

March 16, 2016

Via Hand-Delivery

Honorable Tom Wolf
Governor of Pennsylvania
225 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Wolf:

I am writing to express my deep concern regarding the Office of the Governor's **seven month delay** in responding to my Right-to-Know Law (RTKL) request seeking the work emails of Katie McGinty. The request was submitted to the Office of the Governor on July 7, 2015. Since that date, your Office has wasted taxpayer dollars – in the midst of an ongoing budget crisis – to prevent the disclosure of records that belong to the public.

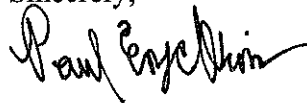
In fact, your Office's continued obstruction of my RTKL request was the subject of a *Pittsburgh Post-Gazette* article last week, entitled: "GOP battles to gain access to McGinty emails," (enclosed for your review).

When questioned about your Office's continued RTKL stall tactic, a spokeswoman for Ms. McGinty responded: "Katie believes in full transparency." Moreover, even the former Executive Director of the Office of Open Records (OOR) characterized your position on the RTKL as: "If it is a close call, release the record."

As a candidate for governor, you espoused believing in "openness and transparency." I call on you to direct your staff to cease these taxpayer-funded political games and release all of Ms. McGinty's emails immediately. It is time for you to match your rhetoric with action.

I respectfully request that you please remit the records responsive to my request by 5:00 PM on Monday, March 21. This date gives you six days to comply and marks 259 days from the date of my original request.

Sincerely,



Paul Engelkemier

cc: Ms. Kathleen A. McGinty

Enclosure

GOP battles to gain access to McGinty emails

March 10, 2016 12:20 AM

By Chris Potter/Pittsburgh Post-Gazette

For a while last summer, it looked as if the state Republican Party might get almost everything it wanted — or at least a chance to find ammunition to use against the U.S. Senate campaign of Democrat Katie McGinty. That prospect prompted GOP staffer Paul Engelkemier to file a request under Pennsylvania's Right to Know law, seeking months of emails Ms. McGinty compiled as Gov. Tom Wolf's chief of staff.

Seven months later, the state GOP is still waiting.

State law "has been completely abused ... with an unconscionable seven-month delay," Republicans said in a statement. "[T]he public deserves answers."

"The Wolf administration has been more than transparent," countered Wolf spokesman Jeffrey Sheridan.

When Ms. McGinty stepped down to launch her campaign last summer, he said, Republican groups were among those making 35 requests for her records. By Mr. Sheridan's count, the governor's office has produced over 3,000 pages of documents in response.

Such requests by operatives in both parties are not uncommon. National Republicans have, in fact, made hay out of one email in which Ms. McGinty described state Senate leaders as "shadows of their former selves."

The state GOP, though, has obtained only 71 pages of emails, 25 of which reproduced a marketing brochure.

Mr. Engelkemier made two right-to-know filings last year: a July 7 request for Ms. McGinty's calendar and email from Jan. 20 through that date, and a July 22 request asking for emails and calendar entries logged since the earlier request. To obtain the emails, Mr. Engelkemier submitted

more than 100 search terms, including phrases like “pension reform” and the names of state officials.

That produced over 15,000 pages of emails, the governor’s office says, each of which would have to be scanned for material deemed confidential under the law. But the attorney handling the request, Jessica Diaz, emailed Mr. Engelkemier that the process could begin on Aug. 24. After that, she wrote, “[a]ll records for one month (based on your order of preference) can be reviewed for exemption, redaction, and/or release ... every two weeks.”

“I would like to work with this schedule,” wrote back Mr. Engelkemier.

But shortly after, the governor’s office gave him a redacted copy of Ms. McGinty’s calendar. Mr. Engelkemier challenged those redactions, filing an Aug. 24 appeal with the Office of Open Records, which handles such disputes. At that point, all bets were off.

Although the GOP appeal pertained only to the calendar — it hadn’t received any emails yet — the Wolf administration’s Sept. 9 response took issue with the email request, too. It said the GOP had “deviously provided ... a three-page list” of impossibly broad search terms.

Despite Ms. Diaz’s overtures, Mr. Sheridan said, “We were not able to reach an agreement [with Mr. Engelkemier] that permitted a reasonable search.”

The calendar request is still being reviewed by open-records officials. The only email records Mr. Engelkemier did receive dated to his July-only request, which involved far fewer records. Other emails from that period were withheld, and in October Mr. Engelkemier filed a second appeal challenging the denials.

In December, the open-records office ruled that although some July emails were properly withheld, others should be released. It also rejected the administration’s denial of all emails dating from January. Although the governor’s office argued that the search terms were too broad, it ruled, the fact that it had “conducted a search of [email] files for the keywords” proved that “the Request is sufficiently specific” for records to be produced.

The administration has appealed that ruling to the state’s Commonwealth Court.

The McGinty campaign is steering clear of the dispute. “Katie believes in full transparency, but ultimately this decision is up to the Commonwealth Court,” said spokeswoman Sabrina Singh.

Republicans suspect the Wolf administration is running out the clock: A court decision is unlikely

until well after the Democratic primary. “We and the Office of Open Records have been in agreement,” said state GOP spokeswoman Megan Sweeney. “It raises questions about why this request has taken seven months.”

Administration officials say that more appropriately crafted document requests, including those filed by political foes, have generated much larger responses. If the state GOP wants to, Mr. Sheridan said, it “can file a Right-to-Know request for the material produced [by] other Right-to-Know requests.”

Some observers credit the Wolf administration with being more open than its predecessors.

Terry Mutchler, who formerly headed the open-records office, said Mr. Wolf and his top advisers attended a training session she gave on the law. “I personally heard him say, ‘If it’s a close call, release the record.’”

Still, she said, when a dispute arises, “My money is on the Office of Open Records.”

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