



March 11, 2020

VIA EMAIL

Records Access Office  
New York State Department of Health  
Corning Tower, Room 2364  
Albany, New York 12237-0044  
[foil@health.ny.gov](mailto:foil@health.ny.gov)

**Re: Freedom of Information Law Request**

Dear Records Access Officer:

Pursuant to the Freedom of Information Law, N.Y. Pub. Off. Law §§ 84-90 (FOIL), American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your agency produce the following within five business days:

All email communications (including emails, email attachments, and calendar invitations) between 1) Commissioner of Health Howard A. Zucker, anyone serving as his chief of staff or in a similar position, and anyone in the Commissioner's office tasked with or responsible for communicating with federal health authorities regarding the COVID-19 outbreak, and 2) the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), the Department of Health and Human Services (HHS), or the Executive Office of the President (EOP) (individuals communicating from these federal entities have email addresses ending in, respectively, **cdc.gov**, **fda.gov**, **hhs.gov**, and **eop.gov**), that contain any of the following key terms:

- a. Test
- b. Testing
- c. coronavirus
- d. "COVID-19"
- e. "SARS-cov-2"
- f. "2019-nCoV"
- g. EUA
- h. "Emergency Use Authorization"
- i. Kit
- j. LDT
- k. CLIA



- l. Wadsworth
- m. Epidemic
- n. Pandemic
- o. Wuhan
- p. Hubei

Please provide all responsive records from January 31, 2020, through March 1, 2020.

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 your agency 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.**

In the event some portions of the requested records are properly exempt from disclosure pursuant to N.Y. Pub. Off. Law § 87(2), 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 FOIL, including litigation if necessary. Accordingly, your agency 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 you 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. Please consult with American Oversight on any fees the agency expects it may assess.

### Conclusion

American Oversight is a 501(c)(3) nonprofit with the mission 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.<sup>1</sup>

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency 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 Dan McGrath at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202.897.4213.

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.

Austin R. Evers  
Executive Director  
American Oversight

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<sup>1</sup> American Oversight currently has approximately 15,000 page likes on Facebook and 94,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Jan. 16, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Jan. 16, 2020).