

The Complaint of

REPUBLICAN PARTY OF WISCONSIN
JORDAN MOSKOWITZ,
Complainant

Against

JILL UNDERLY,
Respondent

VERIFIED
COMPLAINT

The Republican Party of Wisconsin, by and through its representative, Jordan Moskowitz, brings this verified complaint against Jill Underly and alleges as follows:

1. Complainant Jordan Moskowitz is a qualified elector of the State of Wisconsin and is the Political and Data Director of the Republican Party of Wisconsin with a mailing address of 148 East Johnson Street, Madison, Wisconsin 53703.
2. Respondent Jill Underly is a candidate for Superintendent of Public Instruction with a mailing address of 1838 County Road K, Hollandale, WI 53544. Underly is the current District Administrator of Pecatonica Area School District.
3. That the Wisconsin State Journal obtained emails sent from Underly's official district email address and published their contents on March 26, 2021.
(https://madison.com/wsj/news/local/education/local_schools/state-superintendent-candidate-used-district-email-to-build-campaign-contact-list/article_7610392b-b9aa-5378-9639-c272b7568c46.html)
4. That on April 20, 2020 at 11:44 AM Underly sent an email using her official district email address asking recipients to send their personal email addresses to her personal email address. (*Attached as Exhibit A*)
5. That on April 20, 2020 at 12:45 PM Underly sent a second email using her official district email address insisting to recipients that her first message was not a spam email and said request was "regarding the state superintendent race." (*Attached as Exhibit B*)
6. That Underly's second email recognized that campaign business should not be conducted under state email addresses saying, "it's regarding the state superintendent race I didn't want to send it out over district emails." (*Attached as Exhibit B*)

7. That on April 21, 2020 at 9:44 AM Underly sent a follow-up email from her personal email address to individuals who passed along their personal emails outlining her intention to run for State Superintendent of Public Instruction. (*Attached as Exhibit C*)
8. That Underly's April 21st email asked recipients to for political support. (*Attached as Exhibit C*)
9. That Underly's April 21st email further recognized that political activity should not be conducted on district email addresses saying, "Please do me and yourselves a favor and don't communicate with me or anyone else about the election on school district emails or servers." (*Attached as Exhibit C*)
10. That Underly sent emails for political purposes from her official email address on multiple occasions.
11. That Underly sent emails for political purposes during official work hours on multiple occasions.
12. That Underly used her public position and official capacity for personal and political benefit.
13. That the use of an official district email address for political purposes is an advantage other candidates for State Superintendent of Public Instruction do not have.
14. That the use of her official district email address rather than her personal email address implies that Underly believed that a request for information would be better received from an official email address rather than a personal email address.
15. That in her second April 20th email, Underly admitted that district emails should not be used for political purposes.
16. That in her April 21st email, Underly further admitted that district emails should not be used for political purposes.
17. That Underly's second April 20th email clearly states a political purpose for her email on her official email address on state time.
18. That Underly's April 21st email clearly states a political purpose for her email on state time.
19. Even if Underly's first April 20th email is permissible under law, Underly's second April 20, 2020 email clearly stating a political purpose and soliciting information for political benefit is a clear violation of the law.
20. That Wis. Stat. § 11.1207(2) precludes any individual from political solicitations involving public officials and employees during established work hours.

21. That Wis. Stat. § 230.40(1) precludes public officials from engaging in political activity while on state time or engaged in official duties as an employee.
22. That Wis. Stat. § 946.12(3) precludes misconduct in public office where the public official intends to obtain a dishonest advantage.

COUNT 1: Noncompliance with Wis. Stat. § 11.1207(2)

23. All preceding paragraphs are re-alleged and incorporated as if fully stated herein.
24. Wis. Stat. § 11.1207 provides in relevant part:

Section 11.1207 Political solicitation involving public officials and employees restricted.

...

(2) No person may solicit or receive from any officer or employee of a political subdivision of this state any contribution during established hours of employment or while the officer or employee is engaged in his or her official duties.

25. That Underly's emails admit that sending emails for political purposes from district email addresses is impermissible.
26. Upon information and belief, Jill Underly used her official district email address to solicit personal information from other public officials in violation for political purposes in violation of Wis. Stat. § 11.1207(2).

COUNT 2: Noncompliance with Wis. Stat. § 230.40(1)

27. All preceding paragraphs are re-alleged and incorporated as if fully stated herein.
28. Wis. Stat. § 230.40(1) provides in relevant part:

Section 230.40 Political activities; public office.

(1) No person holding a position in the classified civil service may directly or indirectly solicit or receive subscriptions or contributions for any partisan political party or any political purpose while on state time or engaged in official duties as an employee. No person may orally solicit or by letter transmit any solicitation to a state office or be in any manner concerned in soliciting any assistance, subscription, or support for any partisan political party or purpose from any person holding any position in the classified civil service while on state time or engaged in official duties as an employee. No person holding any position in the classified civil service may during the hours when on duty engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office, nor engage in any political activity when not on duty to such an extent that the person's efficiency during working hours will be impaired or that he or she

will be tardy or absent from work. Any violation of this section is adequate grounds for dismissal.

29. Upon information and belief, Jill Underly solicited personal email addresses to use for campaign purposes on state time in violation of Wis. Stat. § 230.40(1).
30. Upon information and belief, Jill Underly solicited personal email addresses to use or campaign purposes with her official email address in violation of Wis. Stat. § 230.40(1).
31. That Jill Underly attempted to solicit political support on state time in violation of Wis. Stat. § 230.40(1).

COUNT 3: Noncompliance with Wis. Stat. § 946.12(3)

32. All preceding paragraphs are re-alleged and incorporated as if fully stated herein.
33. Wis. Stat. § 946.12(3) provides in relevant part:

Section 946.12 Misconduct in Public Office.

Any public officer or public employee who does any of the following is guilty of a Class I felony:

...

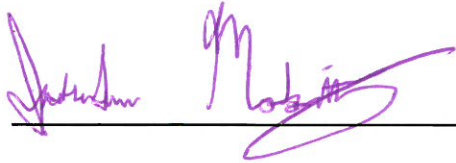
(3) Whether by act of commission or omission, in the officer's or employee's capacity as such officer or employee exercises a discretionary power in a manner inconsistent with the duties of the officer's or employee's office or employment or the rights of others and with intent to obtain a dishonest advantage for the officer or employee or another; or

34. Upon information and belief, Jill Underly's political activity on state time and using her official email address was an abuse of discretionary power in a manner inconsistent with the duties of her employment as a district administrator in violation of Wis. Stat. § 946.12(3).
35. Upon information and belief, Jill Underly's political activity on state time using her personal email address was an abuse of discretionary power in a manner inconsistent with the duties of her employment as a district administrator in violation of Wis. Stat. § 946.12(3).

WHEREFORE, Complainant prays that the Wisconsin Ethics Commission commence an investigation into the actions of Jill Underly; determine appropriate charges; and refer Underly's conduct to the appropriate authority.

Based on the limited time remaining before the April 6th, 2021 election, Complainant further requests that commission staff launch an expedited investigation into the activities of Respondent.

Dated this 29th day of March, 2021 at Madison, Wisconsin.



JORDAN MOSKOWITZ
REPUBLICAN PARTY OF WISCONSIN

CERTIFICATION


I, Jordan Moskowitz, being first duly sworn upon oath, state that I personally read the above complaint and that the above allegations are true and correct based on my personal knowledge and, as to those allegations stated on information and belief, I believe them to be true.



JORDAN MOSKOWITZ

State of Wisconsin)
) ss
County of Dane)

Sworn to before me this 29th day of March, 2021.



Notary Public or Person Authorized to
Administer Oaths

My commission expires 5-2-23
Or, _ is permanent.

Personal Email address request -- entirely optional

email: "junderly@pecatonica.k12.wi.us Jill Underly"

Monday, April 20, 2020 at 11:44:07 AM Central Daylight Time

To: email: [REDACTED]
Bcc: email: "dmdadison@brillionsd.org"

Hi, Everyone,

I have something I need to send out to you, but I don't want to nor should I send it to your school email. If you are so inclined could you please respond to me (by using the address in the TO: field which is [REDACTED]) and share your personal email address with me? I would appreciate it!! Again, entirely optional.

Thanks,
Jill Underly

(District Administrator at the Pecatonica Area School District in SW Wisconsin)

--

Jill Underly, Ph.D.

District Administrator

Pecatonica Area School District

704 Cross St. Blanchardville, 53516

(608) 523-4248



This is legit - please don't call my school district to report a weird request

email: "junderly@pecatonica.k12.wi.us Jill Underly"

Monday, April 20, 2020 at 12:45:19 PM Central Daylight Time

To: email: [REDACTED]
Bcc: email: "dmadison@brillionsd.org"

Hi, again -

Jill Underly here. I didn't know how to ask you for your personal email without being all vague. Please don't call my school district asking about it - this isn't a spam message. I will send you more information, but it's regarding the state superintendent race and I didn't want to send it out over district emails.

Please trust me -more information coming. Again, entirely optional - and please respond to [REDACTED] (which is my personal email).

I hope that you are all doing well during these crazy times!

--

Jill Underly, Ph.D.

District Administrator

Pecatonica Area School District

704 Cross St. Blanchardville, 53516

(608) 523-4248



Exhibit C

Thank you and more information from Jill Underly Inbox



Jill Underly <jkunderly@gmail.com>
to jkunderly@gmail.com, bcc: me

Tue, Apr 21, 2020, 9:44 AM

Thanks for your email. I hope you are doing well, and I should have led with that in the previous request. I know you are busy, and we are all suspicious about unsolicited emails like that (so again, thanks for trusting me with this).

The reason I asked for your email is because in the next few weeks -- I can't say when because the news cycle seems to change hourly as you know -- I plan to announce that I am running for the State Superintendent position. I'm tying up some loose ends and getting things ready (the things I can officially get ready without declaring). But once I declare and file, it's on! In the meantime you can mention if it comes up in conversation that I am planning to run, but I can't officially say that I am now because I haven't done the paperwork.

I know it's early and the election isn't for another year (almost) - but my hope is that a candidate who is pro-public schools can get out there in front of anyone from the side that isn't pro-public-schools. I'm not necessarily asking you to support me. However, I know that you will promote the best candidate who is pro-public schools and has the best intentions and will advocate for all public school children and children in Wisconsin - rural, urban, suburban, as well as teachers!

I have appreciated all of our conversations in the past few years - whether it's through WASDA, WIRSA, or SAA. You are all so important to me as you do the work that we all love to do. Feel free to email me at any time about anything that is important to you about public education. We are our district's most visible and vocal advocates.

Hang in there!!! I hope to see you in Sturgeon Bay. I know I am going to need some adult-learning and superintendent time.

Be well, and my very best wishes -
Jill Underly

PS: Please do me and yourselves a favor and don't communicate with me or anyone else about this election on school district emails or servers. I may have been risky in asking for your personal email via your school email, but I couldn't think of any other way, and besides there was no money asked :)

PPS: More about me: I have been the district administrator at the Pecatonica Area School District since 2015. Prior to that I was Pecatonica Elementary principal. I worked at the Department of Public Instruction in Title I and Educator Licensing (separate stints from 2009-2014), and I also worked at the University of Wisconsin Madison (2005-2009) in student academic affairs while I was finishing up my PhD in Educational Leadership and Policy Analysis (2012). I have my doctorate in ELPA from UW-Madison, and a masters degree in educational administration. I have an additional masters degree in curriculum from Indiana University, and received my BA in History and BA in Sociology from there as well. I taught high school social studies in Frankfort, Indiana, and in Munster, Indiana before moving up to Wisconsin for my graduate studies. I also taught at Johns Hopkins Center for Talented Youth summer camp at Washington College in Maryland -- I think it was in 1999 and 2000 now. I've been a public servant my entire professional career, and I have community service instilled in me since I was a child - being a 10 year 4H member and leader in Indiana (when I was in college). I used to also volunteer at our local hospital when I was in high school and was a prolific babysitter. Kids, community, and public schools have been my life - literally. I have two middle school aged children and reside with them and my spouse in Moscow Township, which is in rural Iowa County. We have a small farm that we make no money on. We're still trying to figure out how that all works... it's pretty to look at though.