



Idaho State Board of Education

PUBLIC RECORD REQUEST FORM

Please provide a description of records requested and any additional information which may assist us to provide you with the records that you are interested in receiving. There may be a charge for copies if over 100 pages or a charge if records require redaction to remove information exempt from disclosure under the Idaho Public Record Law.

Please see attached request (ID-BOE-23-0546)

Your contact information:

Name: Emma Lewis

Street Address, City, State and Zip Code: _____
American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005

Telephone Number: (202) 919-6303.

Email: records@americanoversight.org

Within 3 business days of receipt of your written public record request, the Office of the Idaho State Board of Education will either:

1. Provide the information requested.
2. Acknowledge receipt of your request and indicate that a longer period of time is needed to locate or retrieve the records, but provide them to you no later than ten (10) working days following your request.
3. Deny your request.

Please return this form to:

Mike Keckler, Communications Officer
Office of the State Board of Education
P.O. Box 83720
Boise, Idaho 83720-0037
Phone: 208-332-1591 Fax: 208-334-2632
Mike.Keckler@osbe.idaho.gov

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- Idaho Public Record Law: Idaho Code, Sections, 74-101 through 74-126
 - Idaho Attorney General Idaho Public Records Law Manual:
<https://www.ag.idaho.gov/content/uploads/2018/04/PublicRecordsLaw.pdf>



May 30, 2023

VIA EMAIL

Mike Keckler, Communications Officer
Office of the State Board of Education
P.O. Box 83720
Boise, ID 83720
Mike.Keckler@osbe.idaho.gov

Re: Public Records Act Request

Dear Public Records Custodian:

Pursuant to Idaho's Public Records Act, as codified at Chapter 1 of Title 74 of the Idaho Code, I.C. T. 74, Ch. 1, American Oversight makes the following request for records.

Requested Records

Pursuant to Section 74-103(1) of the Idaho Code, American Oversight requests that your office produce the following records within three working days, or, if a longer period of time is needed and American Oversight is so notified, within ten working days:

1. Records reflecting any formal or informal directives (including informal email communications), guidance received by or created by your office, assessments, reports, analyses, or recommendations concerning the requirements established in Idaho Senate Bill 1100 (2023) for public schools to maintain separate male and female facilities (such as restrooms, locker rooms, and dressing areas) that students must use in alignment with their gender assigned at birth, including but not limited to any records concerning the implementation of those requirements.
2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the Idaho State Department of Education officials listed below and containing the key terms also listed below.

Idaho State Department of Education Officials:

- i. Superintendent Debbie Critchfield, or anyone communicating on her behalf, such as an assistant or chief of staff
- ii. Chief Deputy Superintendent Ryan Cantrell
- iii. Chief of Staff Greg Wilson
- iv. Communications Director Scott Graf



Key Terms:

- a. "Senate Bill 1100"
- b. S1100
- c. "Safety of students"
- d. Transgender
- e. Trans
- f. "biological sex"
- g. "bathroom bill"
- h. "gendered facilities"
- i. "sex assigned at birth"
- j. "gender assigned at birth"

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited request item 2 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.

For both items 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. 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. Records of official business conducted using unofficial systems or stored outside of official files are subject to Idaho's Public Records Act if they were "prepared" by your agency, including by an employee of your agency.¹
- 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.² 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.

¹ See I.C. § 74-101(13); cf. *Cowles Pub. Co. v. Kootenai Cty. Bd. of Cty. Comm'rs*, 144 Idaho 259, 263 (2007).

² I.C. § 74-112.

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.³

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

³ 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 Apr. 28, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Apr. 28, 2023).