



July 16, 2020

VIA EMAIL

Sue Ettinger
Office of the Superintendent
School District of Waukesha County
222 Maple Avenue
Waukesha, WI 53186
settinge@waukesha.k12.wi.us

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.

On June 23, 2020, Vice President Pence visited Waukesha County to discuss “school choice, religious faith and security,” and to campaign for President Trump’s reelection.¹ The Vice President’s visit came at a time when county health officials advised residents to avoid gatherings of more than 100 people,² since there were over 1,000 cases and known community transmission of COVID-19 in the county.³ Today, Wisconsin and Waukesha County officials continue to fight to control the spread of the virus.⁴

¹ See Bill Glauber, et al., *Trump Campaign Returns to Wisconsin with Mike Pence Visit Focused on School Choice, Religious Faith*, Milwaukee J. Sentinel (June 23, 2020, 5:26 PM), <https://www.jsonline.com/story/news/politics/elections/2020/06/23/mike-pence-campaigns-wisconsin-school-choice-religious-faith/3240914001/>.

² *Waukesha County Large Gathering Recommendations*, Waukesha Cnty. Pub. Health, June 4, 2020, waukeshacounty.gov/HealthAndHumanServices/PublicHealth/public-health-preparedness/COVID19/gatherings/.

³ Brad Evans, *Vice President Mike Pence to Visit Pewaukee Amid Coronavirus Concerns*, WISN 12 ABC (June 22, 2020, 10:21 AM), <https://www.wisn.com/article/vice-president-mike-pence-visiting-pewaukee-next-tuesday/32895792#>.

⁴ See Jeremy Jannene, *Wisconsin Has Fastest COVID-19 Spread In U.S.*, Urban Milwaukee (July 7, 2020, 7:05 PM), <https://urbanmilwaukee.com/2020/07/07/wisconsin-has-fastest-covid-19-spread-in-u-s/>; Scott Anderson, *Waukesha County Sees 10-Day Surge In COVID-19 Cases*, Patch (July 2, 2020, 11:58 AM), <https://patch.com/wisconsin/waukesha/waukesha-county-sees-10-day-surge-covid-19-cases>.



American Oversight submits this request to shed light on Waukesha County officials' preparations for and response to the Vice President's visit, in light of the ongoing coronavirus pandemic.

Requested Records

American Oversight requests that your office produce the following records "as soon as practicable and without delay":⁵

1. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) between Superintendent Todd Gray and anyone communicating with an email address ending who.eop.gov, ovp.eop.gov, ed.gov, donaldtrump.com, victory.donaldtrump.com, trump.com, donaldjtrump.com, gop.com, rnchq.com, wisgop.info, or wisgop.org.

Please provide all responsive records from May 1, 2020, through July 13, 2020.

2. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent by Superintendent Todd Gray that contain any of the following key words:

- a. Pence
- b. VP
- c. VPOTUS
- d. Trump
- e. POTUS
- f. "White House"
- g. DeVos
- h. Kellyanne
- i. Conway
- j. Walker
- k. Faith
- l. Rally
- m. Campaign
- n. GOP
- o. Republican
- p. "Ingleside Hotel"

Please provide all responsive records from May 1, 2020, through July 13, 2020.

⁵ Wis. Stat. § 19.35(4)(a).

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 named 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 Superintendent Gray's response to an email and the initial received message are responsive to this request and should be produced.

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 website⁶ and promotes their availability on social media platforms, such as Facebook and Twitter.⁷ 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.⁸

The public has a significant interest in how public officials are responding to the coronavirus pandemic. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including illuminating how Waukesha County prepared for and responded to the Vice President's visit in light of the pandemic. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly

⁶ *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

⁷ American Oversight currently has approximately 15,600 page likes on Facebook and 104,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited July 15, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited July 15, 2020).

⁸ *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

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 received on the personal account of the authority's officer or employee constitutes a record for purposes of Wisconsin's public records laws.⁹

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.¹⁰ 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

⁹ 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>.

¹⁰ Wis. Stat. § 19.36(6).

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, appearing to read "Austin R. Evers", with a long horizontal flourish extending to the left.

Austin R. Evers
Executive Director
American Oversight