



October 14, 2021

**VIA EMAIL**

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Office of the West Virginia Attorney General  
State Capitol Complex, Bldg. 1, Room E-26  
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**Re: West Virginia Freedom of Information Act Request**

Dear Records Custodian:

Pursuant to the West Virginia Freedom of Information Act, W. Va. Code §§ 29B-1-1 *et seq.*, American Oversight makes the following request for copies of records.

**Requested Records**

American Oversight requests that the West Virginia Attorney General's Office produce the following records within five business days:<sup>1</sup>

1. Records sufficient to identify the following staffing information for the West Virginia Attorney General's Office employees working on matters concerning election law (including, but not limited to, election integrity initiatives and election fraud investigations).
  - a. The names<sup>2</sup> and job titles of each employee temporarily or permanently assigned to matters concerning election law, or of those permanently or temporarily working in support of those assigned to matters concerning election law.

For request item 1, please provide all responsive records for each month spanning January 2019 through October 2021 (*i.e.*, January 2019, February 2019, March 2019, April 2019, May 2019 [. . .] July 2021, August 2021, September 2021, and October 2021).

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<sup>1</sup> W. Va. Code § 29B-1-3(d) (requiring custodian to furnish requested records "as soon as practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays.").

<sup>2</sup> In lieu of names of individual employees, American Oversight would also accept records sufficient to identify the total number of employees assigned to matters concerning election law.



2. Records sufficient to identify the West Virginia Attorney General's Office actual or prospective budget for matters concerning election law (including, but not limited to, relevant employee salaries, election integrity initiatives, and election fraud investigations).

For request item 2, please provide all responsive records reflecting the described budgets for fiscal years 2019, 2020, 2021, and 2022.

3. Records sufficient to identify all costs and expenses incurred for matters concerning election law (including, but not limited to, relevant employee salaries, election integrity initiatives, and election fraud investigations).

For request item 3, please provide all responsive records reflecting the described costs and expenses for fiscal years 2019, 2020, 2021, and 2022.

4. Records sufficient to identify the total number of pending cases concerning alleged election law violations.

For request item 4, please provide all responsive records for each month spanning January 2019 through October 2021 (*i.e.*, January 2019, February 2019, March 2019, April 2019, May 2019 [. . .] July 2021, August 2021, September 2021, and October 2021).

5. Records sufficient to identify the total number of resolved cases (including, but not limited to, cases resulting in a finding of guilt or liability, cases resolved by plea or stipulation, or dismissed cases) concerning election law violations and the final disposition of each case, regardless of the outcome.

For request item 5, please provide all responsive records for each month spanning January 2019 through October 2021 (*i.e.*, January 2019, February 2019, March 2019, April 2019, May 2019 [. . .] July 2021, August 2021, September 2021, and October 2021).

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.
- 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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> If a request is denied in whole, please state specifically whether 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 office can decrease the likelihood of costly and time-consuming litigation in the future.

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<sup>3</sup> See W. Va. Code § 29B-1-2(6) (defining “writing” to include “books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics.”).

<sup>4</sup> See W. Va. Code § 29B-1-2(5) (defining a “public record” to include “any writing containing information prepared or received by a public body” that “relates to the conduct of the public’s business.”).

<sup>5</sup> See *Farley v. Worley*, 215 W. Va. 412, 424, 599 S.E.2d 835, 847 (2004) (holding that a public body must redact or segregate exempt from non-exempt information contained within a responsive record, absent a written justification explaining that such segregation or redaction would impose an unreasonably high burden or expense).

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.<sup>6</sup>

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 Mehreen Rasheed at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 848-1320.

Sincerely,

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

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<sup>6</sup> American Oversight currently has approximately 15,635 page likes on Facebook and 108,500 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Oct. 6, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Oct. 14, 2021).