



November 19, 2020

VIA EMAIL

State Election Commission
1122 Lady Street, Suite 500
Columbia, SC 29201
elections@elections.sc.gov

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office promptly produce the following records:¹

1. All email communications (including emails, calendar invitations, and attachments thereto) between (a) any of the State Election Commission officials listed in Column A, below, and (b) any of the external parties listed in Column B, below.
2. All records reflecting the content of any meetings or calls between (a) any of the State Election Commission officials listed in Column A, below, and (b) any of the external parties listed in Column B, below, including any written communications about the meetings/calls, agendas, lists of attendees, minutes, summaries, handwritten notes, materials exchanged during the meetings/calls, and any preparatory or background materials prepared for any of the attendees/participants.
3. All text message chains/conversations or message chains/conversations on messaging applications similar in form to text messages (such as Signal, WhatsApp, Facebook Messenger, Twitter DMs, etc.) between (a) any of the State Election Commission officials listed in Column A, below, and (b) any of the external parties listed in Column B, below.

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| Column A: State Election Commission Officials | Column B: External Parties |
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¹ Pursuant to S.C. Code Ann. § 30-4-30(C), please notify American Oversight of your final determination as to the public availability of the requested records within ten business days and produce the records within thirty calendar days after issuing your final determination.



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| <ul style="list-style-type: none"> i. Marci Andino, Executive Director ii. Harrison Brant, General Counsel | <p>Office of Senator Lindsey Graham:</p> <ul style="list-style-type: none"> i. Senator Lindsey Graham, or anyone communicating on his behalf (such as an assistant or scheduler) ii. Richard Straus Perry, Chief of Staff iii. Matt Rimkunas, Deputy Chief of Staff iv. Nick Myers, Senior Counsel v. Scott Graber, Counsel vi. Kevin Bishop, Communications Director vii. Alice James, Scheduler viii. Anyone communicating from an email address ending in @lgraham.senate.gov ix. Anyone serving on the Senate Judiciary Committee or any of its subcommittees, including anyone with an email address ending in judiciary-rep.senate.gov <p>Team Graham, Inc.:</p> <ul style="list-style-type: none"> x. Scott Farmer, Campaign Manager i. Thomas W. Arrighi, Communications Director ii. Mary Hollis McGreevy, Scheduler iii. Anyone communicating from an email address ending in @lindseygraham.com |
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Please provide all responsive records from November 3, 2020, through the date your office receives this request.

Fee Waiver Request

In accordance with S.C. Code Ann. § 30-4-30(B), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a

significant way. In addition, this request is primarily and fundamentally for non-commercial purposes.

A waiver of fees is “in the public interest because furnishing the information can be considered as primarily benefiting the general public.”² The general public has a significant interest in South Carolina’s official ballot count and the outcome of challenges to the state’s election administration policies and practices. Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the government, including whether individuals outside of the South Carolina government who have interests in the outcome of the November 2020 general election have sought to influence election administration or ballot counting practices. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the general public’s understanding of the government’s activities would be enhanced through American Oversight’s analysis and publication of these records.

Furthermore, 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. American Oversight’s mission is to promote transparency in government, to educate the public about government activities, and to ensure 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 and promotes their availability on social media platforms, such as Facebook and Twitter.³

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁴ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the organization’s State Accountability Project covering voting rights issues in various states;⁵ the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers;⁶ posting records

² S.C. Code Ann. § 30-4-30(B).

³ American Oversight currently has approximately 15,630 page likes on Facebook and 106,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 16, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 16, 2020).

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

⁵ *State Accountability Project*, American Oversight, <https://www.americanoversight.org/state-accountability-project>.

⁶ *DOJ Records Relating to Solicitor General Noel Francisco’s Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ*

received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁷ posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;⁸ posting records and analysis relating to the federal government’s efforts to sell nuclear technology to Saudi Arabia;⁹ and posting records and analysis regarding the Department of Justice’s decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President’s political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.¹⁰

Accordingly, American Oversight qualifies for a fee waiver.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks “communications,” please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes

Documents, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

⁷ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

⁸ *Documents Reveal Ben Carson Jr.’s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

⁹ *Investigating the Trump Administration’s Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

¹⁰ *Sessions’ Letter Shows DOJ Acted on Trump’s Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

all prior messages sent or received in that email chain, as well as any attachments to the email.

- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- 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.¹¹ If a request is denied in whole, please state specifically why 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, have any questions, or foresee any problems in

¹¹ S.C. Code Ann. § 30-4-40.

fully releasing the requested records, please contact Khahilia Shaw at records@americanoversight.org or (202) 539-6507.

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