



April 23, 2020

VIA ELECTRONIC MAIL

Iowa Secretary of State
1007 East Grand Avenue
Room 105, State Capitol
Des Moines, IA 50319
sos@sos.iowa.gov

Re: Public Information Request

Dear Public Information Officer:

Pursuant to the Iowa Public Records Law, Iowa Code Chapter 22, American Oversight makes the following request for public records.

Requested Records

American Oversight requests that the Office of the Secretary of State produce the following within ten business days:

All email communications (including email messages, complete email chains, email attachments, calendar invitations, and any attachments thereto) sent by any of the state officials listed below concerning vote by mail considerations related to the COVID-19 outbreak.

American Oversight believes that records containing the terms listed below are likely to be responsive, and requests that your office, at a minimum, employ these search terms to identify responsive records:

- Coronavirus
- Corona
- Virus
- CV
- "COVID-19"
- COVID
- Viral
- Contagion
- Contagious
- Infect
- Infectious
- Transmission
- Asymptomatic



- Epidemic
- Pandemic
- Quarantine
- Quarantines
- Isolate
- Isolation
- Lockdown
- Distancing
- Sanitizing
- Disinfect
- Disinfecting
- Panic
- Unemployment
- PPE
- “Personal protective”
- “Medical equipment”
- Mask
- Masks
- N95
- N95s
- KN95
- KN95s
- Gloves
- Shield
- Shields
- Vaccine
- Antiviral
- Antiretroviral
- Foot
- Feet
- “6 ft”
- “six ft”
- “Vote by mail”
- “Vote-by-mail”
- VBM
- Absentee
- ABM
- “Mail in”
- “Mail-in”
- “Mail ballot”
- “Mail ballots”
- “By mail”
- “By-mail”

State Officials:

- Paul Pate, Secretary of State, or anyone communicating on his behalf (such as a scheduler or assistant)
- Heidi Burhans, Director of Elections, or anyone communicating on her behalf (such as a scheduler or assistant)
- Anyone serving in a role next in authority to the Director of Elections (such as a Deputy Elections Director or Assistant Elections Director)

In an effort to accommodate your agency and reduce the number of responsive records to be processed and produced, American Oversight has limited its request to communications sent by the listed custodians. To be clear, however, American Oversight still requests that complete email chains be produced, displaying the sent messages, the prior received messages, and any subsequent messages in each email chain. This means that a custodian's response to an email, the initial received message, and any prior or subsequent messages within the same email thread are responsive to this request and should be produced.

Please provide all responsive records from March 1, 2020, to 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 fees.

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term "record" in its 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 includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

In addition, American Oversight insists that your office use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; governmental authorities may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Please search all records regarding official business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Emails conducting government business sent or received on the personal account of a governmental authority's officer or employee constitutes a record for purposes of Iowa's public records law.¹

¹ See *Linder v. Eckard*, 152 N.W.2d 833, 835 (Iowa 1967) ("It is the nature and purpose of the document, not the place where it is kept, which determines its status" as a public record).

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 it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that 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 your office 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.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, 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 your office can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF 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

We share a common mission to promote transparency in government. American Oversight looks forward to working with your office on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Khahilia Shaw at records@americanoversight.org or 202.539.6507.

Sincerely,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left.

Austin R. Evers
Executive Director
American Oversight