



June 30, 2020

VIA EMAIL

Public Records Officer
Wisconsin Department of Health Services
1 West Wilson St.
Madison, Wisconsin 53707
dhssecretaryoffice@dhs.wisconsin.gov

Re: Public Records Law Request

Dear Public Records Officer,

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 Department of Health Services (DHS) produce the following records “as soon as practicable and without delay”:¹

All email communications (including emails, email attachments, calendar invitations, and attachments thereto) between (a) any of the DHS officials listed in Column A and (b) any of the elected officials or their staff, who are listed in Column B below that contain any of the key terms listed after the chart:

Column A: DHS Officials	Column B: WI Elected Officials / Staff
i. Secretary-Designee Andrea Palm	i. Speaker Robin Vos, rep.vos@legis.wisconsin.gov
ii. Anyone acting as chief of staff to the Secretary-Designee	ii. Chief of Staff for Speaker Vos, Jenny Toftness, jenny.toftness@legis.wisconsin.gov
iii. Director of the Bureau of Communicable Diseases, Stephanie Smiley	iii. Speaker Pro Tempore Tyler August, rep.august@legis.wisconsin.gov
iv. Anyone acting as chief of staff to the Director	iv. Chief of Staff for Rep. August, Jason Rostan, jason.rostan@legis.wisconsin.gov

¹ Wis. Stat. § 19.35(4)(a).



v. Deputy Secretary Julie Willems Van Dijk	v. Senate Majority Leader Scott L. Fitzgerald,
vi. Assistant Deputy Secretary Lisa Olson	vi. Chief of Staff for Sen. Fitzgerald, Dan Romportl,
	vii. Representative Joe Sanfelippo,
	viii. Chief of Staff for Rep. Sanfelippo, Josh Hoisington,
	ix. Senator Patrick Testin,
	x. Chief of Staff for Sen. Testin, James Emerson,
	y. <u>sen.fitzgerald@legis.wisconsin.gov</u>
	y. <u>dan.romportl@legis.wisconsin.gov</u>
	y. <u>rep.sanfelippo@legis.wisconsin.gov</u>
	y. <u>joshua.hoisington@legis.wisconsin.gov</u>
	y. <u>sen.testin@legis.wisconsin.gov</u>
	y. <u>james.emerson@legis.wisconsin.gov</u>

Key terms:

- a. Coronavirus
- b. "COVID-19"
- c. "COVID 19"
- d. Pandemic
- e. Election
- f. "April 7"
- g. "May 12"
- h. "August 11"
- i. Voting
- j. Vote
- k. November
- l. "Contact Tracing"
- m. "Safer at Home"
- n. "Supreme Court"
- o. "Wisconsin Election Commission"

Please provide all responsive records from April 7, 2020, through 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 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 website² and promotes their availability on social media platforms, such as Facebook and Twitter.³ 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.⁴

The public has a significant interest in election administration decisions during the Coronavirus pandemic.⁵ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent any analysis by DHS of election-related public health outcomes was relayed to the public by elected officials. 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

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**

² *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

³ 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 17, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited June 17, 2020).

⁴ *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁵ *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>.

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.⁶

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.⁷ 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 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.

⁶ 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>.

⁷ Wis. Stat. § 19.36(6).

Sincerely,

A handwritten signature in blue ink, appearing to read "Austin R. Evers", with a long horizontal flourish extending to the left.

Austin R. Evers
Executive Director
American Oversight