



May 8, 2020

VIA EMAIL

Meagan Wolfe, Administrator
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984
elections@wi.gov

Re: Public Records Law Request

Dear Ms. Wolfe:

Pursuant to Wisconsin's public records law, Wis. Stat. §§ 19.31–19.39, American Oversight makes the following request for copies of records.

Requested Records

American Oversight requests that the Wisconsin Elections Commission produce the following records “as soon as practicable and without delay”¹:

1. Records sufficient to show the following information about the April 7, 2020 election:
 - a. The total number of complaints received by the WEC over the phone;
 - b. The total number of complaints received by the WEC over the internet²;
 - c. The total number of complaints received by the WEC in the mail;
 - d. The total number of complaints resolved.

By “complaints” American Oversight means any and all complaints related to voting rights and local election officials’ behavior during the April 7, 2020 election, including but not limited to complaints related to safety concerns about in-person voting in light of the coronavirus pandemic, failure to receive ballots, confusion or misinformation over how to apply for or submit ballots or voter registrations,

¹ Wis. Stat. § 19.35(4)(a).

² Here, American Oversight requests records sufficient to show the number of complaints submitted using the WEC’s Online Portal. The public version of the portal is available at <https://elections.wi.gov/complaints/online-forms>.



inability to comply with witness signature or photo ID requirements, and lack of personal protective equipment for poll workers.³

Please provide all responsive records from February 15, 2020, through April 25, 2020. American Oversight is requesting records of complaints filed both in the lead up to the April 7, 2020 election and those filed after the fact about the election.

2. Records sufficient to show the total number of complaints received by your office, including but not limited to complaints regarding: safety concerns about in-person voting in light of the coronavirus pandemic; failure to receive ballots; confusion or misinformation over how to apply for or submit ballots or voter registrations; concerns about polling place closures; and lack of personal protective equipment for poll workers.

To the extent this information is maintained in a format that breaks down complaints by subject matter or type of complaint, American Oversight requests records reflecting such a breakdown. For instance, if this information is maintained in a database that can be readily exported into an excel spreadsheet reflecting subject matter or complaint type breakdown, American Oversight requests such a spreadsheet.

Please provide all responsive records from February 15, 2020, through April 25, 2020. American Oversight is requesting records of complaints filed both in the lead up to the April 7, 2020 election and those filed after the fact about the election.

3. Any official or unofficial policy directives, protocols, or guidance documents laying out the processes for resolving complaints from voters in the leadup to and after the April 7, 2020 election.

Please provide all responsive records from February 15, 2020, through May 1, 2020.

Fee Waiver Request

In accordance with Wis. Stat. § 19.35(3)(e), American Oversight respectfully requests that the records be produced without charge. Providing American Oversight with a waiver of fees is in the “public interest” because American Oversight will, in accordance with its organizational mission, make the records available to the public without charge. These

³ See *Complaints*, Wisconsin Election Commission (last accessed on May 5, 2020, 5:28 PM), <https://elections.wi.gov/index.php/complaints>.

disclosures will likely contribute to a better understanding of relevant government procedures by the general public.

American Oversight's work is aimed solely at serving the public interest. 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. Rather, American Oversight's mission is to serve the public by promoting transparency in government, educating the public about government activities, and ensuring 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 website⁴ and promotes their availability on social media platforms, such as Facebook and Twitter.⁵ American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁶

The public has a significant interest in understanding the extent of complaints submitted to the WEC about the April 7, 2020 election, and in the Commission's response to those complaints.⁷ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government. 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

⁴ *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

⁵ American Oversight currently has approximately 15,400 page likes on Facebook and 102,300 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited April 20, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited April 20, 2020).

⁶ *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

⁷ See, e.g. *Wisconsin Primary Recap: Voters Forced to Choose Between Their Health and Their Civic Duty*, N.Y. TIMES, April 7, 2020, <https://www.nytimes.com/2020/04/07/us/politics/wisconsin-primary-election.html?action=click&module=Top%20Stories&pgtype=Homepage>; Chris Rickert, *'Three large tubs': Reports of missing absentee ballots pile up*, WISCONSIN STATE JOURNAL, Apr. 9, 2020, https://madison.com/wsj/news/local/govt-and-politics/three-large-tubs-reports-of-missing-absentee-ballots-pile-up/article_a8d25435-5dfa-5e55-a422-b26477321894.html; Miranda Suarez, *DHS: 19 Voters, Poll Workers Confirmed To Have COVID-19 After April Election*, WISCONSIN PUBLIC RADIO (Apr. 22, 2020, 5:25 PM), <https://www.wpr.org/dhs-19-voters-poll-workers-confirmed-have-covid-19-after-april-election>.

would be enhanced through American Oversight’s analysis and publication of these records.

American Oversight asks that if its request for a fee waiver is denied in whole or in part, that you contact us prior to incurring any costs.

Guidance Regarding the Search & Processing of Requested Records

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.**

Please search all locations and systems likely to have responsive 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 the authority’s officer or employee constitutes a record for purposes of Wisconsin’s public records laws.⁸

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.⁹ 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 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.

⁸ Wisc. Dep’t of J., *Wisconsin Public Records Law Compliance Guide*, Oct. 2019, at 3, <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf>.

⁹ Wis. Stat. § 19.36(6).

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 Megan Field at records@americanoversight.org or 202.897.2465. 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,

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