



December 8, 2021

VIA EMAIL

Lee Cassis, Senate Clerk
State Capitol Complex, Bldg. 1, Room 211M
1900 Kanawha Blvd. E
Charleston, WV 25305
Senate.Clerk@wvsenate.gov

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 Senate produce the following records within five business days:¹

All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) and text message threads/conversations between (a) any of the West Virginia Senate members listed below, or anyone communicating on their behalf, and (b) any of the U.S. Congress members or staff listed below regarding the state or congressional redistricting processes.

West Virginia Senate Members:

- i. Senator Charles Trump, IV
- ii. Senator Rupie Phillips
- iii. Senator Chandler Swope
- iv. Senator Dave Sypolt
- v. Senator Eric Tarr
- vi. Senator Ryan Weld

U.S. House of Representatives Members and Staff:

- i. Representative David McKinley, or his Chief of Staff, Mike Hamilton
- ii. Representative Alex Mooney, or his Chief of Staff, Michael Hough
- iii. Representative Carol Miller, or her Chief of Staff, Matt Donnellan

¹ 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.”).



- iv. Senator Shelley Moore Capito, her Chief of Staff, Joel Brubaker, or anyone communicating from an email address ending in @capito.senate.gov

American Oversight believes that records containing the terms listed below are likely to be responsive records, and requests that your office, at a minimum, employ these search terms.

Search Terms:

- | | |
|---------------------|---------------------|
| i. District | xii. Map-making |
| ii. Districts | xiii. "Map making" |
| iii. Redistricting | xiv. "Map maker" |
| iv. Map | xv. "Map makers" |
| v. Maps | xvi. Boundary |
| vi. Mapdrawing | xvii. Boundaries |
| vii. Map-drawing | xviii. Seat |
| viii. "Map drawing" | xix. Gerrymander |
| ix. "Map drawer" | xx. Gerrymandered |
| x. "Map drawers" | xxi. Gerrymandering |
| xi. Mapmaking | |

Please provide all responsive records from November 3, 2020, 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 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:

- 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.² 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.

² 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.").

- 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.³ 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.

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.⁴

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

³ 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).

⁴ American Oversight currently has approximately 16,200 page followers on Facebook and 109,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Dec. 7, 2021); American

understand any part of this request, please contact Mehreen Rasheed at records@americanoversight.org or (202) 848-1320.

Sincerely,

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

Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Dec. 7, 2021).