



Tony Evers

Office of the Governor | State of Wisconsin

November 22, 2023

Jessica McBride

Jessica.wrightnow@gmail.com

Via Electronic Mail Only

Dear Ms. McBride:

This letter is in response to your records requests received on September 1, 2023. You asked for:

- Number of applications for the state position Britt Cudaback now holds (applications for the position when she got it)
- The applications themselves
- Names of the above unless included in provided applications
- Names of those who made the hiring decision (choosing to promote Cudaback to the position) and who were involved in hiring recommendations or reviews of candidates and any documents relating to their assessment of candidates
- Any rating systems of applicants used or documents reflecting or discussing such, applicant ratings or other materials used to assess the candidates
- The job description/listing/posting

and

1. The personnel evaluations/performance evaluations of Britt Cudaback from 2019 to present.
2. Any documents indicating who conducted the evaluations of Britt Cudaback from 2019 to present.
3. All emails or text messages from Maggie Gau to Britt Cudaback and from Britt Cudaback to Maggie Gau from August 20, 2023 to present.
4. All emails and text messages from or to any staff member in Gov. Evers' office and from or to Gov. Evers himself mentioning Dan Bice from August 20, 2023 to present

Please see the attached records responsive to your requests. The Governor's Office does not utilize the personnel management system that is used to fill civil service positions throughout state government, including the performance evaluation rubrics that may be seen at other state agencies. Wis. Stat. §14.02 provides that "[t]he governor may appoint and fix the compensation of such employees as he or she deems necessary for the execution of the functions of the office of the governor and for the domestic service of the executive residence. The governor may remove any of the appointees appointed under this section at pleasure."

As such, particularly for senior staff positions, there are not job postings and applications are not specifically solicited. The Governor's Office would also note that performance of all Governor's Office employees is evaluated on an ongoing basis and is typically provided verbally.

To provide additional context in response to your specific questions, Britt Cudaback was appointed as deputy communications director, effective January 7, 2019. In this position, Cudaback reported directly to the communications director. Cudaback was promoted to communications director effective November 8, 2020. The decision to promote Cudaback as communications director was made by the Governor.

You will see that the provided records include some redactions. Pursuant to the common law balancing test we made efforts to redact unpublished cell and office phone numbers of state employees. Making these unpublished numbers 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 individuals are available through publicly available means, such as office main lines.

Pursuant to the common law balancing test and consistent with Wis. Stat. § 995.50 and 72 Op. Att'y Gen 99 (1983), we also made efforts to redact the home addresses, personal email addresses, and personal phone numbers of non-employees. The public interest in this information is outweighed by the public interest in an individual's expectation of privacy, particularly considering the interest in protecting personal information that could lead to identity theft or intrusions on personal safety. This public interest is reflected in numerous state and federal laws protecting such information from disclosure. *See e.g.*, Wis. Stat. §§ 19.36(10)(a), 995.55. Similarly, personal information, including personal email addresses, phone numbers, and home addresses of state employees has been redacted pursuant to Wis. Stat. § 19.36(11).

We redacted federal employee phone numbers, which based on our review, appear to be publicly unlisted. Making these phone numbers available would hinder those federal employees' ability to work efficiently, in turn making it less likely that Wisconsin's federal partners will share their phone numbers in the future. This would harm the public interest because Wisconsin is best served when it can work alongside federal employees efficiently. There is minimal harm to the public interest given that these same employees, through their agencies, are available through publicly available means.

We have redacted a small amount of personal health information included in an email. The public interest in maintaining the privacy of information of this nature is reflected throughout state and federal law. *See e.g.* Wis. Stat. § 146.82(1); 45 CFR Parts 160 and 164 (subparts A & E).

Finally, we withheld privileged attorney-client communications. *See* Wis. Stat. § 905.03; *Wis. Newspress, Inc. v. Sch. Dist. of Sheboygan Falls*, 199 Wis. 2d 768, 782-83 (1996); *see also* *George v. Record Custodian*, 169 Wis. 2d 573, 582, 485 N.W.2d 460 (Ct. App. 1992).

Pursuant to Wis. Stat. § 19.35(4)(b), these determinations are subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to a district attorney or the Attorney General.

Sincerely,
Office of Legal Counsel