



August 11, 2020

VIA EMAIL

Jennifer Scutchfield
Assistant Secretary of State
Office of Kentucky Secretary of State
700 Capital Ave., Ste. 152
Frankfort, KY 40601
jscutchfield@ky.gov

Re: Public Information Request

Dear Public Information Officer:

Pursuant to the Kentucky Open Records Act (KORA), KRS §§ 61.870 et seq., American Oversight makes the following request for public records.

Requested Records

American Oversight requests that the Office of the Secretary of State produce copies of the following records:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by (a) any of the officials listed below (or anyone communicating on their behalf, such as a scheduler or assistant) to (b) Senator Mitch McConnell or anyone who works for Senator McConnell, including anyone whose email ends in @mcconnell.senate.gov or @teammitch.com.

State Officials:

- i. Secretary of State Michael Adams
- ii. Assistant Secretary of State Jennifer Scutchfield
- iii. Director of Administration and Elections Heather Quinn
- iv. Senior Advisor David Harris, or anyone communicating on his behalf
- v. Director of Communications Miranda Combs
- vi. Director of Business and Deputy General Counsel Michael Rollin Wilson

In an effort to accommodate your agency and reduce the number of responsive records to be processed and produced, American Oversight has limited its request to communications sent by the listed custodians. To be clear, however, American Oversight still requests that complete email chains be produced, displaying the sent messages, the prior received



messages, and any subsequent messages in each email chain. This means that a custodian's response to an email, the initial received message, and any prior or subsequent messages within the same email thread are responsive to this request and should be produced.

Please provide all responsive records from January 6, 2020, to the date the search is conducted.

Pursuant to KRS § 61.880(1), American Oversight requests that you notify us within three workdays as to whether you will comply with this request.

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; governmental authorities 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 official 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 a governmental authority's officer or employee constitutes a record.

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 your office 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.

Statement of Noncommercial Purpose

This request is for noncommercial purposes, and American Oversight respectfully requests a waiver of any fees associated with processing this request for records. To the extent any fees are charged, pursuant to KRS § 61.874(3), American Oversight asks that such fees be limited to the actual cost of reproduction and exclude the cost of agency staff time.

This request is primarily and fundamentally for non-commercial purposes. American Oversight seeks records regarding the actions of Kentucky public officials responsible for managing elections amid an ongoing public health crisis. Records with the potential to shed light on this matter, including whether and to what extent federal lawmakers have been involved in the state's efforts, would contribute significantly to public understanding of operations of the government.

Furthermore, as a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight's financial interest. 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.¹

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.² Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration's contacts with Ukraine and analyses of those contacts;³ posting records and editorial content about the federal government's response to the Coronavirus pandemic;⁴ posting records received as part of American

¹ American Oversight currently has approximately 15,580 followers on Facebook and 104,300 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited July 20, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited July 20, 2020).

² See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

³ *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

⁴ See generally *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; see, e.g., *CDC Calendars from 2018 and 2019: Pandemic-Related*

Oversight’s “Audit the Wall” project to gather and analyze information related to the administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁵ the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers;⁶ and posting records and analysis of federal officials’ use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.⁷

Accordingly, American Oversight qualifies for a fee waiver.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with your office 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 or 202.539.6507.

Sincerely,



Austin R. Evers
Executive Director
American Oversight

Briefings and Meetings, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

⁵ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

⁶ *DOJ Records Relating to Solicitor General Noel Francisco’s Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *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>.

⁷ See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo’s 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.