



October 4, 2021

VIA EMAIL

Colleen Byelick
Chief Deputy and General Counsel
Nebraska Secretary of State
1445 K Street, Suite 2300
Lincoln, NE 68509
Colleen.byelick@nebraska.gov

Re: Public Records Statute Request

Dear Record Custodian:

Pursuant to the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that the Nebraska Secretary of State produce the following records within four business days:

1. All text message threads or message threads on messaging applications similar in form to text messages (such as Signal, WhatsApp, Facebook Messenger, Twitter DMs, etc.) between a) Secretary of State Robert Evnen, and b) any of the external individuals listed below:

External Individuals:

- i. John Merrill, Alabama Secretary of State
 - ii. Tre Hargett, Tennessee Secretary of State
 - iii. Michael Adams, Kentucky Secretary of State
 - iv. Michael Watson, Mississippi Secretary of State
 - v. Christi Jacobsen, Montana Secretary of State
 - vi. Frank LaRose, Ohio Secretary of State
 - vii. Mac Warner, West Virginia Secretary of State
 - viii. Kim Wyman, Washington Secretary of State
 - ix. Laurel Lee, Florida Secretary of State
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar attachments) between any of the Nebraska Secretary of State officials listed in Column A, below, and any of the external parties listed in Column B, below.

| | |
|--|-----------------------------------|
| Column A: Nebraska Secretary of State Officials | Column B: External Parties |
|--|-----------------------------------|



| | |
|--|---|
| <ul style="list-style-type: none"> i. Robert Evnen, Secretary of State, or anyone serving as his scheduler or assistant ii. Colleen Byelick, Chief Deputy and General Counsel iii. Cindi Allen, Assistant Secretary of State iv. Joni Sailors, Executive Assistant and Scheduler | <p><u>Republican State Leadership Committee/Republican Secretaries of State Committee:</u></p> <ul style="list-style-type: none"> i. John Merrill, Alabama Secretary of State ii. Anyone communicating from an email address ending in sos.alabama.gov iii. Tre Hargett, Tennessee Secretary of State iv. Anyone communicating from an email address ending in tn.gov v. Michael Adams, Kentucky Secretary of State vi. Anyone communicating from an email address ending in ky.gov vii. Michael Watson, Mississippi Secretary of State viii. Anyone communicating from an email address ending in sos.ms.gov ix. Christi Jacobsen, Montana Secretary of State x. Anyone communicating from an email address ending in mt.gov xi. Frank LaRose, Ohio Secretary of State xii. Anyone communicating from an email address ending in ohio.sos.gov xiii. Mac Warner, West Virginia Secretary of State xiv. Anyone communicating from an email address ending in wvsos.gov xv. Kim Wyman, Washington Secretary of State xvi. Anyone communicating from an email address ending in sos.wa.gov xvii. Laurel Lee, Florida Secretary of State xviii. Anyone communicating from an email address ending in dos.myflorida.com xix. Michigan State Senator Ruth Johnson xx. Dee Duncan, President and Executive Director xxi. Edith Jorge-Tuñon, Deputy Executive Director |
|--|---|

| | |
|--|---|
| | xxii. Joy Lee, General Counsel xxiii. Andrew Romeo, Communications Director xxiv. Anyone communicating from an email address ending in rslc.gop <u>External Organizations</u> (including, but not limited to, anyone communicating from an email address ending in the listed domains): i. The Heritage Foundation (heritage.org) ii. Heritage Action for American (heritageaction.com) iii. American Legislative Exchange Council (ALEC) (alec.org) iv. Public Interest Legal Foundation (publicinterestlegal.org) v. True the Vote (truethevote.org) vi. Family Research Council (frc.org) vii. Susan B. Anthony List (sba-list.org) viii. American Principles Project (americanprinciplesproject.org) ix. Election Transparency Initiative (electiontransparency.org) x. FreedomWorks (freedomworks.org) xi. Tea Party Patriots (teapartypatriots.org) xii. Judicial Crisis Network (judicialnetwork.org) xiii. Honest Elections Project (honestelections.org) xiv. Federalist Society (fed-soc.org) xv. America First Legal (aflegal.org) xvi. America First Policy Institute (americafirstpolicy.com) |
|--|---|

3. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar attachments) by any of the Nebraska Secretary of State officials listed in Column A, above, containing any of the key terms listed below.

Key Terms:

- | | |
|---|------------------------------|
| i. RSLC | v. Heritage |
| ii. “Republican State Leadership Committee” | vi. ALEC |
| iii. RSSC | vii. “Public Interest Legal” |
| iv. “Republican Secretaries of State Committee” | viii. PILF |
| | ix. “True the Vote” |
| | x. TTV |

| | | | |
|--------|------------------------------------|--------|----------------------|
| xi. | “Family Research” | xix. | “Judicial Crisis” |
| xii. | FRC | xx. | “Honest Elections” |
| xiii. | “Susan B. Anthony” | xxi. | “Federalist Society” |
| xiv. | “SBA List” | xxii. | FedSoc |
| xv. | “American Principles” | xxiii. | “Von Spakovsky” |
| xvi. | “Election Transparency Initiative” | xxiv. | Engelbrecht |
| xvii. | FreedomWorks | xxv. | Cuccinelli |
| xviii. | “Tea Party Patriots” | xxvi. | “Christian Adams” |

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited item 2 of its request to emails sent by the listed 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 Secretary Evnen’s response to an email mentioning the Republican State Leadership Committee and the initial received message are responsive to this request and should be produced.

For all parts of this request, please provide all responsive records from January 1, 2021, through the date this request is received by your office.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee. Pursuant to Neb. Rev. Stat. § 84-712(3)(b), we further request that any fees are limited to the actual costs and exclude fees for search time in excess of four hours.

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, regardless of format, medium, or physical characteristics.
- 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.

- 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.¹ 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.

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.

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.²

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

¹ Neb. Rev. Stat. § 84-712.06.

² American Oversight currently has approximately 15,630 page likes on Facebook and 107,700 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Aug. 31, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Aug. 31, 2021).

understand any part of this request, please contact Emma Lewis at records@americanoversight.org or (202) 919-6303.

Sincerely,

/s/ Emma Lewis

Emma Lewis
on behalf of
American Oversight