



May 3, 2024

VIA EMAIL

Michelle Nelson
City Clerk-Treasurer, City of Kenosha
625 52nd Street, Room 105
Kenosha, WI 53140
clerk@kenosha.org

Re: Public Records Law Request

Dear Public Records Officer:

Pursuant to Wisconsin's public records law, Wis. Stat. §§ 19.31–19.39, American Oversight makes the following request for copies of records.

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:¹

All Challenge Documentation forms (Form EL-104c) from the city's central count,² or any other form or document on which election inspectors recorded challenges to absent electors during the April 2, 2024 spring election; and the complete Inspectors' Statement (Form EL-104 or Form EL-104mu) from the city's central count for the April 2, 2024 spring election.

Fee Waiver Request

In accordance with Wis. Stat. § 19.35(3)(e), American Oversight respectfully requests that the records be produced without charge. Providing American Oversight with a waiver of fees is in the “public interest” because American Oversight will, in accordance with its organizational mission, make the records available to the public without charge. These disclosures will likely contribute to a better understanding of relevant government procedures by the general public.

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. Rather, American Oversight's mission is to serve the public by promoting transparency in government, educating the public about government activities, and ensuring the

¹ Wis. Stat. § 19.35(4)(a).

² All references to “central count” refer to the site the city used for the central processing of all absentee ballots, as authorized under Wis. Stat. § 7.52.



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.³ American Oversight also makes materials it gathers available on its public website⁴ and promotes their availability on social media platforms, such as Facebook and Twitter.com.⁵

The public has a significant interest in understanding the extent to which there may have been attempts, whether successful or not, to challenge absentee ballots. Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of government, including whether there have been attempts to challenge absentee voters' eligibility or some other aspect of their ballots during the April 2024 election. 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.

American Oversight asks that if its request for a fee waiver is denied in whole or in part, that you contact us prior to incurring any costs.

Guidance Regarding the Search & Processing of Requested Records

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.⁶ 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.

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

³ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; *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>; *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>.

⁴ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁵ American Oversight currently has approximately 16,000 followers on Facebook and 111,500 followers on Twitter.com. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 30, 2024); American Oversight (@weareoversight), Twitter.com, <https://twitter.com/weareoversight> (last visited Apr. 30, 2024).

⁶ Wis. Stat. § 19.36(6).

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, please contact David Kronig at records@americanoversight.org or (202) 897-3915. 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/ David Kronig
David Kronig
on behalf of
American Oversight