



May 20, 2021

**VIA EMAIL**

Norm Moore  
Senate Public Records Attorney  
400 W. Congress St., Ste. 201  
Tucson, AZ 85701  
[nmoore@azleg.gov](mailto:nmoore@azleg.gov)

Senator Karen Fann  
Arizona State Capitol Complex  
1700 W. Washington Street  
Phoenix, AZ 85007  
[kfann@azleg.gov](mailto:kfann@azleg.gov)

**Re: Public Records Request**

Dear Senate Public Records Attorney & Senator Fann:

Pursuant to the Arizona Public Records Law, A.R.S. §§ 39-121 et seq., American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that the Office of Senator Fann promptly produce the following records:

1. All records reflecting the full content of any post published to ALEC Connect<sup>1</sup> by Sen. Fann (including the original post and the complete comment thread).
2. All records reflecting the full content of any ALEC Connect posts (including the original post and the complete comment thread) on which Sen. Fann commented.

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<sup>1</sup> ALEC Connect is the online portal of the American Legislative Exchange Council. As a member of ALEC, Senator Fann has access to ALEC Connect and its content. *See Convening Ideas Across the States*, State Policy Network, Dec. 5, 2019, <https://spn.org/blog/convening-ideas-across-the-states/>; Nick Surgey, *Weapons, Tobacco Makers, Koch Group Are Among Newest ALEC Members*, Documented, Dec. 2, 2020, <https://documented.net/2020/11/weapons-tobacco-makers-koch-group-are-among-newest-alec-members/>.



3. All records reflecting the full content of any ALEC Connect posts or comments (including the original post and the complete comment thread) mentioning or tagging Sen. Fann by name, username, or email address.
4. All files uploaded to ALEC Connect by Sen. Fann.
5. All files downloaded from ALEC Connect by Sen. Fann, whether to a government or personal device.
6. All records reflecting the full content of any written exchanges, including chats, concerning legislation or policy issues on ALEC Connect in which Sen. Fann participated. Please note that American Oversight does not seek, and that this request specifically excludes, chats with ALEC support staff concerning information technology troubleshooting or related issues.
7. All records reflecting the content of Sen. Fann's ALEC Connect member profile page.
8. All records reflecting any expense report submitted through ALEC Connect by Sen. Fann, any communications (including messages sent through ALEC Connect or by email) concerning any such expense report, and any records reflecting reimbursement, approval, rejection, or other action in response to any such expense report.

Please provide all responsive records from August 1, 2019, through the date the search is conducted.

### **Statement of Noncommercial Purpose**

This request is made for noncommercial purposes. American Oversight seeks records regarding Senator Fann's affiliation with ALEC, a group that convenes state legislators to coordinate legislative priorities and solutions. ALEC's influence on lawmakers is a topic of substantial public interest.<sup>2</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the

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<sup>2</sup> Yvonne Wingett Sanchez and Rob O'Dell, *What is ALEC? 'The Most Effective Organization' for Conservatives, Says Newt Gingrich*, USA Today (April 5, 2019, 4:15 PM), <https://www.usatoday.com/story/news/investigations/2019/04/03/alec-american-legislative-exchange-council-model-bills-republican-conservative-devos-gingrich/3162357002/>; see also David Armiak, *UW-Madison Chancellor and State Legislators Use Digital Dodges to Hide Records from the Public*, Milwaukee J. Sentinel (May 4, 2021, 2:32 PM), <https://www.jsonline.com/story/news/solutions/2021/05/04/uw-madison-chancellor-legislators-use-hide-records-public/4943305001/> (discussing ALEC members' policy discussions and other activities related to their official duties).

government, including whether and to what extent Arizona state legislators have been influenced in their official duties by ALEC or ALEC members.

Because American Oversight is a 501(c)(3) nonprofit, this request is not in American Oversight's financial interest and is not made for a commercial purpose. 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.<sup>3</sup>

Because this request is made for noncommercial purposes, American Oversight requests that any fees charged in connection with processing this request be limited to copying and postage charges, if applicable.<sup>4</sup> Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

### **Guidance Regarding the Search & Processing of Requested Records**

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records. As you know, records subject to the Arizona Public Records Law are broadly defined, including “all books, papers, maps, photographs or other documentary materials, *regardless of physical form or characteristics* [.]”<sup>5</sup> Furthermore, any records made or received by your office “in connection with the transaction of public business” and “appropriate for preservation . . . as evidence of the of the organization, functions, policies, decisions, procedures, operations or other activities of the government,”<sup>6</sup> and/or “reasonably necessary or appropriate to maintain an accurate knowledge of [your office’s] official activities,”<sup>7</sup> are subject to the Law, regardless of physical or electronic location.

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<sup>3</sup> American Oversight currently has approximately 15,700 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 12, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 12 2021).

<sup>4</sup> A.R.S. § 39-121.01(D)(1); *see also Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332 (Ct. App. 1980). Furthermore, because this request is for noncommercial purposes, additional fees provided for under A.R.S. § 39-121.03(A) are not applicable and should not be assessed.

<sup>5</sup> A.R.S. § 41-151(2)(a) (emphasis added).

<sup>6</sup> *Id.*

<sup>7</sup> A.R.S. § 39-121.01(B).

- In conducting your search, please understand the terms “record,” “document,” and “information” in their 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 for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- If any records are withheld in full or in part, pursuant to A.R.S. § 39-121.01(D)(2), please provide an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld.
- 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 a request is denied in whole, please state specifically why 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 the agency 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.

### **Conclusion**

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. 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 your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF 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.

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, please contact Khahilia Shaw at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 539-6507.

Sincerely,

/s/ Khahilia Shaw  
Khahilia Shaw  
on behalf of  
American Oversight