VIA EMAIL

Senate President Chris Kapenga
Wisconsin State Capitol, Room 220 South
2 East Main St.
Madison, WI 53703
Sen.Kapenga@legis.wisconsin.gov

Re: Public Records Law Request

Dear Senate President Chris Kapenga:

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

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:\footnote{Wis. Stat. § 19.35(4)(a).}

All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) between (a) Senate President Chris Kapenga, or anyone communicating on their behalf (such as a legislative assistant or scheduler), and (b) any of the individuals or any representatives of any of the organizations listed below (including, but not limited to, at the listed email addresses or domains).

External Parties:

\begin{itemize}
  \item{i.} Anyone communicating on behalf of Honest Elections Project (@honestelections.org)
  \item{ii.} Jason Snead (jsnead@honestelections.org and jason@jasonsnead.com)
  \item{iii.} Anyone communicating on behalf of American Legislative Exchange Council (@alec.org and @alecaction.org)
  \item{iv.} Michael Bowman (mbowman@alec.org)
  \item{v.} Anyone communicating on behalf of Heritage Foundation (@heritage.org and @heritageaction.com)
  \item{vi.} Public Interest Legal Foundation (@publicinterestlegal.org and @electionlawcenter.com)
  \item{vii.} Hans von Spakovsky (hans.vonspakovsky@heritage.org)
  \item{viii.} Jason Torchinsky (jtorchinsky@hvjt.law and jtorchinsky@holtzmanvogel.com)
\end{itemize}
Please provide all responsive records from September 1, 2021, through the date the search is conducted.

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. 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.

The public has a significant interest in legislative efforts regarding the administration of elections in Wisconsin. Records with the potential to shed light on this matter

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5 Adam Edelman and Peter Nicholas, ‘Rogue Governor’ Scenario Spooks Senators Working to Prevent Stolen Elections, NBC News (May 5, 2022, 4:46AM),
would contribute significantly to public understanding of operations of the
government, including whether and to what extent public officials have discussed those
efforts with outside parties. 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**

American Oversight seeks all responsive records regardless of format, medium, or
physical characteristics. In conducting your search, please understand the term “record”
in its 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 includes any attachments to these
records. No category of material should be omitted from search, collection, and
production.

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.⁶

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.⁷ 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

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⁷ 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 Sarah Colombo at records@americanoversight.org or (202) 869-5244. 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/ Sarah Colombo
Sarah Colombo
on behalf of
American Oversight