



June 25, 2024

VIA EMAIL

Elections Unit
North Dakota Office of the Secretary of State
600 East Bismarck, ND 58505
soselect@nd.gov

Re: Open Records Law Request

Dear Record Custodian:

Pursuant to the North Dakota Open Records Law, N.D.C.C. §§ 44-04-18 et seq., and Section 6 of Article XI of the North Dakota Constitution, American Oversight makes the following request for records.

Requested Records

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

1. A complete copy (including all attachments) of all written reports, audit materials, or complaints received from United Sovereign Americans, Public Interest Legal Foundation, Voter Reference Foundation, Judicial Watch, or the Republican National Committee.

Records responsive to item 1 of this request include, but are not limited to, reports, spreadsheets, or other forms of aggregated data.

2. All email communications (including emails, email attachments complete email chains, calendar invitations, and calendar invitation attachments) between (a) any of the officials listed below, and (b) any of the external individuals or entities listed below (including individuals communicating from the listed email addresses or domains).

Officials:

- i. Secretary of State Michael Howe
- ii. State Election Director Erika White

External Individuals or Entities:

- a. Public Interest Legal Foundation (publicinterestlegal.org, electionlawcenter.com)
- b. Republican National Committee (gop.org, gop.com, rnc.org)
- c. United Sovereign Americans (unite4freedom.com, usa4freedom.org)
- d. Voter Reference Foundation (voteref.com, voterreferencefoundation.com)
- e. Christie Moore
- f. Harry Haury



- g. Kate Sullivan (citizenvoter2024@gmail.com)
- h. Marly Hornik
- i. Michelle Peterson
- j. New York Citizens Audit (NYCA.info@proton.me, auditny.com)
- k. Judicial Watch (judicialwatch.org)

Please note that American Oversight does not seek, and that part 2 of 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, if an official received a mass-distribution news clip email from a listed external individual or entity, that initial email would not be responsive to this request. However, if that official forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

- 3. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by any of the officials listed above in part 2 and containing any of the key terms listed below.

Key Terms:

- a. “NVRA notice”
- b. “NVRA violation”
- c. “Notice of violation”
- d. §20510

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited part 3 of this request to emails sent by the specified officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means that both an official’s response to an email and the initial received message are responsive to this request and should be produced.

Please provide all responsive records from March 1, 2024, 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 fee.

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.
- 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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Open Records Law.¹
- 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.² If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release. Furthermore, if a request is denied in whole or in part, please describe the legal authority for the denial or, if applicable, provide a statement that the records do not exist.³
- 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. 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

¹ See N.D.A.G. 2014-O-20 (records contained on public employee's personal device); N.D.A.G. 2014-O-10 (private email account used to generate or receive emails containing "public business"); N.D.A.G. 2008-O-15 (emails on home computers).

² N.D.C.C. § 44-04-18.10 (1), (2).

³ N.D.C.C. § 44-04-18(7).

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 X.com (formerly 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 understand any part of this request, please contact Loree Stark at records@americanoversight.org or (304) 913-6114.

Sincerely,

/s/ Loree Stark
Loree Stark
on behalf of
American Oversight

⁴ American Oversight currently has approximately 16,000 followers on Facebook and 111,500 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 18, 2024); American Oversight (@weareoversight), X (formerly Twitter), <https://twitter.com/weareoversight> (last visited June 18, 2024).