



June 25, 2024

**VIA EMAIL**

Office of the West Virginia Attorney General  
Attn: Steven A. Travis, Deputy General Counsel  
State Capitol Complex, Bldg. 1, Rm E-26  
1900 Kanawha Blvd. East  
Charleston, WV 25305  
[steven.a.travis@wvago.gov](mailto:steven.a.travis@wvago.gov)

**Re: West Virginia Freedom of Information Act Request**

Dear Records Custodian:

Pursuant to the West Virginia Freedom of Information Act, W. Va. Code § 29B-1-1 et seq., American Oversight makes the following request for copies of records.

**Requested Records**

American Oversight requests that your office produce the following records within five business days:<sup>1</sup>

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

Office of the Attorney General Officials:

1. Attorney General Patrick Morrissey
2. Lindsay See, Solicitor General
3. Terry Varney, Executive Assistant
4. Douglas Buffington, Chief Deputy Attorney General
5. Curtis Capehart, Deputy Attorney General
6. David Gilbert, Deputy Attorney General
7. Candace Kraus, Senior Deputy Attorney General
8. Brent Wolfingbarger, Senior Deputy Attorney General

Key Terms:

- a. "full faith and credit"
- b. "gender affirming"
- c. "gender reassignment"

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<sup>1</sup> W. Va. Code § 29B-1-3(d) (requiring custodian to furnish requested records "as soon as practicable but within a maximum of five days not including Saturdays, Sundays or legal holidays.").



- d. “gender transition”
- e. “gender-affirming”
- f. “LD 227”
- g. “out of state”
- h. “out-of-state”
- i. “parental rights”
- j. “private right of action”
- k. “shield law”
- l. “Troy Jackson”
- m. Frey
- n. Hormonal
- o. Hormone
- p. LD227
- q. Maine
- r. Mills
- s. Talbot
- t. Transgender
- u. “planned parenthood”

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 Office of the Attorney General officials listed above, and (B) the external entities listed below (including, but not limited to, anyone communicating from an email address ending in the listed domain(s)).

External Entities:

1. America First Legal (aflegal.org)
2. American College of Pediatricians (acpeds.org)
3. American Family Association (afa.net)
4. American Principles Project (americanprinciplesproject.org)
5. Catholic Medical Association (cathmed.org)
6. Child and Parental Rights Campaign (childparentrights.org)
7. Christian Civic League (cclmaine.org)
8. Christian Medical and Dental Associations (cmda.org)
9. Concerned Women for America (concernedwomen.org or cwfa.org)
10. Courage International (couragerc.org)
11. Do No Harm (donoharmmedicine.org)
12. Ethics and Public Policy Center (eppc.org)
13. Family Policy Alliance (familypolicyalliance.com)

14. Family Research Council (frc.org or fraction.org)
15. GenSpect (genspect.org)
16. Heritage Foundation (heritage.org or heritageaction.com)
17. Independent Women's Forum (iwf.org)
18. Liberty Counsel (lc.org)
19. Maine Sheriffs' Association (mainesheriffs.org)
20. Opportunity Solutions Project (solutionsproject.org)
21. Parents of ROGD Kids (parentsofrogdkids.com)
22. Partners for Ethical Care (partnersforethicalcare.com)
23. Promise to America's Children (promisetoamericaschildren.org)
24. Science for Evidence-Based Gender Medicine (segm.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, for example, if Attorney General Morrissey received a mass-distribution news clip from one of the listed external individuals or entities, that initial email would not be responsive to this request. However, if Attorney General Morrissey forwarded that email to another listed individual with his own commentary, that subsequent message would be responsive to this request and should be provided.

**For all parts of this request, please provide all responsive records from February 11, 2024, through the date the search is conducted.**

While we understand the West Virginia Freedom of Information Act permits public agencies to assess fees associated with the reproduction of public records, as a not-for-profit organization, we request consideration of a waiver of any fees associated with the furnishing of these documents. Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

### **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.<sup>2</sup> 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.<sup>3</sup> If a request is denied in whole, please state specifically whether 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.

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 office 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.

### **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

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<sup>2</sup> See W. Va. Code § 29B-1-2(5) (defining a “public record” to include “any writing containing information prepared or received by a public body” that “relates to the conduct of the public’s business.”).

<sup>3</sup> See *Farley v. Worley*, 215 W. Va. 412, 424, 599 S.E.2d 835, 847 (2004) (holding that a public body must redact or segregate exempt from non-exempt information contained within a responsive record, absent a written justification explaining that such segregation or redaction would impose an unreasonably high burden or expense).

website and promotes their availability on social media platforms, such as Facebook and Twitter.com.<sup>4</sup>

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](mailto:records@americanoversight.org) or (304) 913-6114.

Sincerely,

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

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<sup>4</sup> American Oversight currently has approximately 16,000 followers on Facebook and 111,200 followers on Twitter.com. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited May 13, 2024); American Oversight (@weareoversight), Twitter.com, <https://twitter.com/weareoversight> (last visited May 13, 2024).