



February 23, 2021

VIA EMAIL

Senator Dan Hegeman
Missouri Senate
201 West Capitol Avenue, Room 332
Jefferson City, MO 65101
dan.hegeman@senate.mo.gov

Patrick Baker
Senate Administrator
Missouri Senate
201 West Capitol Avenue, Room 324
Jefferson City, MO 65101
patrick.baker@senate.mo.gov

Re: Sunshine Law Request

Dear Custodian of Records:

Pursuant to the Missouri Sunshine Law, Mo. Rev. Stat. §§ 610.010 et seq., American Oversight makes the following request for records.

On November 4, 2020, Missouri voters approved Amendment 3,¹ an amendment to the state constitution requiring districts “to be drawn on the basis of one person, one vote,” a standard that may lead to a radical shift in how the state’s legislative districts are drawn.² American Oversight seeks records with the potential to shed light on the process that led to the placement of Amendment 3 on the ballot.

Requested Records

American Oversight, requests that your office produce copies of the following records within three business days:

- 1) All email communications (including email messages, email attachments, complete email chains, calendar invitations, and calendar invitation

¹ Jason Rosenbaum, *Missourians Scrap Clean Missouri Redistricting Plan, Pass Amendment 3*, St. Louis Public Radio (Nov. 4, 2020, 12:28 AM), <https://news.stlpublicradio.org/government-politics-issues/2020-11-04/missourians-scrap-clean-missouri-redistricting-plan-pass-amendment-3>.

² Hansi Lo Wang, *A National Fight Over Who is Counted in Voting Districts May Arise from Missouri*, NPR (Nov. 6, 2020, 5:00 AM), <https://www.npr.org/2020/11/06/931908064/a-national-fight-over-who-is-counted-in-voting-districts-may-arise-from-missouri>.



attachments) sent by State Senator Dan Hegeman, or anyone serving as chief of staff or assistant including but not limited to Drew Dampf and Anne Herschel, and containing any of the following key terms:

Key terms:

- a) Census
- b) Citizen
- c) Citizenship
- d) "One person, one vote"
- e) "One person one vote"
- f) "Fair Missouri"
- g) "Clean Missouri"
- h) "Amendment 3"
- i) SJR38
- j) Reapportionment
- k) Aliens
- l) Undocumented
- m) Illegals

Please provide all responsive records from August 1, 2019, through February 4, 2020.

- 2) All email communications (including email messages, complete email chains, calendar invitations, and calendar invitation attachments) sent by (a) State Senator Dan Hegeman, or anyone serving as his chief of staff or assistant including but not limited to Drew Dampf and Anne Herschel, to (b) any of the external parties listed below:
 - a) Anyone communicating from an email address ending in fed-soc.com
 - b) Leonard Leo (including, but not limited to, at leonard.leo@fed-soc.org, leonard.leo@mindspring.com, ll@leonardleo.com, leonard.anthony.leo@gmail.com, or lleo@fed-soc.org)
 - c) Anyone communicating from an email address ending in heritage.org
 - d) Anyone communicating from an email address ending in madisonstrategiesllc.com
 - e) Anyone communicating from an email address ending in publicinterestlegal.org
 - f) Anyone communicating from an email address ending in electionlawcenter.com
 - g) Anyone communicating from an email address ending in irli.org
 - h) Anyone communicating from an email address ending in hudson.org
 - i) Anyone communicating from an email address ending in thenrrt.org
 - j) Anyone communicating from an email address ending in alec.org
 - k) Edward Blum, or anyone communicating on behalf of the Project on Fair Representation, including the email address edwardjayblum@gmail.com
 - l) Anyone communicating from an email address ending in atlasstrategygroup.com

- m) Anyone communicating from the email address bgreim33@yahoo.com
- n) Anyone communicating on behalf of the Republican State Leadership Committee (including, but not limited to, communications with any email address ending in rslc.gop)
- o) Anyone communicating on behalf of Republican Attorneys General Association (republicanags.com) or the Rule of Law Defense Fund (rldf.org)
- p) Todd Graves
- q) Kay Hoflander
- r) Dale Oldham
- s) Mark Neuman
- t) Christa Jones, including but not limited to at the email address xtadjones@hotmail.com
- u) Anyone communicating from an email address ending in who.eop.gov
- v) Anyone communicating from an email address ending in census.gov

Please provide all responsive records from August 1, 2019, through February 4, 2020.

In an effort to accommodate your agency and reduce the number of responsive records to be processed and produced, American Oversight has limited this request to communications sent by the listed custodians. To be clear, however, American Oversight still requests that complete email chains be produced, displaying the sent messages, the prior received messages, and any subsequent messages in each email chain. This means that a custodian's response to an email, the initial received message, and any prior or subsequent messages within the same email chain are responsive to this request and should be produced.

Fee Waiver Request

In accordance with Mo. Rev. Stat. § 610.026.1(1), 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. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information “is likely to contribute significantly to public understanding of the operations or activities of [a] public governmental body.”³ The public has a significant interest in Amendment 3 and the redistricting process in Missouri.⁴ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including shedding light on communications by the sponsor of the original bill in the time frame surrounding the passage of the amendment. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and

³ Mo. Rev. Stat. § 610.026.1(1).

⁴ See, e.g., Rosenbaum, *supra* note 1; Wang, *supra* note 2.

the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes.⁵ 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.⁶

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁷ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization's investigations into misconduct and corruption in state governments;⁸ posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;⁹ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the

⁵ Mo. Rev. Stat. § 610.026.1(1).

⁶ American Oversight currently has approximately 15,700 page likes on Facebook and 105,600 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Feb. 10, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Feb. 10, 2021).

⁷ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁸ See generally *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Georgia's Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁹ See, e.g., *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *Wisconsin Documents Offer Window into Early Uncertainty over COVID-19*, American Oversight, <https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight, <https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

Trump administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹⁰ and 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.¹¹

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:

- 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 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.¹² 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

¹⁰ 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>.

¹¹ *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 Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹² Mo. Rev. Stat. § 610.024.1.

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 Emma Lewis at records@americanoversight.org or (202) 919-6303. 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,

/s/ Mehreen Rasheed
Mehreen Rasheed
on behalf of
American Oversight