



July 14, 2023

VIA EMAIL

Nebraska Department of Health & Human Services
PO Box 95026
Lincoln, NE 68509
DHHS.PublicRecords@nebraska.gov

Re: Public Records Statute Request

Dear Record Custodian:

Pursuant to the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 et seq., American Oversight makes the following request for records.

Requested Records

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

For all parts of this request, please provide all responsive records from January 4, 2023, through the date the search is conducted.

1. All formal or informal assessments, reports, analyses, recommendations, or guidance (including memoranda and other written products) prepared by the Department of Health and Human Services, or otherwise provided to the your office by other state or local offices or independent experts, regarding any projected or actual impacts of recent state legislation limiting access to abortion and gender-affirming care¹ in Nebraska, including, but not limited to, Legislative Bill 574 (2023).
2. All records reflecting any directive, order, decision, protocols, or guidance, originating from or provided to the Department of Health and Human Services, regarding the implementation of Legislative Bill 574 (2023).
3. All email communications (including email messages, email attachments, complete email chains, calendar invitations, and attachments thereto) sent by the Department of Health and Human Services officials listed in Column A that contain any of the key terms listed in Column B:

Column A: Department of Health and Human Services	Column B: Key Terms
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¹ If you have any questions regarding the subject matter referenced in this request, please reach out to the contact information listed at the end of this request.



1. Dannette Smith, Chief Executive Officer	1. "LB 574"
2. Khalilah LeGrand, Chief of Staff	2. "L.B. 574"
3. Bonnie Engel, Executive Assistant	3. LB574
4. Bo Botelho, General Counsel	4. "Legislative Bill 574"
5. Charity Menefee, Director of Public Health	5. "Let Them Grow Act"
6. Timothy Tesmer, Chief Medical Officer	6. Preborn
	7. "Pre-born"
	8. Abortion
	9. "twelve week"
	10. "Twelve-week"
	11. "12 week"
	12. "12-week"
	13. "puberty blockers"
	14. "gender-altering"
	15. Hormone
	16. Hormonal
	17. LGBTQ
	18. LGBT
	19. Transgender
	20. "gender identity"
	21. Dysphoria
	22. "gender transition"
	23. "sex change"
	24. "gender reassignment"
	25. "planned parenthood"
	26. ACLU
	27. Heartland
	28. Traxler
	29. "gender affirming"
	30. "gender-affirming"

For part 3 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 has limited its request to emails sent by the listed 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 the specified individual's response to an email containing a key term listed above and the initial received message are responsive to this request and should be produced.

- All email communications (including email messages, email attachments, complete email chains, calendar invitations, and attachments thereto) between (A) the Department of Health and Human Services officials listed in Column A below, and (B) any individuals communicating on behalf of any of the external organizations listed in Column B below (including, but not limited to, anyone communicating from an email address ending in the listed domain(s)).

Column A: Department of Health and Human Services	Column B: External Parties
<ol style="list-style-type: none"> 1. Dannette Smith, Chief Executive Officer 2. Khalilah LeGrand, Chief of Staff 3. Bonnie Engel, Executive Assistant 4. Bo Botelho, General Counsel 5. Charity Menefee, Director of Public Health 6. Timothy Tesmer, Chief Medical Officer 	<ol style="list-style-type: none"> 1. Karen Bowling, or anyone communicating on behalf of Nebraska Family Alliance (nebraskafamilyalliance.org) 2. Sandy Danek, or anyone communicating on behalf of Nebraska Right to Life (nebraskarighttolife.org) 3. Stephanie Johnson, or anyone communicating on behalf of Nebraskans for Founders' Values (nffv.leadership@gmail.com, nffv.org) 4. Tom Venzor (tvenzor@necatholic.org) 5. Marion Miner (mminer@necatholic.org) 6. David Zebolsky (david@nebraskanembracinglife.org), or anyone communicating on behalf of Nebraskans Embracing Life (nebraskanembracinglife.org) 7. Gays Against Groomers (gaysagainstgroomers.com) 8. Family Watch International (familywatch.org) 9. Marjorie Dannenfelser, or anyone communicating on behalf of Susan B. Anthony List (sbalist.org, sba-list.org, sbapro-life.org) 10. Brian Sanderson (bsanderson@threeoakgroup.com) 11. Students for Life of America (studentsforlife.org) 12. America First Legal (aflegal.org) 13. America First Policy Institute (americafirstpolicy.com) 14. Jonathan Mitchell (Jonathan@mitchell.law) 15. Thomas More Society (thomasmoresociety.org) 16. Live Action (liveaction.org) 17. National Pro-Life Alliance (prolifealliance.com) 18. National Right to Life Committee (nrlc.org) 19. Charlotte Lozier Institute (lozierinstitute.org)

	<p>20. Riley Gaines, or anyone communicating on behalf of Independent Women’s Voice (iwv.org) or Independent Women’s Network (iwnetwork.com)</p> <p>21. Americans United for Life (aul.org)</p> <p>22. Alliance Defending Freedom (adflegal.org)</p> <p>23. Family Policy Alliance (familypolicyalliance.com)</p> <p>24. American College of Pediatricians or ACPeds (acpeds.org)</p> <p>25. Quentin Van Meter (kidendo@comcast.net)</p> <p>26. Michael Artigues (martig900@hotmail.com)</p> <p>27. Michelle Cretella</p> <p>28. Child and Parental Rights Campaign (childparentrights.org)</p> <p>29. American Family Association (afa.net)</p> <p>30. Christian Medical & Dental Associations (cmda.org)</p> <p>31. Concerned Women for America (concernedwomen.org or cwfa.org)</p> <p>32. Courage International (couragerc.org)</p> <p>33. Lisa Littman, or anyone communicating on behalf of GenSpect (genspect.org)</p> <p>34. Catholic Medical Association (cathmed.org)</p> <p>35. Tony Perkins or anyone communicating on behalf of Family Research Council (frc.org or frfaction.org)</p> <p>36. Independent Women’s Forum (iwf.org)</p> <p>37. Eagle Forum (eagleforum.org)</p> <p>38. American Principles Project (americanprinciplesproject.org)</p> <p>39. Promise to America’s Children (promisetoamericaschildren.org)</p> <p>40. Liberty Counsel (lc.org)</p> <p>41. American Association of Pro-Life Obstetricians and Gynecologists (aaplog.org)</p> <p>42. Ethics and Public Policy Center (eppc.org)</p>
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	43. Science for Evidence-Based Gender Medicine (segm.org) 44. Partners for Ethical Care (partnersforethicalcare.com) 45. Kelsey Coalition (kelseycoalition@gmail.com) 46. Parents of ROGD Kids (parentsofrogdkids.com) 47. Moms for Liberty (momsforliberty.org, libertysqr.com) 48. Federalist Society (fed-soc.org or fedsoc.org) 49. Do No Harm (donoharmmedicine.org)
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For part 4 of this request, please 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 the specified individual received a mass-distribution news clip email from an external party listed above, that initial email would not be responsive to this request. However, if the specified individual forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee. Pursuant to Neb. Rev. Stat. § 84-712(3)(b), we further request that any fees are limited to the actual costs and exclude fees for search time in excess of four hours.

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.
- 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.

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

² Neb. Rev. Stat. § 84-712.06.

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 113,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 14, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited June 14, 2023).