

State of Wisconsin\Government Accountability Board

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JUDGE GERALD C. NICHOL
Chair

KEVIN J. KENNEDY
Director and General Counsel

February 6, 2015

Mr. Nathan Mehrens
Americans for Limited Government
10332 Main Street
No. 326
Fairfax VA 22030

[Via Email \(Nathan@getliberty.org\)](mailto:Nathan@getliberty.org)

Dear Mr. Mehrens:

The Government Accountability Board received a public records request from you on April 17, 2014 for the following records:

Any record of the Government Accountability Board (GAB) that mentions or is related to Dean Nickel, a GAB contractor, including any records related to expenditures by him or on his behalf.

I apologize for the extended delay in providing a response to your request.

This request is denied. The reasons for denial are that statutes specifically exempt the records you have requested from disclosure and provide for criminal penalties to anyone who discloses such information. While there are exceptions to the confidentiality requirements, we have thoroughly analyzed them and none of them in fact apply to this request. *See* Wis. Stats. §§ 5.05(5s) and 5.05(1)(c).

Wisconsin has a presumption of open access to all public records, which is reflected in both our statutes and case law. *See* Wis. Stat. § 19.31 and *Linzmeier v. Forcey*, 2002 WI 84. “The right to inspect public records, however, is not absolute.” *Osborn v. Board of Regents*, 2002 WI 83, ¶ 14.

Wis. Stat. § 5.05(5s) states that “Records obtained or prepared by the board in connection with an investigation, including the full text of any complaint received by the board, are not subject to the right of inspection and copying under s. 19.35 (1)”

When the G.A.B. was established in 2007, the Legislature also created strict confidentiality requirements regarding the Board’s investigations that do not apply to other state officials or law enforcement. Notably, the Legislature specifically restricted the release of investigative information and added criminal penalties. Wis. Stat. §12.13(5) is titled “UNAUTHORIZED RELEASE OF RECORDS OR INVESTIGATORY INFORMATION.”

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Wis. Stat. § 12.13(5) further states that:

Except as specifically authorized by law and except as provided in par. (b), no investigator, prosecutor, employee of an investigator or prosecutor, or member or employee of the board may disclose information related to an investigation or prosecution under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 or any other law specified in s. 978.05 (1) or (2) or provide access to any record of the investigator, prosecutor, or the board that is not subject to access under s. 5.05 (5s) to any person other than an employee or agent of the prosecutor or investigator or a member, employee, or agent of the board prior to presentation of the information or record in a court of law.

In addition, Wis. Stat. § 12.60(1)(bm) provides: “Whoever violates s. 12.13 (5) may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.”

Any responsive records the G.A.B. may have in its possession are subject to the above confidentiality requirements, therefore your request is denied in full.

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

Sincerely,

GOVERNMENT ACCOUNTABILITY BOARD

/s/

Reid Magney
Public Information Officer