
SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

The Institute for Reforming Government (“IRG”) and Sarah Godlewski, in her official capacity as Secretary of State of the State of Wisconsin, collectively “the parties,” agree to enter into this Settlement Agreement and Release of Claims (“agreement”) as follows.

WHEREAS, on March 17, 2023, staff of IRG made a public records request to the Office of the Secretary of State seeking the following records from March 17, 2022, through March 17, 2023:

All correspondence between Douglas LaFollette and Governor Tony Evers.

All correspondence between Douglas LaFollette and Sarah Godlewski.

All correspondence between Douglas LaFollette and any Wisconsin Deputy Secretary of State; and

WHEREAS, staff of IRG asked multiple times over several months for a status update on the public records request; and

WHEREAS, on August 22, 2023, IRG initiated a lawsuit, *Institute for Reforming Government, Inc. v. Godlewski*, no. 2023CV1330 (Waukesha Cnty. Cir. Ct.), seeking a writ of mandamus to compel the production of those records and alleging that the Office of the Secretary of State had not produced any responsive records, denied the public records request, or informed IRG that no records had been found after a search; and

WHEREAS, on September 22, 2023, Secretary of State Sarah Godlewski’s Chief of Staff sent an email to IRG stating that the Office of Secretary of State did not believe it was required to provide a response because no responsive records were located, it did not locate any records responsive to its request; and

WHEREAS, through the Chief of Staff’s email, Sarah Godlewski, as a private citizen, voluntarily provided to IRG e-mails dated Nov. 6, 2022, Jan. 24, 27, 29, and 30, 2023, and March 7, 8, and 13, 2023, which were copies of her personal emails received on her private e-mail account, which the Office of Secretary of State did not consider to be records under the Wisconsin Public Records Law, and which were sent from then-Secretary of State Douglas La Follette’s personal e-mail account (SOSDoug@hotmail.com) on various personal topics and state business raised by LaFollette; and

WHEREAS, that the aforementioned emails voluntarily provided by Godlewski showed LaFollette had been using a personal e-mail account to conduct official state business; and

WHEREAS, the Office of the Secretary of State would have considered the aforementioned e-mails to be responsive records under the Wisconsin Public Records Law had they been turned over to the office upon La Follette’s retirement; and

WHEREAS, on October 6, 2023, in an answer to IRG’s petition, the Office of the Secretary of State, among other responses, denied that it had custody of any responsive records and denied that had violated the Wisconsin Public Records Law; and

WHEREAS, on December 1, 2023, IRG filed an amended petition for a writ of mandamus and declaratory judgment, and on January 16, 2024, the Office of the Secretary answered; and

WHEREAS the parties have determined that it is in their best interests to end the litigation and resolve any pending or potential claims related to that litigation on the terms and for the consideration outlined herein,

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. **FUTURE PUBLIC RECORDS RESPONSES.** The Office of the Secretary of State will follow the Attorney General's advice in the Wisconsin Department of Justice's Public Records Compliance Guide that an authority, upon conducting a search in response to a public records request that does not locate responsive records, should respond to the public records requester stating that no responsive records were located, as soon as practicable and without delay. IRG maintains that such a response is required by law. Secretary Godlewski maintains that such a response is not required by law but acknowledges it is a best practice.
2. **OFFICIAL STATE BUSINESS.** The Office of the Secretary of State will review Wis. Stat. § 16.61 to ensure that it complies with the law going forward. The office acknowledges that where private e-mail accounts are used to conduct official business, those e-mails should be searched for responsive records.
3. **DISMISSAL OF PENDING LITIGATION.** The parties agree to take all steps necessary to dismiss this litigation, subject to the actions in Paragraph 8 herein.
4. **RELEASE OF FUTURE CLAIMS.** IRG agrees that the dismissal in this case shall be with prejudice and agrees not to bring any other actions or claims based upon the facts in this case against the Office of Secretary of State referenced above.
5. **NO MODIFICATION UNLESS IN WRITING.** This agreement shall not be modified except in writing agreed to by the parties.
6. **FULL INTEGRATION.** The parties represent and acknowledge that they have read this agreement and understand its terms in all respects. The parties further warrant that they have had the opportunity to confer with legal counsel before entering into this agreement and that this agreement represents the entire agreement between the parties.
7. **NO LIABILITY; NO PREVAILING PARTY.** The parties agree that both parties shall bear their own costs for this litigation. By entering this agreement, no party is admitting any liability or fault, and no party shall be considered a prevailing party for purposes of Wis. Stat. § 19.37.

8. **CONTINGENT UPON JOINT FINANCE COMMITTEE.** This agreement shall not be valid unless and until it has been approved by the Wisconsin Legislature's Joint Committee on Finance, as required by Wis. Stat. § 165.08. The parties agree that upon signing of this agreement, they will jointly move the Court for a stay of proceedings and then forward this agreement to the Joint Finance Committee. Upon approval by the Joint Finance Committee, this agreement will take effect and be binding upon the parties hereto. In the event that Wis. Stat. § 165.08 is declared unlawful or is otherwise found to be unenforceable before the Joint Committee on Finance has had an opportunity to approve of this agreement, this agreement shall take effect and be binding as soon as Wis. Stat. § 165.08 is so declared or found to be unenforceable.

IN WITNESS WHEREOF, the Parties have executed this agreement, which consists of three pages, as of the date written below.

Sarah Godlewski, in her official capacity as Secretary of State of the State of Wisconsin,

By:  Date: 7-8-24

Steven C. Kilpatrick
Assistant Attorney General
Wisconsin Department of Justice
Attorney for Defendant

Institute for Reforming Government, Inc.

By:  Date: 7-2-24

Charles J. Szafir
President/CEO
Agent for Plaintiff

