



250 Massachusetts Ave NW, Suite 400 | Washington, DC 20001

May 15, 2023

VIA EMAIL

J. Berkeley Bentley
General Counsel
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

Re: April 13, 2023 Public Records Request By Diana Astiz and DSCC

Dear Mr. Bentley:

We are in receipt of your April 20, 2023, response to an April 13, 2023, public records request from Diana Astiz at the DSCC. The request sought copies of records containing scheduled official meetings involving Governor Jim Justice, his Chief of Staff, his Deputy Chief of Staff, and his General Counsel, from January 2017 to the present. You denied the request in full.

Your denial of the request violates the West Virginia Freedom of Information Act, W. Va. Code § 29B-1-1, *et seq.* Citing out of state precedent, you contend that the information is maintained only in draft format and is frequently revised, but there is no “draft” exception in the West Virginia FOIA. And the exceptions in West Virginia law that you cite—for personal information akin to health records, *id.* § 29B-1-4(2), and for deliberative documents, *id.* § 29B-1-4(8)—clearly do not apply to the materials sought. As you are no doubt aware, a willful violation of the West Virginia FOIA is a criminal offense. *Id.* § 20B-1-6.

Ms. Astiz and the DSCC will soon commence a proceeding under W.V. Code § 29B-1-5(1) to enforce the Office of the Governor’s obligations under the West Virginia FOIA. Your response implicitly acknowledges that documents responsive to the April 13 request exist. Please ensure that they are maintained, in full, until that proceeding is resolved.

Sincerely,

A handwritten signature in black ink that reads "Jacquelyn Lopez".

Jacquelyn Lopez
Counsel to DSCC