

AFFIDAVIT


I, Joseph F. Rodgers III, General Counsel to the Joint Committee on Legislative Services hereby state:

1. I currently serve as the General Counsel to the Joint Committee on Legislative Services (“JCLS”).
2. JCLS serves as the administrative office for the General Assembly.
3. In my role as General Counsel, part of my duties is to answer public requests for documents filed pursuant to the Access to Public Records Act, R.I.G.L. Chapter 38-2 (hereinafter “APRA”).
4. JCLS manages APRA on behalf of both chambers of the General Assembly.
5. In its administrative role, JCLS is responsible for handling all employment matters within the General Assembly.
6. I have a MS/Labor Relations and Human Resource Management from the University of Rhode Island and am fully aware of employee privacy concerns regarding the information contained in their personnel files.
7. Article V of the Rhode Island Constitution provides that the powers of government shall be distributed into three separate and distinct departments: the legislative, executive and judicial.
8. The hiring of staff to support the work of the Rhode Island Senate is a legitimate legislative function.
9. The assignment and direction of work on behalf of the Senate is a legitimate legislative function.
10. The public’s right to access to public records and the individual’s right to dignity and privacy are both recognized to be principles of the utmost importance in a free society. The purpose of this chapter is to facilitate public access to public records. It is also the intent of this chapter to protect from disclosure information about particular individuals maintained in the files of public bodies when disclosure would constitute an unwarranted invasion of personal privacy. See R.I.G.L. 38-2-1.
11. The concept of personal privacy was much different in a time before the existence of social media. What was understood to be an individual’s right to dignity and privacy in 1979 is quite different than the privacy that exists in a digital world.

12. No portion of the Access to Public Records Act purports to provide a remedy for a person or an entity that seeks to prevent disclosure. *See Rhode Island Fed'n of Teachers v. Sundlun*, 595 A.2d 799 (R.I. 1991).
13. Without the ability to challenge the release of personnel information, employees are reliant on the keeper of records to ensure that the disclosure of public records won't constitute an unwarranted invasion of personal privacy.
14. On Friday, January 31, 2025 Nicole Solas emailed a records request to the General Assembly through its website at publicinfo@rilin.state.ri.us requesting "the resumes of all individuals who control and/or access the RI Senate X account, @RISenate." (See Exhibit 2 attached hereto).
15. The email was sent, after the close of business hours, at 7:18 PM.
16. For the purposes of the public records act, JCLS received Ms. Solas' request for records on Monday, February 3, 2025.
17. Starting on February 3, 2025 JCLS had ten-business days to respond to Ms. Solas' records request.
18. On February 14, 2025, Ms. Solas posted on her X account @Nicoletta0602 that she was "looking forward to learning which interns, staffers and senators at the @RISenate & @RIGen Assembly have been unconstitutionally censoring Rhode Islanders on X by hiding comments." (See Exhibit 3 attached hereto).
19. Based on Ms. Solas's statements in her social media postings, it was reasonable for JCLS to determine that Solas intended to publish the names of staff and harass those responsible for the posting of Senate materials that she disagreed with, notwithstanding the fact that the Senate as a body is responsible for what was posted on its social media accounts.
20. At 4:21 PM, on February 17, 2025 JCLS responded to Ms. Solas' request within the statutorily prescribed ten-business days. (See Exhibit 4 attached hereto).
21. After performing the balancing test required by R.I.G.L. § 38-2-2(4)(A)(I)(b), JCLS denied Ms. Solas' requests based on its conclusion that the resumes are not public records – as the release of the resumes of persons responsible for posting information authorized by leadership provides little or no insight on how government operates. (id).
22. The Rhode Island Senate maintains certain social media accounts as a means to inform the public and in furtherance of its goals.
23. Postings made on behalf of the Senate are a ministerial function made without attribution because they are intended to reflect the goals of the Senate as a whole and not any one individual.

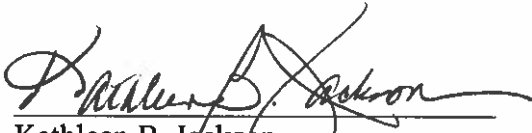
24. Senate communications with the public are covered by the “speech in debate” provision of the Rhode Island Constitution.
25. JCLS denied Ms. Solas request for “the resumes of all individuals who control and/or access the RI Senate X account, @RISenate” citing its opinion that under the circumstances presented that the resumes of persons responsible for posting information authorized by leadership provides little or no insight on how government operates.” (id).
26. On February 17, 2025 Ms. Solas posted a copy of an email sent to Senate Communications Director Gregg Pare with what appears to be her attempt to engage Mr. Pare in a public debate, stating “Hey, @Gregg_Pare – you’re the Communications Director for the @RISenate. So why can’t you just communicate who controls the Senate X account? What’s the big secret?” (See Exhibit 5 attached hereto).
27. The text of Ms. Solas’ February 17, email to Gregg Pare asks; “[] Gregg, Are you controlling the Senate X account? It really shouldn’t be secret who is posting and communicating important, official public information I [sic] to the RI Senate. If you know who controls the X account, could you please just be a good, transparent employee and simply tell me who it is so we don’t have to go through the rigamarole of expensive and time consuming public records requests?” (id).
28. Ms. Solas never requested just the names of the individuals responsible for controlling the X account as she infers in her posting.
29. Outside of the posting cited above, I have no personal knowledge of whether Ms. Solas has made a previous request for the names of individuals responsible for controlling the X account.
30. Without any additional information, it is likely that JCLS would have applied the same balancing test to a request for names that it applied to the request for resumes.
31. The General Assembly has taken the position that the releasing of resumes and the personal individually information contained therein cannot be treated in a vacuum. Specifically, JCLS has “determined that the resumes of those individuals who were hired for entry level positions are not public records – as the release of the resumes of entry-level support staff provides little or no insight on how government operates.” (See Exhibit 6 attached hereto).
32. On February 19, 2025, Ms. Solas filed her complaint via email with your office. (See Exhibit 7 attached hereto).
33. Ms. Solas never filed an appeal of the initial denial to the chief executive officer as required by R.I.G.L. § 38-2-8.

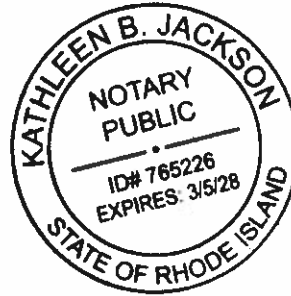
I declare, to the best of my knowledge and belief, that the information contained herein is true, correct and complete.


Joseph F. Rodgers, III (#6916)
General Counsel, JCLS

State of Rhode Island, County of Providence

On this 5th day of March, 2025, before me, the undersigned notary public, personally appeared Joseph F. Rodgers, III, and provided to me through satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document in my presence.


Kathleen B. Jackson
Notary Public
My Commission expires 3/5/2028



Kathy Jackson



From: Nicole Solas <nicolesolas@gmail.com>
Sent: Friday, January 31, 2025 7:18 PM
To: Publicinfo
Subject: APRA

Hello,

This is a public records request for the resumes of all individuals who control and/or access the RI Senate X account, @RISenate.

https://x.com/RISenate?t=t_dqAWfaVNMRMOpcVDYiA&s=09

Nicole

 **Nicole Solas, Sued by the Teachers Uni...**  @Nicoletta06... · Feb 14 ...
I'm looking forward to learning which interns, staffers, and senators at the [@RISenate](#) & [@RIGenAssembly](#) have been unconstitutionally censoring Rhode Islanders on X by hiding comments.

What are the job qualifications for censorship?

Today's the deadline.

APRA Add label 



Nicole Solas Jan 31
to publicinfo ^



From Nicole Solas · nicolesolas@gmail.com
To publicinfo@rilin.state.ri.us
Date Jan 31, 2025, 7:18 PM
[View security details](#)

Hello,

This is a public records request for the resumes of all individuals who control and/or access the RI Senate X account, @RISenate.

https://x.com/RISenate?t=_t_dqAWfaVNMRMOpcVDYIA&s=09

Nicole



State of Rhode Island

GENERAL ASSEMBLY

JOINT COMMITTEE ON LEGISLATIVE SERVICES

HENRY S. KINCH, JR.
Executive Director

JOSEPH F. RODGERS, III
General Counsel

February 17, 2025

Via email

Nicole Solas
nicolesolas@gmail.com

Re: Access to Public Records Request

Dear Ms. Solas,

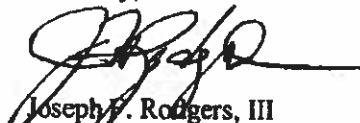
We are in receipt of your Public Records Request of January 31, 2025 for “the resumes of all individuals who control and/or access the RI Senate X account, @RISenate.” Your request is governed by the Access to Public Records Act (APRA) contained in R.I.G.L. Chapter 38-2. In response to a request for public records, an agency is required to make available for public disclosure those records that are responsive to a request, are in the possession of the agency and are not otherwise exempted from disclosure.

As to the “control and/or access [to] the RI Senate X account”, the RI Senate X account is authorized by Senate leadership and the postings are made without attribution in furtherance of the Senate. Individual employees are not responsible for the content that is posted.

With regards to your request for resumes, pursuant to R.I.G.L. § 38-2-2(4)(A)(I)(b) this office is required to perform a balancing test before releasing personnel and other personal individually identifiable records. After carefully balancing the public’s interest in disclosure with each individual’s privacy interest, we have determined that the resumes of those individuals who may have “control and/or access [to] the RI Senate X account” are not public records – as the release of the resumes of persons responsible for posting information authorized by leadership provides little or no insight on how government operates. See *U.S. Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749.

In accordance with R.I.G.L. § 38-2-8, you may appeal this decision to Henry S. Kinch, Jr., Executive Director of the Joint Committee of Legislative Services, at 82 Smith Street, Providence, RI 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained.

Sincerely,








Joseph F. Rodgers, III
Legal Counsel, JCLS

 **Nicole Solas, Sued by the Teachers U...**  @Nicoletta0... · Feb 18  ...
Hey, [@Greg_Pare](#) - you're the Communications Director for the [@RISenate](#).

So why can't you just communicate who controls the Senate X account?

What's the big secret?

Senate X account [Add label](#) 

 **Nicole Solas** Yesterday   
to [gpare](#) ^

From Nicole Solas · nicolesolas@gmail.com
To gpare@rilegislature.gov
Date Feb 17, 2025, 4:56 PM
[View security details](#)

Hi Greg,

Are you controlling the Senate X account? It really shouldn't be a secret who is posting and communicating important, official public information I to the RI Senate. If you know who controls the X account, could you please just be a good, transparent government employee and simply tell me who it is so we don't have to go through the rigamarole of expensive and time consuming public records requests?

Nicole



State of Rhode Island

GENERAL ASSEMBLY

February 27, 2023

Josh Fenton
GoLocal24.com
jfenton@golocalprov.com

Re: Access to Public Records Request

Dear Mr. Fenton,

We are in receipt of your Public Records Request of January 13, 2023 for “the names of all staff hired since Joe Shekarchi became Speaker; their names, salaries and their date of hire; their job descriptions; their resumes; and if they are a subject expert; [] identify those who are experts and what their expertise is.” Your request is governed by the Access to Public Records Act (APRA) contained in R.I.G.L. Chapter 38-2.

In response to a request for public records, an agency is required to make available for public disclosure those records that are responsive to a request, are in the possession of the agency and are not otherwise exempted from disclosure.

Attached is a list of all House and JCLS staff hired since Joe Shekarchi became speaker; including their salaries, date of hire and [job titles]. Additionally, we have provided you with the names, salaries, [dates of employment and job titles] of those persons who were hired during Speaker Shekarchi's term but subsequently left the state's employ.

As to your request for job descriptions, this office does not maintain job descriptions for every position and pursuant R.I.G.L. § 38-2-7(c) a public body is not required to produce records that do not exist. Attached are those job descriptions in our possession that are responsive to your request.

With regards to your request for resumes, pursuant to R.I.G.L. § 38-2-2(4)(A)(I)(b) this office is required to perform a balancing test before releasing personnel and other personal individually identifiable records. After carefully balancing the public's interest in disclosure with each individual's privacy interest, we have determined that the resumes of those individuals who were hired for entry level positions are not public records – as the release of the resumes of entry-level support staff provides little or no insight on how government operates. See *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749.


The remaining resumes are provided subject to the appropriate redactions of personnel and personally identifiable information, including subjective materials that provide little or no insight on how government operates. *Id.*

As to the final part of your request asking us to identify those hires that are subject experts and to describe their expertise; this is not a records request subject to APRA as you are asking for information and answers to questions, not requesting public documents. Pursuant R.I.G.L. § 38-2-7(c) a public body is not required to produce records that do not exist.

In accordance with R.I.G.L. § 38-2-8, you may appeal this decision to Henry S. Kinch, Jr., JCLS/Executive Director, at 82 Smith Street, Providence, RI 02903; or, you may file a complaint with the Department of the Attorney General, 150 South Main Street, Providence, Rhode Island, 02903, or the Rhode Island Superior Court of the county where the record(s) are maintained.

For future reference, please be advised that APRA requests *must* be made directly to JCLS or through the "Link to Public Records Request" on the General Assembly's homepage and not through the respective House or Senate communications person as you implied in your communications with Larry Berman. <http://www.rilegislature.gov/SiteAssets/PublicRecordsRequest.pdf> See *WPRI v. Rhode Island Department of Education*, PR 22-27.

Sincerely,



Joseph F. Rodgers, III
Legal Counsel, JCLS

From: [Nicole Solas](#)
To: [Open Government](#)
Subject: Fwd: APRA
Date: Monday, February 17, 2025 7:57:12 PM
Attachments: [2025.2.17 - APRA Response. N.Solas. RI Senate X Account.pdf](#)

[External email: Use caution with links and attachments]

Open Government Unit,

This is a public records complaint against the State of Rhode Island for failing to respond to my public records request in the statutory time period and then willfully withholding public records after I emailed two State email accounts several times to remind it of the looming deadline. The State responded a day late and improperly asserted the privacy exemption both procedurally and on its merits. The State's false basis that the resumes of agents of the Rhode Island Senate using the official X account of the RI to Senate to communicate official information to the public are "private," is an attempt to withhold clearly public records.

An agency is precluded from claiming any exemptions after failing to respond to a public records request without a showing of good cause. The State cannot show good cause and therefore any improperly asserted claim to the privacy exemption should not even be reviewed. Notwithstanding this preclusion, should the open government unit humor the State, it will find that its arguments on the merits to withhold the resumes of individuals controlling and accessing the official X account of the Senate also fail. The legislature believes that resumes of individuals hired to carry out the official business of government are somehow *not* in the interest of the public to see. This is ludicrous. Resumes of individuals carrying out official public business absolutely shed light on how government works because it shows the qualifications - or lack thereof - of the individuals whom government hired to do official government work or delegated official government duties to in some other capacity. Further, the work of communicating official business to the public on X is not an inconsequential task. Other legal issues may arise from the work of government agents using social media to communicate with the public, such as claims of censorship when the Senate hides comments of members of the public, possibly in violation of the the First Amendment - and the RI Senate does, in fact, hide comments.

You will see from my email correspondence below that the State did not even acknowledge and apologize for failing to respond to my request. Instead, I received a response a day later than the statutory deadline of February 14 after I emailed the State and Communications Director, Greg Pare, notifying them of the deadline. The State's failure to acknowledge its own failure to respond my request after I generously emailed two accounts a reminder to respond is dishonest and should weigh heavily in the attorney general's decision to sanction the legislature for willful violation of the APRA. Omitting critical information, such as the agency's failure to respond, does not keep government open - it serves only to thwart the public of their rights under the APRA.

I request that the AG order the legislature to produce the records without a fee, find it willfully violated the APRA, and impose sanctions.

Nicole

----- Forwarded message -----

From: **Nicole Solas** <nicolesolas@gmail.com>
Date: Fri, Feb 14, 2025, 5:05 PM
Subject: Fwd: APRA
To: <gpare@ril.legislature.gov>

Hi Greg,

Are you going to respond to my APRA request as the Senate Communications Director? See below.

Nicole

----- Forwarded message -----

From: **Nicole Solas** <nicolesolas@gmail.com>
Date: Fri, Feb 14, 2025, 5:02 PM
Subject: Fwd: APRA
To: <publicinfo@rilin.state.ri.us>

Are you responding to my request? Today is the deadline.

----- Forwarded message -----

From: **Nicole Solas** <nicolesolas@gmail.com>
Date: Fri, Jan 31, 2025, 7:18 PM
Subject: APRA
To: <publicinfo@rilin.state.ri.us>

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https://x.com/RISenate?t=_t_dqAWfaVNMRMOpcVDYiA&s=09

Nicole