



June 15, 2021

VIA EMAIL

Senator Steve Nass
Wisconsin State Capitol
Room 10 South
Madison, WI 53707
sen.nass@legis.wisconsin.gov

Re: Public Records Law Request

Dear Senator Nass:

Pursuant to Wisconsin's public records law, Wis. Stat. §§ 19.31–19.39, American Oversight makes the following request for copies of records.

Following the November 2020 presidential election, Wisconsin state legislators announced a possible investigation into the results and the election's administration, citing the need to verify baseless allegations of fraud.¹ Assembly Campaigns and Elections Committee vice chair Representative Joe Sanfelippo indicated that the legislature should consider overturning the election pending the results of any investigation² and future committee chair Representative Janel Brandtjen stated in an email to her constituents: "There is no doubt that after the filed affidavits and lawsuit, Donald Trump won this election in Wisconsin and several methods of fraud were used to change the outcome."³ Representatives Brandtjen and Sanfelippo later signed a letter requesting that former Vice President Pence refuse to certify the results of the election.⁴

¹ Patrick Marley, *Top Republican Says an Investigation of Wisconsin's Election Is Unlikely to Take Away Biden's Win in the State*, Milwaukee J. Sentinel (updated Nov. 12, 2020, 8:42 AM CST),

<https://www.jsonline.com/story/news/politics/elections/2020/11/11/wisconsin-republicans-say-election-probe-likely-wont-change-results/6248225002/>.

² Melanie Conklin, *Assembly Elections Committee Leader Suggests Illegal Actions To Overturn Wisconsin's Election*, Wis. Examiner, Nov. 10, 2020,

<https://wisconsinexaminer.com/2020/11/10/assembly-elections-committee-leader-suggests-illegal-actions-to-overturn-wisconsins-election/>.

³ Melanie Conklin, *GOP Rep: 'There Is No Doubt... Donald Trump Won This Election'*, Wis. Examiner, Dec. 9, 2020, <https://wisconsinexaminer.com/brief/gop-rep-there-is-no-doubt-donald-trump-won-this-election/>.

⁴ Scott Bauer, *Wisconsin Rep. Fitzgerald Not Sure If Trump To Blame for Riot*, Associated Press, Jan. 14, 2021, <https://apnews.com/article/election-2020-capitol-siege-wisconsin-elections-michael-pence-7e1828bf8aa8f176b7ff07d692e5e1e3>.



American Oversight seeks records with the potential to shed light on attempts by Wisconsin state legislators to cast doubt on the administration or results of the November 2020 presidential election.

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:⁵

All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent by Senator Steve Nass anyone communicating on their behalf, such as a scheduler or assistant, or anyone serving as their chief of staff, regarding the administration of or efforts to challenge the results of the November 2020 presidential election, including allegations of fraud, the role of external funding to local election administrators, attempts to decertify the results, and any investigations into the results or election process. In addition to the legislator’s official email accounts, the search should include emails sent or received from the specified officials’ personal accounts if they were used to conduct official business.

For this request, American Oversight believes that records containing the terms below are likely to be responsive records, and requests that your office, at a minimum, employ the following search terms to identify responsive records:

Suggested Search Terms:

- | | |
|-------------------------|---------------------------------|
| 1. “January 6” | 20. Paxton |
| 2. “Jan 6” | 21. Pence |
| 3. “Jan. 6” | 22. Petersen |
| 4. 1/6 | 23. “Ron Johnson” |
| 5. Audit | 24. “Sen. Johnson” |
| 6. Borrelli | 25. “Senator Johnson” |
| 7. Certify | 26. Smartmatic |
| 8. Certification | 27. Spindell |
| 9. Decertify | 28. Subpoena |
| 10. Dominion | 29. “Stop the Steal” |
| 11. Elector | 30. “Supreme Court” |
| 12. “Electoral College” | 31. SCOTUS |
| 13. Forensic | 32. Troupis |
| 14. Harbor | 33. “Wisconsin Voters Alliance” |
| 15. Heuer | 34. WVA |
| 16. Kaardal | 35. Zuckerberg |
| 17. Knudson | 36. Zuckerbucks |
| 18. Mastriano | 37. “Zuck bucks” |
| 19. Patriots | |

⁵ Wis. Stat. § 19.35(4)(a).

In an effort to accommodate your agency 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 Sen. Nass's response to an email containing one of the key terms listed above and the initial received message are responsive to this request and should be produced.

Please provide all responsive records from November 3, 2020, through January 10, 2021.

Fee Waiver Request

In accordance with Wis. Stat. § 19.35(3)(e), American Oversight respectfully requests that the records be produced without charge. Providing American Oversight with a waiver of fees is in the “public interest” because American Oversight will, in accordance with its organizational mission, make the records available to the public without charge. These disclosures will likely contribute to a better understanding of relevant government procedures by the general public.

American Oversight's work is aimed solely at serving the public interest. 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. Rather, American Oversight's mission is to serve the public by promoting transparency in government, educating the public about government activities, and ensuring 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.⁶ American Oversight also makes materials it gathers available on its public

⁶ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Wisconsin Documents Offer Window into Early Uncertainty over COVID-19*, American Oversight, <https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19>.



website⁷ and promotes their availability on social media platforms, such as Facebook and Twitter.⁸

The public has a significant interest in attempts by Wisconsin public officials to challenge the results of the November 2020 election.⁹ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether or to what extent Wisconsin officials acted in coordination with or at the request of external actors. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

American Oversight asks that if its request for a fee waiver is denied in whole or in part, that you contact us prior to incurring any costs.

Guidance Regarding the Search & Processing of Requested Records

Please search all locations and systems likely to have responsive 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 the authority's officer or employee constitutes a record for purposes of Wisconsin's public records laws.¹⁰

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.¹¹ 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 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

⁷ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁸ American Oversight currently has approximately 15,660 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 9, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited June 9, 2021).

⁹ *See supra*, notes 1-4.

¹⁰ Wisc. Dep't of J., *Wisconsin Public Records Law Compliance Guide*, Oct. 2019, at 3, <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf>.

¹¹ Wis. Stat. § 19.36(6).

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 Emma Lewis at records@americanoversight.org or (202) 919-6303. 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,

/s/ Emma Lewis
Emma Lewis
on behalf of
American Oversight