



June 10, 2022

VIA EMAIL

University of Colorado Boulder
Attn: Laura Portis, CORA Compliance Administrator
Office of University Counsel
924 Broadway, 013
Boulder, CO 80309
CORACUBoulder@colorado.edu

Re: Open Records Act Request

Dear Custodian of Records:

Pursuant to the Colorado Open Records Act, C.R.S. § 24-72-201 et seq., American Oversight makes the following request for records.

Records obtained by the *Denver Post* indicate that in the months following the November 2020 election, former visiting professor John Eastman used his University of Colorado email address to communicate with elected officials regarding challenging the election's results.¹

American Oversight seeks records with the potential to shed light on John Eastman's role in attempting to prevent the certification of the November 2020 presidential election, including additional communications that may have been sent from his university email address.

Requested Records

American Oversight requests that your office produce the following records within three working days:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by former visiting professor John Eastman containing any of the listed terms:

Key Terms:

- | | |
|--------------|--------------|
| 1. Amendment | 4. Certif* |
| 2. Ballot* | 5. Decertif* |
| 3. Biden | 6. Court* |

¹ Elizabeth Hernandez, *John Eastman Used CU Email Account to Advise Pennsylvania Legislator on Challenging That State's 2020 Election Results*, *Denver Post* (May 10, 2022, 6:00 AM), <https://www.denverpost.com/2022/05/10/john-eastman-cu-boulder-emails/>.



- | | |
|---------------------|------------|
| 7. Elect* | 14. Senat* |
| 8. Fraud* | 15. Slate* |
| 9. Legislat* | 16. Trump |
| 10. Pence | 17. Vice |
| 11. Plenary | 18. Vote* |
| 12. President* | 19. VP |
| 13. Representative* | 20. POTUS |

Please provide all responsive records from October 1, 2020, through January 20, 2021.

Please note that American Oversight is using the asterisk (*) to designate the standard use of “wildcards” in the search for responsive records. For example, a search for “certif*” would return all of the following: certify, certificate, certificates, certification, etc. If your office is unable to search for wildcards, please advise so that we may specifically include the variations that we would like searched.

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by John Eastman. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means that both Eastman’s response to an email containing the key term “amendment” and the initial received message are responsive to this request and should be produced.

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

Fee Waiver Request

In accordance with C.R.S. § 24-72-205(4), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records will further a “public purpose”² because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

The public has a significant interest in John Eastman’s role in efforts to overturn or otherwise cast doubt on the results of the November 2020 presidential election.³ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including the extent to which Eastman communicated from his University of Colorado email address. American Oversight is committed to transparency and makes the responses agencies provide to open records requests publicly available, and the public’s understanding of

² C.R.S. § 24-72-205(4).

³ See Hernandez, *supra* note 1.

the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes. 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. American Oversight's mission is 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

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁵ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the organization's investigations into misconduct and corruption in state governments;⁶ posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;⁷ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the Trump administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁸ and the posting of records related

⁴ American Oversight currently has approximately 16,000 followers on Facebook and 17,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 24, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited May 24, 2022).

⁵ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁶ *State Investigations*, American Oversight, <https://www.americanoversight.org/states>.

⁷ See e.g. *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *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>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight, <https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

⁸ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers.⁹

Accordingly, American Oversight qualifies for a fee waiver.

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. 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. 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.

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

⁹ *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

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 Hart Wood at records@americanoversight.org or (202) 873-1743. 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/ Hart Wood
Hart Wood
on behalf of
American Oversight