



September 23, 2021

VIA EMAIL

Open Records Custodian
Office of the Secretary of State
214 State Capitol
Atlanta, GA 30334
openrecords@sos.ga.gov

Re: Open Records Request

Dear Records Custodian:

Pursuant to the Georgia Open Records Law (O.C.G.A. §§ 50-18-70 et seq.), American Oversight makes the following request for records.

Requested Records

American Oversight requests that the Office of the Secretary of State produce the following within three business days:

1. All email communications (including emails, complete email chains, calendar invitation, and attachments thereto) sent by any of the Secretary of State officials or State Election Board members listed below regarding changes in the Secretary of State's election authorities (including, but not limited to, communications concerning Senate Bill 202).

At a minimum, communications concerning the following changes would be responsive to this request and should be produced:

- i. The replacement of the Secretary of State as chairperson of the State Election Board with a designee of the Georgia General Assembly
- ii. The new limits to the State Election Board's authority to issue emergency election regulations or the requirement that the State Election Board submit proposed emergency rules to the House and Senate Judiciary Committees
- iii. The requirement that the Secretary of State or State Election Board notify the House and Senate Judiciary Committees prior to entering into any agreement or settlement limiting, altering, or interpreting provisions of the election code
- iv. The Secretary of State and State Election Board's ability to appoint an independent performance review board to evaluate local election officials
- v. The State Election Board's ability to suspend local election officials

For changes "iv" and "v," please note that American Oversight does not seek, and that this request specifically excludes, communications regarding the ongoing performance review of Fulton County's election administration.



Rather, American Oversight seeks communications concerning the statutory provisions enabling the Secretary of State and State Election Board to 1) appoint an independent performance review board, and 2) suspend local election officials.

Secretary of State Officials:

- a. Brad Raffensperger, Secretary of State
- b. Jordan Fuchs, Deputy Secretary of State
- c. Ryan Germany, General Counsel
- d. Gabriel Sterling, Chief Operating Officer
- e. Blake Evans, Elections Division Director

State Election Board Members:

- f. Rebecca Sullivan
- g. Sara Tindall Ghazal
- h. Matthew Mashburn
- i. Anh Le

In an effort to accommodate the Secretary of State and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited this request item 1 to emails sent by the listed 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 Secretary Raffensperger’s response to an email concerning the replacement of the Secretary of State as chairperson of the State Election Board and the initial received message are responsive to this request and should be produced.

- 2. All records reflecting any formal or informal directive, order, advisory, guidance, or final analysis regarding the provisions of Senate Bill 202 referenced in request item 1.

For both items 1 and 2, please provide all responsive records from February 10, 2021, through the date this request is received by your office.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

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.

- In conducting your search, please understand the terms “record,” “document,” and “information” in their 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 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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Open Records Act.¹
- 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. 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.

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.

¹ O.C.G.A. § 50-18-70(b)(2).

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.

Conclusion

American Oversight is a 501(c)(3) nonprofit with the mission 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.²

We share a common mission to promote transparency in government. American Oversight looks forward to working with you on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Khahilia Shaw at records@americanoversight.org or 202.539.6507.

Sincerely,

/s/ Khahilia Shaw
Khahilia Shaw
on behalf of
American Oversight

² American Oversight currently has approximately 15,630 page likes on Facebook and 108,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 7, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 7, 2021).