



December 20, 2018

VIA ELECTRONIC MAIL

Alvin Colvin, Records Custodian
115 East State Capitol
Madison, WI 53702
GOVPublicRecords@wisconsin.gov

Re: Public Records Request

Dear Mr. Colvin:

Pursuant to Wisconsin's Public Records Laws, as codified at Wisc. Stat. §§ 19.31-19.39, American Oversight makes the following request for records.

Requested Records

American Oversight requests that the Office of the Governor produce the following as soon as practicable and without delay:

All email communications (including emails, email attachments, or calendar invitations/entries) between James Nicholas "Nick" Ayers and any of the following officials, or anyone communicating on their behalves (such as an executive assistant or administrative assistant):

1. Governor Scott Walker
2. Lt. Governor Rebecca Ann Kleefisch
3. Chief of Staff Eric Schutt
4. Former Chief of Staff Rich Zipperer

Please provide all responsive records from June 1, 2018, through November 30, 2018.

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term "record" in its broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

In addition, American Oversight insists that the Office of the Governor use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete



repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Please search all records regarding agency business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Emails conducting government business sent or received on the personal account of the authority's officer or employee constitutes a record for purposes of Wisconsin's public records laws.¹

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

You should institute a preservation hold on information responsive to this request. American Oversight intends to pursue all legal avenues to enforce its right of access under Wisconsin's public records laws, including litigation if necessary. Accordingly, the Office of the Governor is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and the Office of the Governor can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

Fee Waiver Request

In accordance with Wisc. Statute § 19.35(3)(e), American Oversight requests a waiver of fees associated with processing this request for records because disclosure of the requested records is in the public interest. The requested records are directly related to the work of the highest levels of government leadership in both Wisconsin and the nation. Disclosure of the sources of potential conflicts of interest for high-level public servants—and the approach adopted by such officials with

¹ Wisc. Dep't of J., *Wisconsin Public Records Law Compliance Guide*, Mar. 2018, at 3, available at <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/2018%20PRL%20Compliance%20Guide.pdf>.

the intent to avoid taking actions that might implicate potential conflicts of interest—is critically important to permit the public to evaluate their conduct and the operations of state and federal government. There is clear public interest in this information. Nick Ayers, Chief of Staff to Vice President Mike Pence, served for several years as Executive Director of the Republican Governors Association (RGA), including during the lead-up to Governor Walker’s election—and Mr. Ayers’ ethics have been called into question in connection with his RGA and campaign work, as well as his business activities since joining the Vice President’s Office.² The information sought by this request will shed light on whether and to what extent Governor Walker, and members of his staff, have interacted with Mr. Ayers, and will thus help the public understand what potential sources of conflicts of interest Wisconsin and federal officials may have, and whether and how they have addressed or plan to address those potential conflicts.

American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available. As noted, the subject of this request is a matter of public interest, and the public would benefit from an enhanced understanding of the government’s activities through American Oversight’s analysis and publication of these records. American Oversight’s mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.³ American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior DOJ attorney,⁴ American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ’s process for ethics waivers.⁵ As another example, American Oversight has a project called “Audit the Wall,” where the organization is gathering and analyzing information and commenting on public releases of information related to the administration’s proposed construction of a barrier along the U.S.-Mexico border.⁶

Accordingly, American Oversight qualifies for a fee waiver.

² See, e.g., Vicky Ward, *Mike Pence’s Man in the Swamp*, HUFFINGTON POST HIGHLINE, Mar. 15, 2018, <https://highline.huffingtonpost.com/articles/en/nick-ayers-mike-pence/>.

³ American Oversight currently has approximately 12,100 page likes on Facebook and 49,600 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Dec. 20, 2018); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Dec. 20, 2018).

⁴ *DOJ Civil Division Response Noel Francisco Compliance*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>.

⁵ *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

⁶ *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with the Office of the Governor on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Katherine Anthony at foia@americanoversight.org or 202.897.3918. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left of the first letter.

Austin R. Evers
Executive Director
American Oversight