

John Washburn

From: John Washburn [john@washburnresearch.org]
Sent: Wednesday, September 08, 2010 11:38 PM
To: 'Susan Borden'
Cc: 'MErdmann@germantown.k12.wi.us'
Subject: WI §19.84 notice reminder and an open records request

Dear Dr. Borden:

I have not received the notification of board of education meetings promised me during the June 14, 2010 meeting. I have not received notification for school board meetings held on the following dates:

July 19, 2010
July 26, 2010
August 09, 2010
August 16, 2010
August 23, 2010

I am again formally requesting such notification as a requesting news outlet. I am a blogger on local and national events with several original investigative articles to my credit. I thus meet the definition of *"those news medium that have requested it"*. See your note below. Notification to this email address will suffice to meet this notification requirement.

The second matter of this email is an open records request under WI §19.31-§19.37. I request the document(s) used by you (or your staff) regarding your WI §19.84 duties to post meeting notices *through publication at all district buildings, official news medium, the access channel, our website, and those news medium that have requested it.* (See your note below.) In other words, I request the document or documents which provide the exact enumeration of:

- All district buildings to which meeting notices are posted pursuant to WI §19.84 and the public place within these buildings where the WI §19.84 public notices are posted,
- All official news media to which meeting notices are posted/published pursuant to WI §19.84,
- The access channel to which meeting notices are posted pursuant to WI §19.84. Which access channel? When and how are upcoming BoE meeting noticed on this access channel?
- The URL on your website to which meeting notices are posted pursuant to WI §19.84, and
- Those news medium that have requested such notification to which meeting notices are posted pursuant to WI §19.84

The simplest and most cost effective way to deliver this to me is to attach the document(s) currently used to an email send to the above email address. If you have any questions regarding this open records request, you may contact me at this email address or by telephone at 414-375-5777.

Thank you for the time you spend on this matter as an integral part of the routine duties of the Superintendent of the Germantown School District.

In Liberty,
John Washburn

From: Susan Borden [mailto:SBorden@germantown.k12.wi.us]
Sent: Monday, July 12, 2010 10:35 AM
To: john@washburnresearch.org
Cc: Jayne Borst; Michael Erdmann
Subject: Re: Illegal meetings on June 14, 2010

Good morning Mr. Washburn,

At this point, I can only say that we differ in our interpretation. The meeting was posted through publication at all district buildings, official news medium, the access channel, our website, and those news medium that have requested it. The posting clearly set forth the time, date, place and subject matter with detail to ensure our stakeholders have enough information to understand the basic content. It was posted more than 24 hours in advance. Thus, we have met our statutory requirements related to 19.84.

Please know that we have consistently had 3-5 copies of all board packets available. When these copies are being utilized by meeting attendees, we are certainly willing to provide additional as requested.

As to providing the contents of the board packet in advance, please know I will take it under consideration. However, we are not required by statute to provide this.

Thank you for your thoughts.

Sue Borden

Dr. Susan Borden
District Administrator
Germantown Public Schools

>>> "John Washburn" <john@washburnresearch.org> 7/10/2010 12:46 AM >>>

Dear Ms. Borden:

There is still the matter of the three illegal meeting held on Monday, June 14, 2010. When will the Board be rescheduling a properly noticed open meeting to act on the matters initially scheduled for Monday, June 14, 2010? Since none of those three meetings were properly noticed as required by Wis. Stats. 19.84, all the activity of those meeting is void and the Board members deliberately wasted three hours (8:00 pm – 11:00 pm) by continuing to deliberating on item in a meeting which they had been clearly informed did not meet the 24-hour notice requirement of Wisconsin's Open Meetings Law?

I look forward to information as to when a *legal* meeting of the school board will be held to address the matters the board initial wanted to consider that night, but were unable to address that night because Dr. Rogers had failed to issue a proper 19.84 notice for those meeting.

As for future meetings, will you changing Dr. Rogers past policy of not providing proper 19.84 notice for School Board meetings and instead comply with the "reasonableness" standard of Wis. Stats. 19.84 as articulated in [Buswell v. Tomah School Board](#)?

Dr. Rogers was under the delusion that an agenda sufficed to meet the requirements of [Wis. Stats. 19.84](#). As you know, the Wisconsin State Supreme court flatly and bluntly dismissed this notion in [Buswell v. Tomah School Board](#). Best practice for 19.84 compliance since the 2007 Buswell case is described in the [WI DOJ Open Meetings Law Compliance Guide](#) and by the [Wisconsin Freedom of Information Council](#). The best practice is to make the meeting materials to be used by the Board members public at the same time as the agenda is posted. For the sake of efficient operation of the school district, the meeting material can be posted on the district web site. The printed agenda then can efficiently include the URL to the meeting materials when the agenda is posted in district buildings and delivered to newspapers. Also 1- 10 copies of the meeting materials at the meeting for the attending public will efficiently satisfy the oral, open record requests for the meeting materials which would be made at the meeting. Posting the meeting materials along with an agenda accomplishes the two of the several goals of Wisconsin's Open Meeting Law articulated in [Wis. Stats. 19.81](#).

- A. Posting the meeting materials guarantees members of the public and the news media are reasonably apprised of subject matter of the meeting as required by [Wis. Stats. 19.84\(2\)](#).
- B. Posting the meeting materials insures the board meeting will not take up, deliberate, or act on any new items as forbidden by [Wis. Stats. 19.83\(1\)](#).

I look forward to the notification of the re-schedulings and your compliance with Wisconsin's open Meeting law as it relates to 19.84.

Thank you in advance for time on these matters.

In Liberty,

John Washburn

From: Susan Borden [mailto:SBorden@germantown.k12.wi.us]
Sent: Wednesday, July 07, 2010 5:51 PM

To: john@washburnresearch.org
Cc: Jayne Borst
Subject: Records Request

Good evening Mr. Washburn,

First, thank you for your patience. Mrs. Borst returned from vacation today and we took some time this afternoon to double check that we have met your records request. We went back through the records request from 6/16/10 line by line and compared that to the packet provided to you. I verified each document against the request and believe that we have sent everything requested with the exception of meeting minutes for the two committees (Finance and Policy) from 6/14/10. These minutes are not yet approved. Please know that Mrs. Borst will send them as they are approved. Again, there is no DVD of the committee meetings.

With reference to the rest, I may be able to assist by sharing the following:

With regard to a copy of the delegation of duties: Mrs. Borst mailed board policy 824, 824R and the job description for the superintendent (231.1-R1). These cover the delegation of duties. The inception of the Access to Public records policy (824) is dated December 13, 1982. I hope this helps with regard to this question. I did verify through the meeting minutes from 1982 that this action occurred. Please let me know if you would like a copy of those meeting minutes.

With regard to the documents "on the table": Mrs. Borst included a full school board packet, enrollment projections, finance committee packet, and policy committee packet. The packets include all items that were a part of the meeting as reference documents stacked behind the agenda.

So, I believe Mrs. Borst and I have provided everything requested with the exception of the approved committee meeting minutes from Finance and Policy on 6/14/10 which will be forthcoming.

Again, we are happy to meet any request, but at this point I would need you to help me by being very specific as to what additional information you would like as I have verified all documents were provided.

Sue Borden

Dr. Susan Borden
District Administrator
Germantown Public Schools

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