



May 5, 2023

VIA FACSIMILE

Assistant Attorney General Philip Michael
Kansas Attorney General's Office
Memorial Hall
120 SW 10th St., 2nd Floor
Topeka, KS 66612
Fax: (785) 296-6296

Re: Kansas Open Records Act Request

Dear Records Custodian:

Pursuant to the Kansas Open Records Act (KORA), Kan. Stat. § 45-215 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that the Office of the Attorney General produce the following records within three business days:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) the officials listed below, and (b) any of the external entities listed below or anyone communicating on behalf of any of the entities listed below (including, but not limited to, from email addresses ending in the listed domains).

Officials:

- a. Attorney General Kris Kobach, or anyone communicating on his behalf, such as an assistant or scheduler
- b. Chief of Staff Charles Dalton
- c. Senior Adviser J.R. Claeys
- d. Chief Deputy Attorney General Dan Burrows
- e. Anyone acting as Communications Director or spokesperson for Attorney General Kobach

External Entities:

- a. Danielle Gray, or anyone communicating on behalf of Walgreens Boots Alliance (walgreensbootsalliance.com)
- b. Tom Moriarty, or anyone communicating on behalf of CVS Health (cvshealth.com)
- c. Paul Gilbert, or anyone communicating on behalf of Rite Aid (riteaid.com)



- d. Juliette Pryor, or anyone communicating on behalf of Albertsons Companies (Albertsons.com)
- e. John Sullivan, or anyone communicating on behalf of Costco (Costco.com)
- f. Christine Wheatley, or anyone communicating on behalf of Kroger (kroger.com)
- g. Rachel Brand, or anyone communicating on behalf of Walmart (Walmart.com)
- h. AmerisourceBergen (amerisourcebergen.com)
- i. Danco Laboratories (earlyoptionpill.com)

Please note that American Oversight does not seek, and that part one of this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if an official received a mass-distribution news clip email from Walmart, that initial email would not be responsive to this request. However, if an official forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

- 2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the officials listed above in part one and containing any of the following key terms:

Key Terms:

- i. Walgreens
- ii. CVS
- iii. "Rite Aid"
- iv. Albertsons
- v. Costco
- vi. Walmart
- vii. Kroger
- viii. AmerisourceBergen
- ix. Danco
- x. Mifeprex
- xi. REMS
- xii. "Risk Evaluation and Mitigation Strategy"

For part two of this request, in an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight only seeks email communications 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 an official's response to an email containing a key term and the initial received message are responsive to this request and should be produced.

For both parts of this request, please provide all responsive records from January 3, 2023, through the date the search is conducted.

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.
- 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 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.¹

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 Rachel Baron at records@americanoversight.org or (202) 897-2465.

Sincerely,

/s/ Rachel Baron
Rachel Baron
on behalf of
American Oversight

¹ American Oversight currently has approximately 16,000 followers on Facebook and 112,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 2, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 2, 2023).