

Institute for Reforming Government: DPI's refusal to explain \$368,885 secret waterpark meeting risks invalidation of new exam standards

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3 Questions The Legislature Needs DPI to Immediately Answer

Delafield, Wis. – The Institute for Reforming Government is raising new questions surrounding the Department of Public Instruction's actions to hold its Wisconsin Forward Exam standard-setting workshop in private, at a waterpark resort, while banning participants from disclosing the committee's discussions.

Without following open meetings requirements under Wisconsin law, the secretly adopted test standards could be invalidated. Under state law (Wis. Stat. § 19.97(3)), a court may declare void any action taken at a meeting held in violation of the Open Meetings Law, including DPI's adoption of new Forward Exam standards.

KEY QUESTIONS FOR LAWMAKERS AND MEDIA TO ASK DPI:

1. What justification does DPI have to hold the standard setting workshop in secret?

Wisconsin Open Meetings Law can apply to temporary governmental committees created for specific purposes, including advisory groups. DPI [admits](#) forming an 88-member "workshop committee" for the explicit purpose of advising it on setting performance benchmarks, yet appears to have failed to notice its meetings or hold them in open session. Why does DPI believe its "workshop committee" was exempt from Open Meetings requirements?

2. Why were workshop attendees required to consent to blanket non-disclosure agreements?

DPI claims that its use of non-disclosure agreements was necessary to protect proprietary information relating to Forward Exam test questions. Even if that were permissible, DPI's gag rules swept much more broadly, banning attendees from sharing **any** committee discussions with the public. No provision of the Open Meetings Law authorizes this extreme level of secrecy; public bodies may enter closed session only for limited purposes, and closed session must still be properly noticed. Why does DPI believe it could hold the entire conference in closed session?

3. **Will DPI agree to make key personnel available for a legislative oversight hearing to answer these and other questions?**

The curated materials DPI has released are insufficient to apprise the public as to exactly what went on behind closed doors at Chula Vista. DPI should make key personnel available to the Legislature to offer a full accounting of the content of workshop proceedings and the legal basis for holding these proceedings in secret. Personnel who played a central role with respect to the retreat include, but are not necessarily limited to:

- Dr. Jill Underly, State Superintendent of Public Instruction
- Viji Somasundaram, DPI's Director of Office of Educational Accountability
- Philip Olsen, DPI's Assistant Director of the OEA
- [Members](#) of the Workshop Committee

THE QUOTE:

“The longer DPI fails to answer basic questions about its secret, taxpayer-funded retreat, the deeper the hole it digs for itself,” said Jake Curtis, IRG's General Counsel and Director of its Center for Investigative Oversight. **“IRG intends to pursue every available avenue until the public obtains the transparency it deserves and urges the Legislature to demand answers from DPI.”**

WHAT HAPPENED:

Last week, after IRG sent DPI a formal [demand letter](#) on behalf of *Dairyland Sentinel*, DPI finally fulfilled a year-overdue public records request and disclosed to

the public that it had spent \$368,885 at a lavish waterpark conference center working in secret to lower state proficiency standards.

The records DPI released revealed other disturbing details. DPI's standard-setting activities are of significant public interest in light of Wisconsin's poor performance nationwide on numerous education benchmarks. Yet DPI not only closed the multiday event at Chula Vista Resort in the Wisconsin Dells to the public but handpicked attendees, required them to agree not to disclose discussions, and released only a curated report providing DPI's accounting of what occurred on-site.

The Legislature's bold February 3 decision to pause \$1,000,000 earmarked for DPI operations marks the beginning, not the end, of the oversight process. In particular, DPI must now address serious questions surrounding its use of blanket non-disclosure agreements to gag attendees as well as the legality of its workshop under Wisconsin's Open Meetings Law.

WHY IT MATTERS:

DPI owes the public a basic accounting of its use of hundreds of thousands of taxpayer dollars to fund an extravagant retreat, to say nothing of its dilution of statewide proficiency standards to hide poor academic performance. But if DPI also broke Wisconsin's Public Meetings law in conducting these activities in secret, serious practical consequences could follow.

To avoid invalidation and fulfill its obligations under Wisconsin Public Records Law, DPI must immediately provide a full explanation of whether what went on at Chula Vista complied with the state Open Meetings Law.

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