



June 10, 2020

**VIA ELECTRONIC MAIL**

David Buerger  
Staff Counsel  
Wisconsin Ethics Commission  
P.O. Box 7125  
Madison, WI 53707-7125  
[ethics@wi.gov](mailto:ethics@wi.gov)

**Re: Public Records Law Request**

Dear Mr. Buerger:

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 Ethics Commission produce the following records “as soon as practicable and without delay”:<sup>1</sup>

All calendars or calendar entries for 1) Chair Pat Strachota, 2) Commissioner Paul Connell, and 3) Commissioner Mac Davis, including any calendars maintained on their behalf.

American Oversight requests that the calendars be produced in a format that includes all invitees, any notes, and all attachments. Please do not limit your search to Outlook calendars; we request the production of any calendar—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how the listed officials spend their time on official business.

Please provide all responsive records from January 1, 2020, to the date the search is conducted.

**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 disclosures will likely contribute to a better understanding of relevant government operations by the general public, including how high-ranking officials are using their official time and with whom they are meeting to discuss official government business. Furthermore, disclosure of the requested records has the potential to shed light on whether and to what extent such officials are meeting with outside groups focusing on election reform. Voting rights and allegations of voter

<sup>1</sup> Wis. Stat. § 19.35(4)(a).



fraud are subjects of substantial and increasing public interest, both in Wisconsin and nationally.<sup>2</sup>

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 website<sup>3</sup> and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>4</sup> 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.<sup>5</sup>

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.

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. 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

<sup>2</sup> See, e.g., Patrick Marley, *Wisconsin Supreme Court to Decide Whether to Remove 129,000 Voters from the Rolls*, MILWAUKEE JOURNAL SENTINEL (June 1, 2020, 5:35 PM), <https://www.jsonline.com/story/news/politics/2020/06/01/wisconsin-supreme-court-decide-removing-150-000-voter-rolls/5309596002/>; Stephanie Saul & Reid J. Epstein, *Trump Is Pushing a False Argument on Vote-by-Mail Fraud. Here Are the Facts.*, N.Y. TIMES, June 2, 2020, <https://www.nytimes.com/article/mail-in-voting-explained.html>; Editorial Board, *The GOP Finds Yet Another Way to Suppress the Vote*, WASH. POST, Sept. 10, 2018, [https://www.washingtonpost.com/opinions/the-gop-finds-yet-another-way-to-suppress-the-vote/2018/09/10/7cd2617e-b536-11e8-a7b5-adaaa5b2a57f\\_story.html?utm\\_term=.8321c34c5b87](https://www.washingtonpost.com/opinions/the-gop-finds-yet-another-way-to-suppress-the-vote/2018/09/10/7cd2617e-b536-11e8-a7b5-adaaa5b2a57f_story.html?utm_term=.8321c34c5b87).

<sup>3</sup> *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

<sup>4</sup> American Oversight currently has approximately 15,500 page likes on Facebook and 102,200 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited June 2, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited June 2, 2020).

<sup>5</sup> *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

received on the personal account of the authority's officer or employee constitutes a record for purposes of Wisconsin's public records laws.<sup>6</sup>

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.<sup>7</sup> 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.

### **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](mailto: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,



Austin R. Evers  
Executive Director  
American Oversight

<sup>6</sup> Wisc. Dep't of Justice., *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>.

<sup>7</sup> Wis. Stat. § 19.36(6).