



April 28, 2023

VIA EMAIL

Florida Department of State
Office of the General Counsel
Attn: Public Records Custodian
500 South Bronough Street, Suite 100
Tallahassee, FL 32399-0250
PublicRecords@DOS.MyFlorida.com

Re: Public Records Request

Dear Public Records Officer:

Pursuant to Article I, section 24(a), of the Florida Constitution, and Florida's public records laws, as codified at Fla. Stat. Chapter 119, American Oversight makes the following request for records.

Requested Records

American Oversight requests that Florida Department of State promptly produce the following:

1. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) and text messages or messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook Messenger, WhatsApp, Signal, Telegram, or Parler) between (a) any Florida Department of State official listed below, and (b) any of the external entities or individuals listed below.

Florida Department of State Officials:

- i. Cord Byrd, Secretary of State
- ii. Anyone serving as an assistant or scheduler to Secretary of State Cord Byrd
- iii. Jennifer Kennedy, Assistant Secretary of State & Chief of Staff

External Parties:

- i. Anyone communicating on behalf of the Heritage Foundation or Heritage Action for America (including, but not limited to, anyone communicating from an email address ending in heritage.org or heritageaction.com)
- ii. J. Christian Adams (a@electionlawcenter.com, adams@electionlawcenter.com, and jadams@usccr.gov), Logan Churchwell, Maureen Riordan, or anyone communicating on behalf of Public Interest Legal Foundation (including, but not limited to,



- anyone communicating from an email address ending in publicinterestlegal.org)
 - iii. Jason Snead (jason@jasonsnead.com) or anyone communicating on behalf of Honest Elections Project (including, but not limited to, anyone communicating from an email address ending in honestelections.org)
 - iv. Anyone communicating on behalf of the National Association of Secretaries of State (NASS) (including, but not limited to, anyone communicating from an email address ending in nass.org or sso.org)
2. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent or received by Secretary of State Cord Byrd, Assistant Secretary of State & Chief of Staff Jennifer Kennedy, or anyone communicating on their behalf (such as an assistant or scheduler), containing any of the following terms: “Heritage,” “Honest Elections Project,” “HEP,” “Snead,” “Public Interest Legal,” “PILF,” “Christian Adams,” “Churchwell,” “Riordan,” “Association of Secretaries,” or “NASS.”

For Parts 1 and 2 of this request, please note that American Oversight does not seek, and that this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications responding to or forwarding such emails are responsive to this request. In other words, for example, if Secretary Byrd received a mass-distribution newsletter from Public Interest Legal Foundation, that initial email would not be responsive to this request. However, if Secretary Byrd forwarded that email with his own commentary, that subsequent message would be responsive to this request and the entire email chain should be produced.

3. The following records regarding (1) the February 15-18, 2023 National Association of Secretaries of State 2023 Winter Conference in Washington, DC, and (2) the February 14-15, 2023 Secretaries of State Conference hosted by The Heritage Foundation, Honest Elections Project, and Public Interest Legal Foundation in Washington, DC:
- a. All records containing registration information related to Secretary of State Cord Byrd’s attendance;
 - b. All itineraries or agendas for Secretary of State Cord Byrd’s travel (including, but not limited to, records identifying the individuals accompanying Secretary of State Byrd and records identifying any related travel or housing accommodations);
 - c. Records sufficient to identify any expense requests or reimbursement requests (either for payment or reimbursement by the Department of State or by any external party, including, but not limited to, The Heritage Foundation) submitted in connection with Secretary of State Cord Byrd’s attendance;
 - d. Any handouts, presentation materials, summaries, or notes (electronic or handwritten) provided to or created by Secretary of State Cord

Byrd or anyone communicating on his behalf (such as an assistant or scheduler).

For Parts 1 through 3, please provide all responsive records from January 1, 2023, through March 1, 2023.

4. All calendars or calendar entries for Secretary of State Cord Byrd, including any calendars maintained on his behalf, from February 1, 2023, through February 28, 2023.

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

American Oversight seeks all 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. 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 includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

Please search all locations and systems likely to have responsive records regarding official business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Emails or texts conducting government business sent or received on the personal account of the government official constitutes a record for purposes of Florida’s public records laws.¹

In addition, American Oversight insists that your agency use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; your office may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

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 it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

¹ *Cf. State v. City of Clearwater*, 863 So. 2d 149, 154 (Fla. 2003) (“The determining factor is the nature of the record, not its physical location.”).

Please take appropriate steps to ensure that records responsive to this request are not deleted by your office 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.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, 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.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF 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.

Section 119.12 Notice

This document provides written notice identifying American Oversight's public records request to your agency's custodian of public records in compliance with Section 119.12(1)(b) of the Florida Statutes. Should your agency fail to comply with its obligations under Florida's public records laws, American Oversight may be prepared to file suit to enforce the provisions of Fla. Stat. Chapter 119.

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 your agency on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully

² American Oversight currently has approximately 16,000 followers on Facebook and 112,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited April 27, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited April 27, 2023).

releasing the requested records, please contact Taylor Stoneman at records@americanoversight.org or (202) 848-1319.

Sincerely,

/s/ Taylor Stoneman
Taylor Stoneman
on behalf of
American Oversight