



March 20, 2024

VIA EMAIL

South Carolina Department of Health and Human Services
Office of General Counsel
PO Box 8206
Columbia, SC 29202
FOIA@scdhhs.gov

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office promptly produce the following records:¹

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the Department of Health and Human Services officials listed below and containing any of the key terms listed below.

Department of Health and Human Services Officials:

1. Robert Kerr, Director
2. Eunice Medina, Chief of Staff and Deputy Director of Programs
3. Byron Roberts, General Counsel
4. Deirdra Singleton, Deputy Director for Administration and Chief Compliance Officer
5. Anyone communicating on behalf of the Director, such as an assistant or scheduler

Key Terms:

- a. "gender reassignment"
- b. "gender transition"
- c. "sex reassignment"
- d. "sex transition"

¹ Pursuant to S.C. Code Ann. § 30-4-30(C), please notify American Oversight of your final determination as to the public availability of the requested records within ten business days and produce the records within thirty calendar days after issuing your final determination.



- e. “gender affirming”
- f. “gender-affirming”
- g. 4624
- h. Transgender
- i. Hormone
- j. Hormonal
- k. “puberty block”
- l. Dysphoria
- m. “gender identity”
- n. “help not harm”
- o. “trans health”
- p. “trans care”
- q. “biological sex”

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 the listed officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both a listed official’s response to an email containing a listed key term and the initial received message are responsive to this request and should be produced.

2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) the Department of Health and Human Services officials listed above, and (b) any of the external entities or individuals listed below or anyone communicating on behalf of any of the entities listed below (including, but not limited to, at the listed email addresses and/or domains).

External Entities and Individuals:

1. Alliance Defending Freedom (adflegal.org)
2. American Association of Pro-Life Obstetricians and Gynecologists (aaplog.org)
3. American College of Pediatricians or ACPeds (acpeds.org)
4. American Family Association (afa.net)
5. American Principles Project (americanprinciplesproject.org)
6. Child and Parental Rights Campaign (childparentrights.org)
7. Concerned Women for America (concernedwomen.org or cwfa.org)
8. Courage International (couragerc.org)
9. Do No Harm (donoharmmedicine.org)
10. Eagle Forum (eagleforum.org)
11. Ethics and Public Policy Center (eppc.org)
12. Family Policy Alliance (familypolicyalliance.com)
13. Family Research Council (frc.org or frcaction.org)
14. Federalist Society (fed-soc.org or fedsoc.org)
15. Gays Against Groomers (gaysagainstgroomers.com)
16. GenSpect (genspect.org)

17. Heritage Foundation (heritage.org or heritageaction.com)
18. Independent Women's Forum (iwf.org)
19. James Cantor (jamescantophd@gmail.com)
20. Kelsey Coalition (kelseycoalition@gmail.com)
21. Liberty Counsel (lc.org)
22. Michael Laidlaw (drlaidlaw.com)
23. Moms for Liberty (momsforliberty.org, libertysqr.com)
24. Opportunity Solutions Project (solutionsproject.org)
25. Palmetto Family Alliance (palmettoalliance.org)
26. Palmetto Family Council (palmettofamily.org)
27. Parents of ROGD Kids (parentsofrogdkids.com)
28. Partners for Ethical Care (partnersforethicalcare.com)
29. Patrick Lappert
30. Paul Hruz (hruz_p@wustl.edu, hruz_p@kids.wustl.edu)
31. Promise to America's Children (promisetoamericaschildren.org)
32. Quentin Van Meter (kidendo@comcast.net)
33. Society for Evidence Based Gender Medicine (segm.org)
34. Stephen Levine

For part 2 of this request, please note that American Oversight does not seek, and this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if a listed custodian received a mass-distribution news clip email from Alliance Defending Freedom, that initial email would not be responsive to this request. However, if the listed custodian forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and should be provided.

3. All assessments, reports, analyses, recommendations, scientific research, or guidance prepared or received by your office regarding treatment for gender transition, gender reassignment, or gender dysphoria, including, but not limited to, records related to South Carolina House Bill 4624.²

For all parts of this request, please provide all responsive records from November 16, 2023, through the date the search is conducted.

Fee Waiver Request

In accordance with S.C. Code Ann. § 30-4-30(B), American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better

² Ian Kayanja, *SC House Approves 'Help Not Harm Bill', A Potential Gender-Affirming Care Ban For Minors*, WCIV ABC News 4 (Jan. 17, 2024), <https://abcnews4.com/news/local/sc-house-passes-help-not-harm-bill-which-could-ban-gender-affirming-care-for-minors-transgender-care-south-carolina-news-wciv-news-4>.

understanding of relevant government procedures by the general public in a significant way. In addition, this request is primarily and fundamentally for non-commercial purposes.

A waiver of fees is “in the public interest because furnishing the information can be considered as primarily benefiting the general public.”³ The general public has a significant interest in understanding state officials’ actions regarding proposed legislation affecting transgender populations in South Carolina. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including communications concerning plans to restrict care for transgender South Carolinians. American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the public’s understanding of the government’s activities would be enhanced through American Oversight’s analysis and publication of these records.

Furthermore, American Oversight’s work is aimed solely at serving the public interest. 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.com.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 and analysis related to the organization’s investigations into misconduct and corruption in state governments;⁶ posting records and analysis of federal and state governments’

³ S.C. Code Ann. § 30-4-30(B).

⁴ American Oversight currently has approximately 16,000 followers on Facebook and 111,400 followers on Twitter.com. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 8, 2024); American Oversight (@weareoversight), Twitter.com, <https://twitter.com/weareoversight> (last visited Mar. 8, 2024).

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

⁶ See generally *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Georgia’s Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

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 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:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- 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.

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>.

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>.

- 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.¹⁰ 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 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, have any questions, or foresee any problems in

¹⁰ S.C. Code Ann. § 30-4-40(b).

fully releasing the requested records, please contact Ben Sparks at records@americanoversight.org or (202) 873-1741.

Sincerely,

/s/ Ben Sparks

Ben Sparks
on behalf of
American Oversight