



April 11, 2023

VIA EMAIL

Utah Senator Mike Kennedy
659 E 200 N
Alpine, UT 84004
mkennedy@le.utah.gov

Jennifer Storie, Secretary of the Senate
350 North State Street, Suite #320
P.O. Box 145115
Salt Lake City, UT 84114
jstorie@le.utah.gov

Re: Government Records and Access Management Act Request

Dear Agency GRAMA Responder:

Pursuant to the Utah Government Records Access and Management Act (GRAMA), Utah Code §§ 63G-2-101 et seq., American Oversight makes the following request for records.

Requested Records

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

1. All final assessments, reports, analyses, recommendations, scientific research, or guidance prepared by your office, other state or local offices, or independent experts, regarding gender-affirming care for individuals under the age of 18, including, but not limited to, records related to the recently enacted restrictions on gender-affirming care procedures for minors in Utah.¹
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) Senator Michael Kennedy or anyone communicating on his behalf, such as a Legislative Aide or assistant, and (b) the external entities

¹ If further information is needed, please see reporting that Utah Gov. Cox signed a bill restricting gender-affirming care for minors. Jo Yurcaba, *Utah Is the First State to Pass a Gender-Affirming Care Ban in 2023*, NBC News (Jan. 28, 2023, 8:33 AM), <https://www.nbcnews.com/nbc-out/out-politics-and-policy/utah-poised-first-state-pass-gender-affirming-care-ban-2023-rcna67941>.



listed below (including, but not limited to, anyone communicating from an email address ending in the listed domains).

External Individuals and Entities:

- i. Alliance Defending Freedom (adflegal.org)
- ii. Family Policy Alliance (familypolicyalliance.com)
- iii. American College of Pediatricians (acpeds.org)
- iv. Child and Parental Rights Campaign (childparentrights.org)
- v. American Family Association (afa.net)
- vi. Concerned Women for America (concernedwomen.org or cwfa.org)
- vii. Heritage Foundation (heritage.org or heritageaction.com)
- viii. Genspect (genspect.org)
- ix. Catholic Medical Association (cathmed.org)
- x. Family Research Council (frc.org or frcaction.org)
- xi. America First Legal (aflegal.org or athospr.com)
- xii. Independent Women's Forum (iwf.org)
- xiii. Eagle Forum (eagleforum.org)
- xiv. American Principles Project (americanprinciplesproject.org)
- xv. Promise to America's Children (promisetoamericaschildren.org)
- xvi. Liberty Counsel (lc.org)
- xvii. American Association of Pro-life Obstetricians and Gynecologists (aaplog.org)
- xviii. Ethics and Public Policy Center (eppc.org)
- xix. Partners for Ethical Care (partnersforethicalcare.com)
- xx. Neil Abercrombie, Senior Advisor for Legislative Affairs and Policy, Utah Governor's Office

Please also note that American Oversight does not seek, and that 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 Senator Kennedy received a mass-distribution news clip from an email address ending in adflegal.org, that initial email would not be responsive to this request. However, if Senator Kennedy forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

Please provide all responsive records from January 1, 2023, through the date the search is conducted.

Fee Waiver Request

In accordance with Utah Code § 63G-2-203(4)(a), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested information will primarily benefit the public rather than a person, because the requested records 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 primarily benefits the public rather than a person.² The public has a significant interest in restrictions on gender-affirming care for minors in Utah.³ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent state officials consulted scientific research when considering the ban. 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.

Furthermore, this request is not for American Oversight's personal or financial interest. As described above, this request is primarily and fundamentally made for the purpose of educating the public and is not made for any commercial purposes. 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.⁴

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.⁵ 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;⁶ posting records and analysis of federal and state governments'

² Utah Code § 63G-2-203(4)(a).

³ *See, e.g.*, Leo Sands, *Utah Banned Gender-Affirming Care for Trans Kids. What Does that Mean?* Wash. Post (Feb. 1, 2023, 7:04 AM), <https://www.washingtonpost.com/nation/2023/02/01/utah-gender-affirming-care-ban/>.

⁴ American Oversight currently has approximately 16,000 followers on Facebook and 112,700 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited March 13, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited March 13, 2023).

⁵ *See generally* News, American Oversight, <https://www.americanoversight.org/blog>.

⁶ *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

responses to the Coronavirus pandemic;⁷ 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;⁸ 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.⁹

Accordingly, American Oversight qualifies for a fee waiver.

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

Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁷ 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>.

⁸ 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>.

⁹ *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>.

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 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.

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 Emma Lewis at records@americanoversight.org or (202) 919-6303. 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/ Emma Lewis
Emma Lewis
on behalf of
American Oversight