



May 9, 2023

VIA ONLINE FORM

Missouri Department of Health and Human Services
Custodian of Records
912 Wildwood
P.O. Box 570
Jefferson City, MO 65102
Via Online Form

Re: Sunshine Law Request

Dear Custodian of Records:

Pursuant to the Missouri Sunshine Law, Mo. Rev. Stat. §§ 610.010 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce copies of 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) any Department of Health and Senior Services official listed below, and (b) any Office of the Missouri Attorney General official listed below.

Department of Health and Senior Services Officials:

- a. Acting Director Paula Nickelson
- b. Deputy Director Laura Naught
- c. Deputy Director & General Counsel Richard Moore
- d. Director of the Office of Governmental Policy and Legislation Ben Terrell
- e. Division Director of Community and Public Health Lori Brenneke
- f. Director of Health Policy Daniel Bogle

Office of the Missouri Attorney General Officials:

- a. Attorney General Andrew Bailey
- b. Chief of Staff to the Attorney General Jay Atkins
- c. Solicitor General Josh Divine
- d. Deputy Attorney General for Legal Policy Maddie McMillan Green
- e. Senior Advisor and Chief Counselor Raymond Wagner, Jr.
- f. Deputy Attorney General William Corrigan



- g. Chief Counsel for Governmental Affairs Jason Lewis
 - h. Anyone communicating from an email address ending in ago.mo.gov
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) **sent by** any Department of Health and Senior Services official listed above in part 1 and containing any of the key terms listed below.

Key Terms:

- 1. “gender transition”
- 2. “experimental procedure”
- 3. “experimental procedures”
- 4. “puberty blocker”
- 5. “puberty blocking”
- 6. “gender identity”
- 7. “gender dysphoria”
- 8. “gender-affirming”
- 9. “gender affirming”
- 10. Transgender
- 11. Trans
- 12. “Free Press”
- 13. “Jamie Reed”
- 14. “SB 49”
- 15. “Senate Bill 49”
- 16. SB49
- 17. “SAFE Act”
- 18. “Save Adolescents from Experimentation”
- 19. “social contagion”
- 20. “emergency regulation”

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, **American Oversight has limited part 2 of this 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 an officials’ response to an email and the initial received message are responsive to this request and should be produced.

3. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) any Department of Health and Senior Services official listed above in part 1, and (b) any of the external entities or individuals listed below or anyone communicating on behalf of any of the entities listed below (including, but not limited to, at the listed email addresses and/or domains).

External Entities or Individuals:

- i. Alliance Defending Freedom (adflegal.org)
- ii. Family Policy Alliance (familypolicyalliance.com)
- iii. American College of Pediatricians or ACPeds (acpeds.org)
- iv. Quentin Van Meter (kidendo@comcast.net)
- v. Child and Parental Rights Campaign (childparentrights.org)
- vi. American Family Association (afa.net)
- vii. Christian Medical & Dental Associations (cmda.org)
- viii. Concerned Women for America (concernedwomen.org or cwfa.org) or anyone communicating on behalf of Concerned Women of America Missouri, including Bev Ehlen
- ix. Courage International (couragerc.org)
- x. Lisa Littman, or anyone communicating on behalf of GenSpect (genspect.org)
- xi. Catholic Medical Association (cathmed.org)
- xii. Tony Perkins or anyone communicating on behalf of Family Research Council (frc.org or frcaction.org)
- xiii. Independent Women's Forum (iwf.org)
- xiv. Eagle Forum (eagleforum.org)
- xv. American Principles Project (americanprinciplesproject.org)
- xvi. Promise to America's Children (promisetoamericaschildren.org)
- xvii. Liberty Counsel (lc.org)
- xviii. American Association of Pro-Life Obstetricians and Gynecologists (aaplog.org)
- xix. Ethics and Public Policy Center (eppc.org)
- xx. Science for Evidence-Based Gender Medicine (segm.org)
- xxi. Partners for Ethical Care (partnersforethicalcare.com)
- xxii. Kelsey Coalition (kelseycoalition@gmail.com)
- xxiii. Parents of ROGD Kids (parentsofrogdkids.com)
- xxiv. Moms for Liberty (momsforliberty.org or libertysqr.com)
- xxv. Chris Barrett (gag.missouri@gmail.com)
- xxvi. John Uhler
- xxvii. Michael Laidlaw, MD (drlaidlaw.com)
- xxviii. Timothy Faber, or anyone communicating on behalf of Missouri Baptist Convention (mobaptist.org)
- xxix. James Harris, including anyone communicating on behalf of The J. Harris Company (thejharrisco.com)
- xxx. Opportunity Solutions Project (solutionsproject.org)
- xxxi. Missouri State Senator Mike Moon (mike.moon@senate.mo.gov), or Legislative Staffers Jeff Mark or Luke Schrandt
- xxxii. Sarah Haskins, Missouri Senate Research Office Staff Attorney (sarah.haskins@senate.mo.gov)
- xxxiii. Missouri State Senator Denny Hoskins (denny.hoskins@senate.mo.gov), or Legislative Staffers Amanda Bell or Kelley Rogers
- xxxiv. Missouri State Senator Rick Brattin (rick.brattin@senate.mo.gov), or Legislative Staffers Stephen Ahlers or Tom Estes

- xxxv. Missouri State Senator Ben Brown (ben.brown@senate.mo.gov), or Legislative Staffers Marybeth Bruns or Frank Catanzaro
- xxxvi. Missouri State Senator Jill Carter (jill.carter@senate.mo.gov), or Legislative Staffers Sophia Shore or Zeke Spieker
- xxxvii. Missouri State Senator Mike Cierpiot (mike.cierpiot@senate.mo.gov), or Legislative Staffers Denise Cantrell or Michelle Pleus
- xxxviii. Missouri State Senator Tony Leutkemeyer (tony.leutkemeyer@senate.mo.gov), or Legislative Staffers Brad Green or Amanda Holtmeyer
- xxxix. Missouri State Senator Cindy O’Laughlin (cindy.olaughlin@senate.mo.gov), or Legislative Staffers Lois Bragg, Drew Dampf, Lisa Garrison, or Coltin Wright
- xl. Missouri State Senator Mary Elizabeth Coleman (maryelizabeth.coleman@senate.mo.gov), or Legislative Staffers John Giancola, Karen Roach, Jackson Winters, Richard Worley, or Seth York

Please note that American Oversight does not seek, and that part 3 of this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications responding to or forwarding such emails are responsive to this request. In other words, for example, if an official received a mass-distribution news clip email from Alliance Defending Freedom, that initial email would not be responsive to this request. However, if the official responded to or forwarded that email, that subsequent message would be responsive to this request and the complete email chain should be produced.

- 4. All final assessments, reports, analyses, recommendations, scientific research, or guidance prepared or received by your office regarding gender transition interventions, including, but not limited to, any such records regarding, created, or received in connection with Attorney General Bailey’s emergency regulations on gender transition interventions in Missouri, including “Experimental Interventions to Treat Gender Dysphoria,” codified at 15 CSR 60-17.010.¹

¹ If further identifying information is needed, please *see* Sarah Fentem, *Missouri Attorney General Issues Rules to Restrict Gender-Affirming Care for Transgender Kids*, St. Louis Public Radio (March 20, 2023, 3:56 PM CDT), <https://news.stlpublicradio.org/government-politics-issues/2023-03-20/missouri-attorney-general-issues-rules-to-restrict-gender-affirming-care-for-transgender-kids>; Annelise Hanshaw, *Emergency Rule Seeks to Limit Access to Certain Procedures for Transgender Missourians*, Mo. Independent (April 13, 2023, 2:16 PM CDT), <https://missouriindependent.com/2023/04/13/emergency-rule-seeks-to-limit-access-to-certain-procedures-for-transgender-missourians/>.

5. All records reflecting the projected or actual impacts of Attorney General Bailey’s emergency regulations on gender transition interventions in Missouri, including “Experimental Interventions to Treat Gender Dysphoria,” codified at 15 CSR 60-17.010.²

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

Fee Waiver Request

In accordance with Mo. Rev. Stat. § 610.026.1(1), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information “is likely to contribute significantly to public understanding of the operations or activities of [a] public governmental body.”³ The public has a significant interest in state public health officials’ communications and actions related to gender-affirming care, including any responses to Attorney General Bailey’s emergency regulations related to gender-affirming care.⁴ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including analyses or communications concerning state regulations on gender-affirming care. 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.

This request is primarily and fundamentally for non-commercial purposes.⁵ 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. American Oversight’s mission is 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.⁶

² *See id.*

³ Mo. Rev. Stat. § 610.026.1(1).

⁴ *See supra* note 1.

⁵ Mo. Rev. Stat. § 610.026.1(1).

⁶ American Oversight currently has approximately 16,000 followers on Facebook and 112,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 8, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 8, 2023).

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁷ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization’s investigations into misconduct and corruption in state governments;⁸ posting records and analysis of federal and state governments’ responses to the Coronavirus pandemic;⁹ posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the Trump administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹⁰ and the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers.¹¹

Accordingly, American Oversight qualifies for a fee waiver.

⁷ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁸ See generally *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>; *Georgia’s Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁹ See, e.g., *The Trump Administration’s Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *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>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight, <https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

¹⁰ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

¹¹ *DOJ Records Relating to Solicitor General Noel Francisco’s Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

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.¹²
- 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.¹³ 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 all records potentially 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.**

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

¹² Mo. Rev. Stat. § 610.010(6).

¹³ Mo. Rev. Stat. § 610.024.1.

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 Mehreen Rasheed at records@americanoversight.org or (202) 848-1320. 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/ Mehreen Rasheed
Mehreen Rasheed
on behalf of
American Oversight