



June 30, 2020

**VIA ELECTRONIC MAIL**

Open Records Custodian  
Office of the Governor  
206 Washington Street  
111 State Capitol  
Atlanta, GA 30334  
[open.records@georgia.gov](mailto:open.records@georgia.gov)

**Re: Open Records Request**

Dear Records Custodian:

Pursuant to the Georgia Open Records Law (O.C.G.A. § 50-18-70 *et seq.*), American Oversight makes the following request for records.

Last month, Governor Brian Kemp and Secretary of State Brad Raffensperger cancelled an election to select Georgia Supreme Court Justice Keith Blackwell's replacement, enabling Governor Brian Kemp to appoint Blackwell's successor.<sup>1</sup> American Oversight seeks records concerning the decision to cancel a democratic election in favor of a partisan appointment process.

**Requested Records**

American Oversight requests that your office produce the following within three business days, or provide a written description of any responsive records with a timetable for their production within three business days:

All email communications (including emails, complete email chains, email attachments, calendar invitations, and calendar invitation attachments) and text messages (including, but not limited to, messages sent on personal, non-governmental, or nonofficial devices regarding official state business) **sent** by any of the Office of the Governor officials listed below, containing any of the search terms listed below:

**Office of the Governor Officials:**

- i. Governor Brian Kemp, or anyone communicating on his behalf (such as a scheduler or assistant)
- ii. Chief of Staff Tim Fleming
- iii. Deputy Chief of Staff Charles Harper

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<sup>1</sup> Ian Millhiser, *Georgia Republicans Cancel Election for State Supreme Court, so Governor Can Appoint a Republican*, VOX (May 19, 2020 8:30 AM), <https://www.vox.com/2020/5/19/21262376/georgia-republicans-cancel-election-state-supreme-court-barrow-kemp-blackwell>.



- iv. Executive Counsel David Dove
- v. Executive Legal Assistant Rhonda Barnes
- vi. Director of Communications and Deputy Executive Counsel Candice Broce
- vii. Press Secretary Cody Hall

**Search Terms:**

- |                     |                        |                             |
|---------------------|------------------------|-----------------------------|
| 1. Barrow           | 14. Walmsley           | 27. Retirement              |
| 2. Beskin           | 15. Boggs              | 28. Retiring                |
| 3. Blackwell        | 16. Peterson           | 29. "Superior Court Judge"  |
| 4. Melton           | 17. Bethel             | 30. "Cancel the election"   |
| 5. Nahmias          | 18. Ellington          | 31. "Cancelled election"    |
| 6. "Sarah Warren"   | 19. "judicial circuit" | 32. "election cancellation" |
| 7. "Justice Warren" | 20. "Supreme Court"    | 33. Qualifying              |
| 8. McMillian        | 21. Appoint            |                             |
| 9. Ballard          | 22. Appointing         |                             |
| 10. Trammell        | 23. Successor          |                             |
| 11. Cowart          | 24. Vacancy            |                             |
| 12. "Sarah Wall"    | 25. Vacancies          |                             |
| 13. "Judge Wall"    | 26. "sitting justice"  |                             |

In an effort to accommodate the Office of the Governor and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails **sent** by the specified officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both (i) Governor Kemp's response to an email containing one of the specified search terms and (ii) the initial received message are responsive to this request and should be produced.

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

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

We understand that your office's capacity may be impacted by the COVID-19 outbreak and response efforts. Should that be the case, we would be happy to discuss potential streamlining or narrowing of our request, reasonable delays in processing this request, or other accommodations. Please feel free to contact us at the telephone number listed in the final paragraph of this letter; we look forward to working with you.

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. 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 office 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; your office 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, 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.

Please take appropriate steps to ensure that records responsive to this request are not deleted by your office before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

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 Secretary of State 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.

## **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>2</sup>

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<sup>2</sup> American Oversight currently has approximately 15,600 page likes on Facebook and 103,600 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited June 18, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited June 18, 2020).

We share a common mission to promote transparency in government. American Oversight looks forward to working with you 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 Khahilia Shaw at [records@americanoversight.org](mailto:records@americanoversight.org) or 202.539.6507.

Sincerely,

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

Austin R. Evers  
Executive Director  
American Oversight