

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

<p>IOWA ATHEISTS AND FREETHINKERS, INC.,</p> <p>Plaintiff,</p> <p>v.</p> <p>KIM REYNOLDS, in her official capacity as Governor of the State of Iowa; MEGAN HALL, in her official capacity as Records Custodian of the Office of the Governor of the State of Iowa; STEVEN E. BLANKINSHIP, in his official capacity as General Counsel of the Office of the Governor of the State of Iowa; and OFFICE OF THE GOVERNOR OF THE STATE OF IOWA,</p> <p>Defendants.</p>	<p>Case No. _____</p> <p><b>PETITION UNDER IOWA CODE CHAPTER 22 FOR DECLARATORY AND INJUNCTIVE RELIEF, OR, IN THE ALTERNATIVE, WRIT OF MANDAMUS</b></p>
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The Plaintiff, Iowa Atheists and Freethinkers, Inc., by and through its undersigned counsel, respectfully submit this Petition under Iowa Code chapter 22 for Declaratory and Injunctive Relief, or, in the alternative, Writ of Mandamus against the Defendants, Iowa Governor Kim Reynolds, Megan Hall, and Steven E. Blankinship, in their official capacities, and the Office of the Governor of the State of Iowa. In support of this Petition, the Plaintiff states the following:

**PRELIMINARY STATEMENT**

1. The Iowa Governor’s Office has, once again,<sup>1</sup> claimed for itself the privilege to withhold government records from the public at its sole discretion.
2. This privilege, which the Governor’s Office refers to broadly as the “executive privilege,” is not based on any of the exemptions from disclosure described in Iowa Code chapter 22. Nor is it based on any other specific statutory exception recognized by the Iowa legislature. It

<sup>1</sup> See *Belin v. Reynolds*, 989 N.W.2d 166 (Iowa 2023).

has never been recognized, let alone defined in its applicability or limitation, by the Iowa Supreme Court.

3. At present, this claimed “executive privilege” has no limit unless one is self-imposed by the Governor’s Office. This would, contrary to the purposes, goals, and express language of Iowa’s Open Records Act at section 22.8(3), allow the Governor’s Office to reject the public interest in favor of free and open examination of public records solely because of the potential for inconvenience or embarrassment.

4. The Governor’s Office does not contest that it is subject to the requirements of chapter 22, that the specific records at issue in this case are government records, or that the Office, through the individual Defendants named in their official capacity here, has refused to make them available to the Plaintiff. Pursuant to Iowa Code section 22.10(2), the burden in this case will therefore be on Defendants to demonstrate compliance with Iowa’s Open Records Act. They will be unable to meet this burden.

**PARTIES, JURISDICTION, AND VENUE**

5. Plaintiff Iowa Atheists and Freethinkers, Inc. (“IAF”), is a non-profit social and educational organization registered in Iowa, having its principal place of business in Polk County, Iowa.

6. IAF is a membership organization that offers social, educational, charitable, and community-service opportunities. The goals of IAF are to share its members’ non-religious view of the world with the community by participating in various local events, help its members become more educated on religious issues themselves, provide its members with ample opportunity to meet like-minded people, socialize, network, and make friends, and to normalize

atheism in the minds of the people in its members' communities by engaging in community service projects.

7. A stated pillar of IAF is activism. IAF seeks to normalize atheism, protect its members' rights, and strengthen their communities through direct advocacy, protests, and other forms of political engagement. IAF seeks to defend the separation of religion and government, protect its members' civil rights and those other minority groups, and promote evidence-based, secular policy that benefits everyone equally.

8. IAF brings this action on its own behalf in its organizational capacity, and in its representational capacity on behalf of its members adversely impacted by Defendants' actions.

9. Defendant Kim Reynolds is the Governor of the State of Iowa and is the Chief Executive for the state responsible for the implementation of its statutes, including Iowa Code chapter 22. Governor Reynolds is the head of Defendant Office of the Governor of the State of Iowa (the "Governor's Office")—the government body currently in physical possession of the public records at issue in this case—and is ultimately responsible for that body's implementation of the requirements of Iowa Code chapter 22. Defendant Reynolds is sued in her official capacity as Governor of the State of Iowa and head of the Governor's Office.

10. Defendant Megan Hall is the designated Records Custodian of the Governor's Office. As Records Custodian, the Governor's Office has delegated to Defendant Hall, as an official or employee of the Governor's Office, the responsibility for implementing the requirements of Iowa Code chapter 22. In particular, Defendant Hall receives open records requests submitted to the Governor's Office and shares the Office's responses with the requesters. Defendant Hall provided the response to Plaintiff's open records request at issue here. Defendant Hall is sued in her official capacity as Records Custodian of the Governor's Office.

11. Defendant Steven E. Blankinship is General Counsel of the Governor's Office. As General Counsel, the Governor's Office has delegated to Defendant Blankinship, as an official or employee of the Governor's Office, certain responsibilities for the Governor's Office implementation of the requirements of Iowa Code chapter 22. In particular, Defendant Blankinship has oversight responsibility for the Governor's Office's responses to open records requests, as well as the responsibility for interpreting the requirements of Iowa Code chapter 22 and asserting any objections or exceptions to production of a public record. Defendant Blankinship reviewed the response to Plaintiff's open records request at issue here. Defendant Blankinship is sued in his official capacity as General Counsel of the Governor's Office.

12. Defendant Office of the Governor of the State of Iowa is a government body created under Iowa Code section 7.1. It is the lawful custodian of the public records at issue in this case. The principal place of business of the Governor's Office is in Polk County, Iowa.

13. This Court has personal jurisdiction over the parties to this matter as all Defendants are domiciled in the State of Iowa and the acts and omissions at issue in this matter occurred within the State of Iowa.

14. This Court has subject matter jurisdiction over this matter pursuant to Iowa Code sections 22.5 and 22.10.

15. Venue is proper in this Court pursuant to Iowa Code chapter 22.10(1).

**FACTUAL BACKGROUND**

16. One method by which IAF pursues its mission and seeks to protect its members' rights is through exercising its right to submit open records requests under Iowa Code chapter 22.

17. IAF regularly submits open records requests to government bodies on issues of importance to its members, particularly those involving efforts—or failures—by state actors to

maintain the rights under the Free Exercise and Establishment Clauses of the First Amendment of the United States' Constitution.

18. In December 2023, IAF's members were extremely concerned about the destruction of The Satanic Temple of Iowa's holiday display in the Iowa State Capitol Building.

19. In a public statement, IAF noted that it, in the past, had also proudly presented a display in the Capitol Building, sending a message of inclusion, separation of church and state, and protecting the rights of all Iowans to have freedom of, as well as from, religion.

20. IAF objected strongly to calls for removal of The Satanic Temple of Iowa's display and to the state's failure to safeguard the freedom of expression it represented.

21. IAF followed the developing situation for the benefit of its members by, among other things, submitting open records requests under Iowa Code chapter 22.

22. IAF submitted one such open records request to Defendant Governor's Office, seeking records in its possession relating to the destruction of The Satanic Temple of Iowa's display.

23. In response, Defendant Governor's Office provided numerous records that were redacted in their entirety based on an assertion of "Executive Privilege pursuant to Iowa Const. art. III, § 1 and art. IV, § 1."

24. These documents were not redacted based upon any other asserted privilege or exemption from disclosure.

25. Principally among the records redacted in their entirety—in essence, withheld—were emails between communication personnel at Defendant Governor's Office purportedly concerning the subject of "Statement on Satanic Temple."

26. These emails appear to be correspondence between Defendant Governor's Office communications personnel concerning the desired public statement to issue in response to media inquiry concerning the destruction of The Satanic Temple of Iowa's display.

27. On information and belief, Defendant Blankinship personally reviewed these documents and determined they should be withheld pursuant to the assertion of executive privilege.

28. Defendant Governor's Office declined to withdraw its assertion of executive privilege over these documents following further demand by IAF.

29. Approximately one year later, during the 2024 holiday season, another incident occurred involving The Satanic Temple of Iowa and access to the Iowa State Capitol Building.

30. In short, the Iowa Department of Administrative Services, which has control over Capitol Building access for displays and events, denied The Satanic Temple of Iowa's application to hold an event in the Capitol Building.

31. The denial of access was, like the destruction of The Satanic Temple of Iowa's display a year prior, of substantial interest to IAF's membership.

32. Consistent with IAF's organizational purposes and in the interest of its members, IAF again submitted an open records request pursuant to Iowa Code chapter 22 to Defendant Governor's Office. This will hereinafter be referred to as the "Request" and is attached to this Petition as Exhibit A.

33. The Request, submitted on December 18, 2024, was for the following records:

Any and all non-privileged documents, including but not limited to: electronic communications or records containing, related to, or concerning the cancellation, disposition, or discussion of the Satanic Temple of Iowa's family event on December 14th, 2024.

Copies of all other records requests made on or after December 1st, 2024 that were submitted pursuant to Iowa Code chapter 22, related to any of the above

records, including but not limited to requests made by the Des Moines Register, The Satanic Temple of Iowa, the Freedom From Religion Foundation, [and] all responses, documents, and attachments thereto.

34. Defendant Hall acknowledged receipt of the Request and gave it the identifier “R406.”

35. On January 9, 2025, Defendant Hall provided Defendant Governor’s Office’s response to the Request.

36. Defendant Governor’s Office’s response consisted of a cover letter that stated:

There were records withheld or redacted based on confidentiality and/or privilege.

1. Attorney client privilege and attorney work product privilege
2. Executive privilege

This cover letter is attached to this Petition as Exhibit B.

37. Defendant Governor’s Office provided the responsive records in a pdf attachment consisting of 611 pages.

38. The overwhelming majority of this 611-page production file (520 pages out of 611, or around 85 percent) consisted of compilations of news clips, apparently regularly prepared and circulated within Defendant Governor’s Office and included in the production due to references within them to the denial of The Satanic Temple of Iowa’s event, which had garnered significant media coverage.

39. Within the remaining 91 pages were 10 separate documents (consisting of around 32 pages) that included redactions in whole or in part.

40. While Defendant Governor’s Office did not immediately provide a privilege log or further explanation of its withholding of these public records, Defendant Blankinship later provided such a log, in addition to a lengthy justification for Defendants’ assertion of an

unrecognized privilege, in response to follow up inquiry. This response and the appended privilege log is attached to this Petition as Exhibit C.

41. According to this log, only three documents were withheld based on an assertion of attorney-client privilege or attorney work product. Defendant Governor's Office redacted seven documents based solely on its assertion of executive privilege.

42. These seven documents consisted of, as described by Defendant Blankinship, an executive agency report prepared by the Director of the Iowa Department of Administrative Services, a text characterized as related to this agency report, and, predominantly, "media prep documents."

43. Despite further demand by IAF, which noted, through counsel, the absence of any recognized executive privilege in Iowa Code chapter 22, Iowa common law, or the Iowa Constitution, Defendants declined to withdraw their assertion of executive privilege over these seven documents.

44. IAF brings this action over these seven documents that Defendants redacted and withheld pursuant to an assertion of executive privilege only; this action does not challenge the redaction and withholding of documents pursuant to an assertion of attorney client privilege.

**COUNT I**

**REQUEST FOR DECLARATORY RELIEF**

45. IAF incorporates the allegations of all preceding paragraphs into this cause of action by this reference.

46. Iowa's Open Records Act is designed to open the door of government to public scrutiny and prevent the government from secreting its decision-making activities from the public, on whose behalf it is its duty to act.

47. Under Iowa law, there is a presumption in favor of disclosure and a liberal policy in favor of access to public records.

48. Iowa's Open Records Act employs a burden-shifting approach, whereby, once the claimant shows (1) the defendant is subject to the requirements of chapter 22, (2) the records in question are government records, and (3) the defendant refused to make those government records available for examination and copying by the plaintiff, the burden of proof shifts to the defendant to show compliance with the Act.

49. Defendant Governor's Office is a government body subject to Iowa Code chapter 22.

50. Defendants Reynolds, Blankinship, and Hall are officials or employees of this government body with responsibility for implementing the requirements of Iowa Code chapter 22.

51. Defendants are subject to the requirements of chapter 22.

52. The records sought are public records, as defined by section 22.3(a), as they are records of or belonging to the State of Iowa and, therefore, its citizens.

53. Defendants expressly refused to make these records available for examination and copying by IAF, despite IAF's request and further demand.

54. Accordingly, Plaintiffs have met their burden in showing Defendants have violated chapter 22, and the burden of proof is on Defendants to nevertheless show compliance.

55. Defendants cannot meet the burden of proof required of them to show compliance with Iowa Code chapter 22.

56. In enacting Iowa's Open Records Act, the legislature first gave all persons the right to examine public records, but then listed specific categories of records that must be confidential.

57. In doing so, the legislature created and fixed the limitations on disclosure, which are set forth in Iowa Code section 22.7 and include 75 separate categories of records that, while public records, are nevertheless exempt from disclosure in response to an open records request unless there is a separate order by a court, the lawful record custodian, or other person authorized to release the information.

58. "Executive privilege" is not among the exemptions from disclosure set forth in section 22.7.

59. Aside from section 22.7, Iowa courts have determined that government bodies may assert other specific statutory privileges protecting the confidentiality of documents in response to open records requests.

60. "Executive privilege" is not a statutory privilege recognized in the Iowa Code, within or outside of chapter 22.

61. Absent an exemption in section 22.7 or a distinct statutory privilege elsewhere in the Iowa Code, which is lacking, Defendants have no justification to redact or withhold these seven public records.

62. Defendants, as a state governor and the state governor's office, have no constitutional duties of national security or foreign diplomacy that would justify violating Iowa law to maintain secret documents which are not otherwise confidential, and conceal them from public disclosure, nor are the public records at issue the type that would warrant such protection.

63. The Iowa Constitution does not confer upon Defendants the authority to keep public records secret or to determine which public records are subject to disclosure outside of Defendants' responsibility to enforce the law and implement the choices of the Iowa legislature reflected in Iowa Code chapter 22.

64. There is no statutory, constitutional, or other legal basis on which Defendants can rely to prove compliance with Iowa Code chapter 22.

65. Defendants have violated Iowa's Open Records Act by redacting and/or withholding the records at issue here.

Accordingly, Plaintiff respectfully requests this Court enter an order that finds and declares Defendants have violated Iowa Code chapter 22 by their refusal to produce the public records at issue in this case, making all such other and further findings as to the rights and responsibilities of the parties as this Court deems necessary.

## **COUNT II**

### **REQUEST FOR INJUNCTIVE RELIEF UNDER SECTION 22.10**

66. IAF incorporates the allegations of all preceding paragraphs into this cause of action by this reference.

67. IAF meets its initial burden of establishing a violation of Iowa Code chapter 22, and Defendants are unable to bear their burden of proof to show compliance with its provisions.

68. IAF and its membership, as members of the public, have the statutory right to access all public records, including those at issue.

69. With respect to the seven public records at issue, IAF and its membership have a particularized need for them given their unique interest and importance to IAF's membership and IAF's organizational goals.

70. The public records relating to the Iowa Department of Administrative Services' agency report, specifically the portions thereof responsive to IAF's request on denial of The Satanic Temple of Iowa's 2024 event, are relevant to IAF's organizational goal of uncovering, exposing, and protesting failures by the Iowa government to maintain the constitutionally required separation of church and state and free exercise of religion, and to respect the rights—including the constitutional rights of speech and expression—of all religious and non-religious groups equally.

71. The public records relating to the Iowa Governor's Office's communications strategy in connection with the denial of The Satanic Temple of Iowa's 2024 event are similarly relevant to IAF's organizational goals and the interests of its members: namely, IAF's pillar of activism and political engagement on issues of constitutional rights.

72. There is no countervailing public interest in withholding these public records from IAF's access and examination.

73. These public records, or portions thereof, consist of matter that is purely factual, or that simply states or explains decisions already made.

74. To the extent these public records, or portions thereof, shed light on government misconduct, the public interest in honest, effective government is not served by their continued withholding.

75. Permitting public access to these public records would not frustrate or impede Defendant Reynolds in the performance of her duties, nor would public access to these public records interfere with the ability of the executive branch to perform its duties generally.

76. Upon a finding of a violation of Iowa's Open Records Act, Iowa Code section 22.10(3)(a) authorizes this Court to issue an injunction ordering Defendants to comply with the requirements of Iowa's Open Records Act in this case by producing the records at issue.

77. Defendants are in violation of Iowa's Open Records Act due to their improper redaction and withholding of the records at issue.

78. Iowa Code section 22.10(3)(a) further authorizes this Court to issue an injunction ordering Defendants to refrain from further violations of Iowa's Open Records Act for one year.

79. Given Defendants have previously withheld public records on the assertion of executive privilege with no legal basis, both from Plaintiff and from Iowa news reporters, and now continue to assert that same unrecognized privilege with respect to the public records at issue in this case, Defendants' continued compliance with the provisions of chapter 22 cannot be assured without ongoing judicial supervision, and an injunction ordering Defendants to refrain from further violations of Iowa's Open Records Act for one year is appropriate in this case.

Accordingly, Plaintiff respectfully requests this Court enter an injunction requiring Defendants to comply with the requirements of Iowa Code chapter 22 and produce the public records at issue in this case without redaction, and, further, to refrain for one year from any future violations of the Iowa Open Records Act, and to take or refrain from all such other or further action as this Court sees fit to enjoin.

**COUNT III**

**REQUEST FOR ORDER OF MANDAMUS**

80. IAF incorporates the allegations of all preceding paragraphs into this cause of action by this reference.

81. As an alternative to injunctive relief issued pursuant to Iowa Code section 22.10, Iowa Code section 22.5 authorizes enforcement of the provisions of Iowa's Open Records Act and all rights of Plaintiff under the Act by petition for writ of mandamus.

82. Pursuant to section 22.5, a writ of mandamus is available in this action regardless of whether or not any other remedy is also available. Notwithstanding, to the extent declaratory or injunctive relief under section 22.10 is unavailable for any reason, Plaintiff would lack a plain, speedy, and adequate remedy at law, and a writ of mandamus would be appropriate under such circumstances.

83. Pursuant to Iowa Code section 661.1, a writ of mandamus is an order commanding Defendants to do or not to do an act, the performance or omission of which the law enjoins as a duty resulting from their office, trust, or station.

84. All Defendants have the duty, as a government body and its officers and employees, to comply with the requirements of Iowa Code chapter 22 and make public records in their possession available for copying and examination upon request.

85. Defendant Reynolds has a further duty, resulting from her position as chief executive of the State of Iowa, to take care that all laws, including those of Iowa Code chapter 22, are faithfully executed.

86. Plaintiff has the established right, corresponding with Defendants' duties to comply with the provisions of Iowa Code chapter 22, to access for examination and copying the public records in the possession of Defendants, including those at issue here.

87. The records at issue here are public records and Defendants have a duty under Iowa Code chapter 22 to make them available for public inspection.

88. The records at issue here are public records and Plaintiff has a right under Iowa Code chapter 22 to examine and copy them upon request.

89. Defendants have failed to take an action required of them by their duties and have prohibited Plaintiff from exercising its corresponding right.

Accordingly, Plaintiff respectfully requests this Court grant this petition for writ of mandamus and issue said writ commanding Defendants to comply with the provisions of Iowa Code chapter 22 and, particularly, permit Plaintiff to examine and copy the public records at issue in this case, granting all such further and other equitable relief as this Court deems just under the circumstances.

**REQUESTS FOR RELIEF**

Without limiting the foregoing, Plaintiff respectfully requests an order and judgment:

A. Declaring that Defendants violated the provisions of Iowa Code chapter 22 by redacting and withholding the public records at issue here without lawful basis.

B. Enjoining Defendants from further violations of the provisions of Iowa Code chapter 22 for a period of one year and ordering Defendants to produce to Plaintiff the public records unlawfully withheld from Defendants' response to the Request designated R406.

C. As an alternative remedy to injunctive relief, directing Defendants pursuant to a writ of mandamus to comply with the provisions of Iowa Code chapter 22 and produce to Plaintiff the public records unlawfully redacted and withheld from Defendants' response to the Request designated R406.

D. Ordering Defendants, pursuant to Iowa Code section 22.10(3)(c), to pay all costs and reasonable attorney fees, including any appellate attorney fees that may be incurred.

E. Granting all such further and other legal or equitable relief as this Court deems appropriate.

Respectfully submitted,

/s/ Thomas D. Story  
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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon all parties of record via EDMS on April 25, 2025.

*/s/ Thomas D. Story*  
Thomas D. Story