



May 20, 2021

VIA EMAIL

Senator Steve Nass
Wisconsin State Capitol, Room 10 South
2 East Main St.
Madison, WI 53703
Sen.Nass@legis.wi.gov

Re: Public Records Law Request

Dear Senator Nass:

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 your office produce the following records “as soon as practicable and without delay”:¹

1. All records reflecting the full content of any post published to ALEC Connect² by Sen. Nass (including the original post and the complete comment thread).
2. All records reflecting the full content of any ALEC Connect posts (including the original post and the complete comment thread) on which Sen. Nass commented.
3. All records reflecting the full content of any ALEC Connect posts or comments (including the original post and the complete comment thread) mentioning or tagging Sen. Nass by name, username, or email address.
4. All files uploaded to ALEC Connect by Sen. Nass.

¹ Wis. Stat. § 19.35(4)(a).

² ALEC Connect is the online portal of the American Legislative Exchange Council. As a member of ALEC, Senator Nass has access to ALEC Connect and its content. *See Convening Ideas Across the States*, State Policy Network, Dec. 5, 2019, <https://spn.org/blog/convening-ideas-across-the-states/>; Nick Surgey, *Weapons, Tobacco Makers, Koch Group Are Among Newest ALEC Members*, Documented, Dec. 2, 2020, <https://documented.net/2020/11/weapons-tobacco-makers-koch-group-are-among-newest-alec-members/>.



5. All files downloaded from ALEC Connect by Sen. Nass, whether to a government or personal device.
6. All records reflecting the full content of any written exchanges, including chats, concerning legislation or policy issues on ALEC Connect in which Sen. Nass participated.. Please note that American Oversight does not seek, and that this request specifically excludes, chats with ALEC support staff concerning information technology troubleshooting or related issues.
7. All records reflecting the content or Sen. Nass' ALEC Connect member profile page.
8. All records reflecting any expense report submitted through ALEC Connect by Sen. Nass, any communications (including messages sent through ALEC Connect or by email) concerning any such expense report, and any records reflecting reimbursement, approval, rejection, or other action in response to any such expense report.

Please provide all responsive records from August 1, 2019, 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.³ American Oversight also makes materials it gathers available on its public

³ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; *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>; *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>.

website⁴ and promotes their availability on social media platforms, such as Facebook and Twitter.⁵

The public has a significant interest in the influence of ALEC, a group that convenes state legislators to coordinate legislative priorities and solutions.⁶ 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 Wisconsin state legislators have been influenced in their official duties by ALEC or ALEC members. 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 likely to have responsive records. As you know, the Wisconsin Open Records Law broadly defines public records to include “any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, *regardless of physical form or characteristics*, that has been created or is being kept by an authority.”⁷

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. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

⁴ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁵ American Oversight currently has approximately 15,700 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 12, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 12, 2021).

⁶ Yvonne Wingett Sanchez and Rob O'Dell, *What is ALEC? 'The Most Effective Organization' for Conservatives, Says Newt Gingrich*, USA Today (April 5, 2019, 4:15 PM), <https://www.usatoday.com/story/news/investigations/2019/04/03/alec-american-legislative-exchange-council-model-bills-republican-conservative-devos-gingrich/3162357002/>; see also David Armiak, *UW-Madison Chancellor and State Legislators Use Digital Dodges to Hide Records from the Public*, Milwaukee J. Sentinel (May 4, 2021, 2:32 PM), <https://www.jsonline.com/story/news/solutions/2021/05/04/uw-madison-chancellor-legislators-use-hide-records-public/4943305001/> (discussing ALEC members' policy discussions and other activities related to their official duties).

⁷ Wis. Stat. § 19.32(2) (emphasis added).

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.⁸

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.⁹ 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 Emma Lewis at

⁸ 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>.

⁹ Wis. Stat. § 19.36(6).

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/ Emma Lewis

Emma Lewis
on behalf of
American Oversight