



August 26, 2021

VIA EMAIL

Senator Warren Daniel
300 N. Salisbury Street, Rm. 627
Raleigh, NC 27603
Warren.Daniel@ncleg.gov

Re: Public Records Act Request

Dear Senator Daniel:

Pursuant to the North Carolina Public Records Act, as codified at North Carolina General Statutes ch. 132, American Oversight makes the following request for records.

Requested Records

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

1. A complete copy (including any attachments) of any contract, amendment, memorandum of understanding, or other written agreement regarding external entities providing services relevant to the state legislative or congressional redistricting processes, including, but not limited to, agreements with providers of map drawing software, consultants, advisors, or legal counsel.

This request should be interpreted to include any copies of contractual documents pertaining to redistricting in the possession of Senator Daniel's office, including those to which the North Carolina State Senate, the Senate Redistricting Committee, or Senator Daniel are not a party.

2. A complete copy of any unpublished formal or informal guidance, directives, memoranda, criteria, or other policy documents pertaining to redistricting issued by or in possession of Senator Daniel's office.
3. Any district boundary proposals produced by any member of the Senate Redistricting Committee, any Senate Redistricting Committee staff member, or any entity commissioned or contracted by the Senate Redistricting Committee or the North Carolina State Senate, as well as any related data analyses. Please note that this request does not seek electoral district maps or community of interest maps submitted as public comment by members of the public.



4. Any record containing assessments, interpretations, or opinions concerning data from the 2020 Census or the 2020 American Community Survey (ACS).
5. Any record containing assessments, interpretations, or opinions concerning past election results.
6. Any record containing assessments, interpretations, or opinions concerning political party affiliation data, racial demographic data, or present incumbency.
7. Records sufficient to identify the redistricting-related roles or responsibilities of any member of the Senate Redistricting Committee, any Senate Redistricting Committee staff member, or any entity commissioned or contracted by the Senate Redistricting Committee or the North Carolina Senate for redistricting-related work.
8. Records reflecting any training materials used to instruct any member of the Senate Redistricting Committee, any Senate Redistricting Committee staff member, or any entity commissioned or contracted by the Senate Redistricting Committee or the North Carolina State Senate for redistricting-related work, in their roles or responsibilities.
9. Any records containing any formal or informal appraisal of or comment on any content or public comment submitted to the Senate Redistricting Committee by members of the public in possession of Senator Daniel's office.

Please provide all responsive records from January 1, 2021, through the date the search is conducted.

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

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.¹ 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 Public Records Act.²
- 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

¹ N.C. Gen. Stat. Ann. § 132-1(a) (public records consist of documentary material “regardless of physical form or characteristics.”).

² See Atty. Gen. Josh Stein, *North Carolina Open Government Guide* at 22 (2019), <https://ncdoj.gov/download/141/files/17891/2019-open-government-guide> (“Emails about official business are public records even if they are sent using the personal email account of an employee or official.”).

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.

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.³

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 Zachery Morris at records@americanoversight.org or (202) 897-4213.

Sincerely,

/s/ Zachery Morris
Zachery Morris
on behalf of
American Oversight

³ American Oversight currently has approximately 15,640 page likes on Facebook and 107,700 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Aug. 25, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Aug. 25, 2021).