Fw: Open Records Requests

Good morning, Kyle,

My name is Lauren Greuel and I am Associate Counsel at the Wisconsin Institute for Law & Liberty (WILL). Congratulations on your new position as the DPI general counsel!

I am following up on some record requests I sent to Tom McCarthy and OLS almost four months ago (reattached for your convenience). I would appreciate an update on the status of these requests and approximately when I can expect they be filled.

Hope you had a happy Thanksgiving!

Sincerely,

Lauren Greuel | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
[330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202](#)
(414) 727-WILL

From: Lauren Greuel <lauren@will-law.org>

Sent: Thursday, October 30, 2025 10:11 AM

To: McCarthy, Thomas G. DPI <thomas.mccarthy@dpi.wi.gov>; Arnott, Stephanie J. DPI <Stephanie.Arnott@dpi.wi.gov>

Subject: Re: Open Records Requests

Good morning,

I am requesting a status update on these open records requests sent over two months ago.

As I stated in my original requests, if not all the requested information is available at once, we ask that you provide responsive records on a rolling basis, as each portion becomes available, rather than waiting to send everything at once.

Sincerely,

Lauren Greuel | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
[330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202](#)
(414) 727-WILL

From: Lauren Greuel <lauren@will-law.org>
Sent: Friday, August 22, 2025 11:00 AM
To: McCarthy, Thomas G. DPI <Thomas.McCarthy@dpi.wi.gov>; Arnott, Stephanie J. DPI <Stephanie.Arnott@dpi.wi.gov>
Subject: Re: Open Records Requests

Thanks, Tom! Have a great Friday.

Sincerely,

Lauren Greuel | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
[330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202](#)
(414) 727-WILL

From: McCarthy, Thomas G. DPI <Thomas.McCarthy@dpi.wi.gov>
Sent: Thursday, August 21, 2025 6:43 PM
To: Lauren Greuel <lauren@will-law.org>; Arnott, Stephanie J. DPI <Stephanie.Arnott@dpi.wi.gov>
Subject: Re: Open Records Requests

Howdy Lauren,

Requests received. We will be in touch with any responsive records. Thanks!

-tom

From: Lauren Greuel <lauren@will-law.org>
Sent: Thursday, August 21, 2025 10:05:15 AM
To: Arnott, Stephanie J. DPI <Stephanie.Arnott@dpi.wi.gov>
Cc: McCarthy, Thomas G. DPI <Thomas.McCarthy@dpi.wi.gov>
Subject: Re: Open Records Requests

Some people who received this message don't often get email from lauren@will-law.org. [Learn why this is important](#)

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

Good morning,

I am looking for an acknowledgement that these open records requests have been received.

If you have any questions about either request, please feel free to give me a call at (262) 361-2827 or send me a return email at lauren@will-law.org.

Sincerely,

Lauren Greuel | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
[330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202](#)
(414) 727-WILL

From: Lauren Greuel
Sent: Wednesday, August 13, 2025 12:02 PM
To: ols@dpi.wi.gov <ols@dpi.wi.gov>
Cc: thomas.mccarthy@dpi.wi.gov <thomas.mccarthy@dpi.wi.gov>
Subject: Open Records Requests

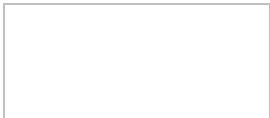
Good afternoon,

Please take notice of the two separate open records requests attached. If you have any questions about either request, please feel free to give me a call at (262) 361-2827 or send me a return email at lauren@will-law.org.

If you are not the records custodian for this information, please forward this request to the appropriate person. Thank you for your cooperation.

Sincerely,

Lauren Greuel | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
[330 E. Kilbourn Ave., Suite 725 | Milwaukee, WI 53202](#)
(414) 727-WILL



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1241 N FRANKLIN PLACE
MILWAUKEE WI 53202
WILL-LAW.ORG
414.727.9455

March 11, 2026

Via Email Only: kyle.olsen@dpi.wi.gov

Kyle Olsen, General Counsel
Wisconsin Department of Public Instruction
201 West Washington Ave.
Madison, WI 53703

Re: Outstanding Public Records Requests

Dear Atty. Olsen,

We are writing today to call your attention to outstanding open records requests that we have filed with the Department of Public Instruction (DPI). As explained below, each of these records requests have been unfulfilled since at least the summer of 2025. After patiently waiting for appropriate responses and sending multiple follow-up communications to DPI, we are now warning the Department that if we do not receive responses to our open records requests by March 18, 2026, we will file suit.

Unfulfilled Open Records Requests

WILL is currently waiting on four open records requests to be fulfilled by DPI.

Request #1: DPI's Log of Public Records Requests

Our first concern is that DPI has failed to provide responsive records to our simplest records request initiated more than six months ago. Specifically, on August 20, 2025, WILL submitted a request for “[a]ny and all logs, spreadsheets, databases, tracking sheets, or similar documents maintained by the [DPI] that record or track public records requests received by the agency.”¹ WILL is simply requesting the log or spreadsheet that DPI uses to track records requests, which includes fulfillment or denial dates of public records requests. This should be a record readily available to DPI.

On October 21, 2025, WILL followed up through DPI's portal to inquire about the status of the request and offered to clarify or discuss ways to narrow the request if that would be helpful. WILL received no response. WILL followed up again on December 16, 2025, through DPI's portal, and again DPI did not respond. Then, on January 8, 2026, WILL emailed you, Kyle Olsen, in your capacity as DPI's General Counsel, asking for a status update. You responded by merely informing us that “DPI is continuing to review records

¹ The scope of this request covers January 1, 2023 “through the present date,” which we interpret to be August 20, 2025, the date the request was first submitted.

that may be responsive to your request.” WILL immediately responded to clarify that all we are asking for is an internal log of open records requests, not the underlying records associated with those requests. WILL followed up once again regarding this request on February 16, 2026, asking for an estimate of when the request will be fulfilled. We received no response.

This records request has now been unfulfilled for nearly 7 months despite the simplicity of the request. It is unreasonable that it has taken this long.

Requests # 2 and #3: Persistently Dangerous School Request and Education Licensure Request

On May 15, 2025, WILL sent a records request to Ben Jones, DPI’s former General Counsel. The request sought information and documentation relating to the process by which DPI identifies a school as “persistently dangerous” as required in Wis. Admin. Code § PI 23.05(1-3), and documentation identifying which schools have been deemed as “persistently dangerous” since the law took effect. On June 13, 2025, Attorney Jones *partially* filled the request and provided some documentation for three school years: 2021–22, 2022–23, and 2023–24.² On June 23, 2025, WILL sent an email to Attorney Jones requesting clarification. On June 25, 2025, Attorney Jones answered with a two-line response: “There has never been a school that has triggered the PI 23.05(2) criteria. Outside of PI 23 there is no DPI routine or guidance.”

Next, on August 13, 2025, WILL sent an open records request to DPI’s Office of Legal Counsel and Thomas McCarthy clarifying that WILL would like *any* responsive records based on our previous request since the DPI promulgated the administrative code chapter in 2003.

At the same time, WILL also initiated an open records request regarding education licensure information. On August 21, 2025, WILL sent a follow-up e-mail asking if both requests had been received. Mr. McCarthy responded, confirming the requests were received. This was the last time DPI ever acknowledged these records requests.

By October of 2025, DPI had still not provided responsive answers to the records requests. Therefore, WILL followed up with DPI’s Office of Legal Services and Mr. McCarthy by asking for a status update and explaining that we would accept responsive documents on a rolling basis, rather than waiting to receive every document at once. No one from DPI responded. On December 1, 2025, WILL sent an email to you as DPI’s newly appointed General Counsel alerting you to the open records requests and re-attaching the requests for your convenience. We never received a response from you. Next, on January 13, 2026, WILL sent you another e-mail requesting a status update. Again, we never received a response.

² WILL did not stipulate to these years.

Request # 4: Racial Disparities in Education

Finally, WILL has one outstanding records request that DPI has failed to even acknowledge. Specifically, on August 15, 2025, WILL initiated an open records request with Mr. McCarthy. This open records request sought a list (in any format) of all Wisconsin school districts with significant racial or ethnic disparities in special education identification, placement, or discipline under the Individuals with Disabilities Act (IDEA), for the most recent school year. This is a simple list that DPI should have readily available. Upon sending the request, no one at DPI acknowledged this request. Therefore, on August 27, 2025, WILL followed up to clarify that we were only asking for documentation or correspondence that lists applicable school districts. Again, no response was provided.

On January 13, 2026, WILL emailed both you and Mr. McCarthy asking for a status update on the request and offered to clarify the request if needed. We did not receive a response. Then, on February 16, 2026, WILL sent a final email to you, stating: “Could you please let me know when we might expect a response to this open records request from August 15, 2025?” WILL has not received a single acknowledgement of this records request.

We hope that this letter can spur the Department of Public Instruction to immediately fulfill our outstanding open records requests. If not, the Wisconsin Open Records Law provides a remedy. We will file a lawsuit to acquire these records.

Wisconsin’s Open Records Law

As you are aware, Wisconsin has declared that it is the public policy of this state that every citizen is entitled to the greatest possible information regarding the government’s affairs. *See* Wis. Stat. § 19.31. Therefore, the Open Records Law, “shall be construed in every instance with a presumption of complete public access.” Wis. Stat. § 19.31. Denial of public access is contrary to the public interest, and only in exceptional instances may public access to a record be denied. The statutes are clear, “any requester has a right to inspect any record.” Wis. Stat. § 19.35(a).

A “record” is broadly defined in the statute to include any material “on which written, drawn, printed, spoken, visual, or electromagnetic information ... is recorded or preserved” and that was created or is being kept by an authority.³ Wis. Stat. § 19.32.

Even if DPI plans on denying one or more of these requests, the statute requires that it does so in writing and state what part of the law it believes entitles it to deny WILL’s requests. Wis. Stat. § 19.35(4)(a). DPI has neither denied nor fulfilled any of these requests as law requires.

³ The definition of “authority” includes an agency. Wis. Stat. § 19.32(1).

DPI Must Fill Open Records Requests Without Delay

Open records law mandates action once a request is received. Wis. Stat. 19.35(4)(a) states that each agency “upon request for any record, 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.” (emphasis added). Thus, receipt of an open records request triggers a duty to respond to the request or a duty to produce the requested records. *ECO, Inc. v. City of Elkhorn*, 2002 WI App 302, ¶ 24.

Applying this framework to our current outstanding records requests, DPI has clearly violated Wisconsin’s Open Records Law. First, nearly 7 months have passed, and DPI has still not provided responsive records to WILL’s simplest request—to provide a log or spreadsheet of DPI’s outstanding records requests. *Supra*, Request #1. Second, for some requests—like Requests #2 and # 3—DPI has merely acknowledged receipt, but then failed to respond when WILL has asked multiple times for a status update. WILL has also offered on multiple occasions to clarify or narrow requests, but DPI has repeatedly not responded. Third, DPI has failed to even acknowledge receipt of Request #4, *supra*, despite WILL sending three follow-up inquiries regarding the status and explaining the simplicity and flexibility of the request. Failure to respond on multiple occasions demonstrates a lack of diligence. Fourth, every request has been pending since at least the summer of 2025; DPI’s ability to make a case for timeliness has long passed. Fifth, an agency must timely comply with or deny a public records request. Instead, DPI has neither complied with nor denied our records requests. But courts are clear, “compliance at some unidentified time in the future, is not authorized by the records law.” *WTMJ, Inc. v. Sullivan*, 204 Wis. 2d 452, 458 (Ct. App. 1996).

If DPI Does Not Comply, WILL Intends to File Suit for Mandamus and Damages

The Open Records Law provides that when an agency “withholds a record or part of a record or delays granting access to a record ... after a written request for disclosure is made, the requester may ... bring an action for mandamus asking a court to order the release of the record.” Wis. Stat. 19.37(1),(a). Because DPI has withheld and delayed the release of records, WILL is prepared to file a lawsuit as provided by law, and we will seek damages.⁴

⁴ When a requester prevails on a mandamus action, “the court **shall** award reasonable attorney fees.” Wis. Stat. 19.37(2). If a court finds that the authority arbitrarily and capriciously delayed a request, then the court may award punitive damages. Wis. Stat. 19.37(3).

Conclusion

If DPI does not provide the responsive records we have requested or provide good reason for failing to do so within seven (7) days, we will take legal action.

We look forward to DPI's response.

Sincerely,

WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.

Erin Gamble

Erin E. Gamble
Associate Counsel

Cory J. Brewer

Cory J. Brewer
Deputy Counsel



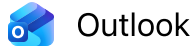
FW: Demand for Fulfillment of Open Records Requests

From: Olsen, Kyle DPI <Kyle.Olsen@dpi.wi.gov>
Date: Monday, March 23, 2026 at 9:33 AM
To: Erin E Gamble <erin@will-law.org>
Cc: Cory Brewer <cbrewer@will-law.org>
Subject: RE: Demand for Fulfillment of Open Records Requests

Regarding the third request in your letter, DPI is asking for clarification. Specifically, what sort of licensing information are you still seeking?

As you know, DPI does have a portal for entering records requests online: <https://dpi.wi.gov/records-request/public-records-requests>. Moving forward, we would ask that you use that portal when possible.

Thank you,
Kyle



RE: Demand for Fulfillment of Open Records Requests

From Olsen, Kyle DPI <Kyle.Olsen@dpi.wi.gov>
Date Tue 3/31/2026 3:06 PM
To Erin E Gamble <erin@will-law.org>
Cc Cory Brewer <cbrewer@will-law.org>; Lauren Greuel <lauren@will-law.org>

Thank you for connecting on these issues.

To summarize our conversation and next steps:

1. I will connect today with individuals at DPI regarding the persistently dangerous data. Tomorrow, I will let you know an estimated timeline for completion (and share any technical issues related to especially old data);
2. DPI does not believe any entities would meet the criteria in your 34.007 requests 1 and 2.
3. DPI will review its license applications since 2018, to determine how many would need to be reviewed to respond to your 34.007 request 3. We would also provide an estimated cost to conduct such a review.

Thank you,
Kyle



RE: Demand for Fulfillment of Open Records Requests

From Olsen, Kyle DPI <Kyle.Olsen@dpi.wi.gov>
Date Wed 4/15/2026 3:40 PM
To Erin E Gamble <erin@will-law.org>; Cory Brewer <cbrewer@will-law.org>
Cc Lauren Greuel <lauren@will-law.org>

Thanks for checking in.

Our licensing team located 1,381 applications that would need to be reviewed by hand. They estimated a review time of 15 minutes per application. The lowest priced employee capable of performing this work earns \$49.26 per hour. That adds up to a cost estimate of \$17,007 to fulfill this open records request.

Please let me know how you would like to proceed.

Thanks,
Kyle

From: Erin E Gamble <erin@will-law.org>
Sent: Wednesday, April 15, 2026 10:53 AM
To: Olsen, Kyle DPI <Kyle.Olsen@dpi.wi.gov>; Cory Brewer <cbrewer@will-law.org>
Cc: Lauren Greuel <lauren@will-law.org>
Subject: Re: Demand for Fulfillment of Open Records Requests

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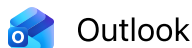
Hi Kyle,

I am following up on this email from two weeks ago. Please send a cost estimate regarding our teacher licensure request. And please let me know if you have questions.

Thank you,

Erin Gamble | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
1241 North Franklin Place | Milwaukee, WI 53202
(414) 727-9455 | Office

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RE: Demand for Fulfillment of Open Records Requests

From Olsen, Kyle DPI <Kyle.Olsen@dpi.wi.gov>
Date Fri 4/17/2026 3:19 PM
To Erin E Gamble <erin@will-law.org>; Cory Brewer <cbrewer@will-law.org>
Cc Lauren Greuel <lauren@will-law.org>

Unfortunately, to fulfill this new request would actually require more DPI staff time.

To explain: our current licensing system is dated and cumbersome. Applications include two types of content, which would need to be accessed and produced separately:

1. *Content entered by an applicant to the web directly.* The content is embedded on the website. To retrieve this content would require the licensing team to screenshot, page by page, all of the embedded content.
2. *Content uploaded by an applicant (pdfs, word docs, etc).* Those would all have to be individually downloaded, compiled and organized.

We do have an RFP out for a new licensing system. But at this time, this is the system we have.

Our licensing team estimates it would take 30 minutes per application to retrieve all of the information you are now requesting. That would be a total cost estimate of \$34,014.

Please let me know how you would like to proceed.

Kyle

From: Erin E Gamble <erin@will-law.org>
Sent: Thursday, April 16, 2026 11:30 AM
To: Olsen, Kyle DPI <Kyle.Olsen@dpi.wi.gov>; Cory Brewer <cbrewer@will-law.org>
Cc: Lauren Greuel <lauren@will-law.org>
Subject: Re: Demand for Fulfillment of Open Records Requests

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Hi Kyle,

Thanks for the cost estimate. We would like to amend the request to receive all of the 1,381 denied applications.

Let us know if you have any questions.

Erin Gamble | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.
1241 North Franklin Place | Milwaukee, WI 53202
(414) 727-9455 | Office

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Constructive Denial of Open Records Request

From Lauren Greuel <lauren@will-law.org>
Date Fri 6/12/2026 5:09 PM
To Olsen, Kyle DPI <kyle.olsen@dpi.wi.gov>
Cc Cory Brewer <cbrewer@will-law.org>; Erin E Gamble <erin@will-law.org>

Kyle,

I was side tracked working on some other projects, but I need to revisit the subject of the denied educator license applications.

It is hard for us to imagine lawful circumstances in which the State of Wisconsin could charge the public \$34,014 to access public records. This is especially true when the State admits that the request involves producing 1,381 documents that have already been located and which exist in electronic format. There is no need for DPI to further review them or print them. They can simply be produced to us electronically in bulk at virtually no cost to DPI. We are happy to review the 1,381 documents to locate the information we are looking for.

We would add to these facts that the original quote was for \$17,007. Which DPI then doubled after we continued to press for the documents. We intend to file a suit for mandamus under the Open Records Act and allege that DPI's conduct here amounts to a constructive denial of the request.

Once we file the Complaint, we intend to take immediate discovery to seek information about the explanations that have been given to you by DPI staff and that you have given to us.

First, it is clear from the information that you have provided that the documents exist in DPI's electronic licensing system. We believe that a database query or export function should be able to pull them in bulk—not one at a time. Every modern web-based licensing system has an admin backend with batch export capability. The only reason we can think of to review them by hand is to do redactions, but under the law, DPI cannot charge us for the time to redact information from the documents. *Milwaukee Journal Sentinel v. City of Milwaukee*, 2012 WI 65.

Second, the core technical claim—that a web-based system with electronic records *cannot* be bulk-exported and requires manual screenshotting page by page—is extremely hard to believe. Web applications store their data in databases. Those databases can be queried. Someone with basic database or IT access could almost certainly produce these records in electronic format far more efficiently than DPI's proposed page by page review and printing.

We assume that DPI is sticking to its position and nothing I have said in this email will change its position. As a result, we will begin working on the Mandamus action. If you have new information to offer, please let me know ASAP.

Sincerely,
Lauren Greuel | Associate Counsel
Wisconsin Institute for Law & Liberty, Inc.

1241 North Franklin Place
Milwaukee, WI 53202
(414) 727-WILL



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RE: Constructive Denial of Open Records Request

From Olsen, Kyle DPI <Kyle.Olsen@dpi.wi.gov>
Date Fri 6/26/2026 3:04 PM
To Lauren Greuel <lauren@will-law.org>
Cc Cory Brewer <cbrewer@will-law.org>; Erin E Gamble <erin@will-law.org>



Caution! This message is potentially suspicious.
(From: kyle.olsen@dpi.wi.gov, Known External)

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Sorry, I have been on vacation.

If you have additional questions about how our licensing software system works, and why it would be so cumbersome to retrieve these files, I will do my best to answer them.

But yes, our system remains the same, so our position as to the time and cost remains the same.

Thank you,
Kyle
