



July 31, 2024

**VIA EMAIL**

House Clerk Steve Harrison,  
West Virginia House of Delegates  
State Capitol Complex  
Room 208  
Charleston, WV 25305  
[Steve.Harrison@wvhouse.gov](mailto:Steve.Harrison@wvhouse.gov)  
[House.Clerk@wvhouse.gov](mailto:House.Clerk@wvhouse.gov)

Delegate Chris Phillips  
State Capitol Complex  
Room 213E, Bldg. 1  
[chris.phillips@wvhouse.gov](mailto:chris.phillips@wvhouse.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) between (a) Delegate Chris Phillips and (b) any of the external entities listed below (including the listed domains).

External Entities:

- a. U.S. Customs and Border Protection ([cbp.dhs.gov](http://cbp.dhs.gov))
- b. U.S. Department of Homeland Security ([hq.dhs.gov](http://hq.dhs.gov))
- c. U.S. Immigration and Customs Enforcement ([ice.dhs.gov](http://ice.dhs.gov))

For part 1 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. For example, if

---

<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.”).



Delegate Phillips received a mass-distribution news clip email from the U.S. Department of Homeland Security, that initial email would not be responsive to this request. However, if Delegate Phillips forwarded that email to another individual with his own commentary, that subsequent message would be 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) and text messages (including complete text message threads or conversations) or messages on messaging platforms (such as Signal, Slack, GChat or Google Hangouts, Lync, Skype, X (formerly Twitter) direct messages, Facebook messages, WhatsApp, Telegram, or Parler) sent or received by Delegate Chris Phillips and containing any of the key terms listed below.

Key Terms:

- a. “Biden asylum”
- b. “Biden immigration”
- c. “Biden executive”
- d. “Biden’s asylum”
- e. “Biden’s immigration”
- f. “Biden’s executive”
- g. “asylum ban”
- h. “asylum executive order”
- i. “asylum executive action”
- j. “executive order on asylum”
- k. “executive action on asylum”
- l. “border executive order”
- m. “border executive action”
- n. “suspend asylum”
- o. “end asylum”
- p. “block asylum”
- q. “limit asylum”
- r. “restrict asylum”
- s. “Proclamation on Securing the Border”
- t. “Restrict Asylum During High Encounters”

For part 2 of this request, for text messages or messages on other messaging platforms, American Oversight requests that full text message threads/conversations be produced. For example, if Delegate Phillips sent or received a text message containing any of the key terms listed above, the complete thread/conversation for the timeframe listed below should be produced, and not just the message containing the key term.

Also, for part 2 of this request, for email communications, 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 forwarding such emails are responsive to this request. For example, if Delegate Phillips received a mass-distribution

news clip email containing a specified key term, that initial email would not be responsive to this request. However, if Delegate Phillips forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

**For both parts of this request, please provide all responsive records from June 4, 2024, through June 18, 2024.**

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:

- 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.

---

<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).

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 website and promotes their availability on social media platforms, such as Facebook and X (formerly Twitter).<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

---

<sup>4</sup> 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 July 25, 2024); American Oversight (@weareoversight), X (formerly Twitter), <https://twitter.com/weareoversight> (last visited July 25, 2024).