



July 26, 2022

VIA EMAIL

Bud Fitch
Elections Legal Counsel
Department of State
107 North Main Street
Concord, NH 03301
elections@sos.nh.gov

Re: Right-to-Know Request

Dear Records Custodian:

Pursuant to Part I, Article 8 of the New Hampshire Constitution, and New Hampshire's Right-to-Know Law, as codified at RSA Chapter 91-A, American Oversight makes the following request for records.

In April 2022, Acting Secretary of State David Scanlan announced the creation of the Special Committee on Voter Confidence with the stated intent of addressing the decline in voters' faith in elections.¹ Among those Acting Secretary Scanlan appointed to the committee is Ken Eyring, who has previously promoted a false narrative of widespread fraud in the November 2020 election.² Records produced to American Oversight by the Office of the Secretary of State indicate that Eyring had been in contact with former Secretary of State Bill Gardner with the apparent intent of involving election conspiracists Phil Waldron, Shiva Ayyadurai, and Jovan Hutton Pulitzer in a review of voting machines in Windham, NH.³

American Oversight seeks records with the potential to shed light on communications between officials in the Office of the Secretary of State and individuals or entities who have attempted to overturn or cast doubt on the results of the November 2020 election.

¹ New Hampshire Department of State, *Special Committee on Voter Confidence: Information on the Special Committee on Voter Confidence*, <https://www.sos.nh.gov/elections/information/notices/special-committee-voter-confidence#:~:text=The%20New%20Hampshire%20Special%20Committee,Cook%20will%20chair%20the%20Committee>.

² Amanda Gokee, *Secretary of State's Pick for Voter Confidence Commission Draws Criticism*, N.H. Bulletin (May 4, 2022, 5:50 AM), <https://newhampshirebulletin.com/2022/05/04/scanlans-pick-for-voter-confidence-commission-faces-criticism/>.

³ American Oversight, *New Hampshire Secretary of State Communications with Stop the Steal*, at. 8, 10, 30, 60, <https://www.documentcloud.org/documents/22082199-new-hampshire-secretary-of-state-communications-with-stop-the-steal#document/p60/a2124123>.



Requested Records

American Oversight requests that your office produce the following records within five business days:

All email communications (including emails, email attachments, calendar invitations, calendar invitation attachments) sent or received by the listed officials in the Office of the Secretary of State of New Hampshire regarding Ken Eyring's appointment to the Special Committee on Voter Confidence.

Office of the Secretary of State Officials:

1. Acting Secretary of State David Scanlan, or anyone communicating on his behalf, such as a scheduler or assistant
2. Senior Deputy Secretary of State Patricia Lovejoy
3. Chief of Staff David Lang

Please provide all responsive records from March 1, 2022, through May 8, 2022.

Pursuant to RSA § 91-A:4, IV, I ask that any charges in connection with processing this request for records not exceed the actual cost of providing the copy, if any.

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

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. For instance, if the request seeks "communications," please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- 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.
- In the event that any responsive records are exempt from disclosure, in whole or in part, please state specifically the justification for the withholding with reference to the applicable section of the Right-to-Know Law or other legal authority that exempts the information from disclosure.
- 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.

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.⁴

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

Sincerely,

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

⁴ American Oversight currently has approximately 16,000 followers on Facebook and 118,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited July 19, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited July 19, 2022).