

Wisconsin Transparency Project: Court of Appeals requires school district to produce email distribution lists

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Today, the Wisconsin Court of Appeals, District II, issued a ruling requiring the Mequon-Thiensville School District to produce the list of parent email addresses to which it used to “promote and advance selected matters of interest to District personnel.” Mark Gierl requested the list after Mequon-Thiensville sent out invitations to an event, titled “The Talk: A Necessary Conversation on Privilege and Race with Our Children,” presented by Critical Race Theory advocates. The ruling affirms the same decision from Ozaukee County Circuit Court Judge Steven M. Cain in November of 2021.

In reaching this decision, the Court of Appeals made several key findings:

- The email addresses related to the affairs of government and its officers and employees
- Releasing the addresses would not interfere with parent-school communications
- Mere speculation of bad results was insufficient to justify withholding public records
- Receiving an unwanted email is less intrusive than receiving a phone call or visit to your home
- The District withheld the emails because it feared Gierl would spread messages they disagreed with

As the Court of Appeals said, “In short, the District wants to be able to use

government resources to collect and utilize these e-mail addresses to promote and advance the particular “community outreach” issues and positions of District (government) leaders while denying others in the community the opportunity to utilize the e-mail addresses to share differing viewpoints. . . . the [Open Records Law] does not tolerate utilizing taxpayer resources for an ideological or political monopoly.”

Gierl hopes this will be the end of not only this case, but another case currently pending before the Court of Appeals seeking different email distribution lists from Mequon-Thiensville: “The district has wasted enough taxpayer money here. I hope the district realizes its time to give up this fight.”

“The Attorney General has released consistent guidance for decades that government distribution lists -whether emails, phone numbers, or mailing addresses - must be released to record requesters,” explained Tom Kamenick, President and Founder of the Wisconsin Transparency Project, which represents Gierl. “It’s good to now have a published decision binding on courts and record custodians around the state.”

For a copy of the Court of Appeals decision, contact Attorney Kamenick.