AMERICAN OVERSIGHT

February 19, 2025

VIA EMAIL

Brette Frank, Executive Assistant
Missouri Department of Elementary and Secondary Education
205 Jefferson St.
Jefferson City, MO 65101
brette.frank@dese.mo.gov

Re: Sunshine Law Request

Dear Custodian of Records:

Pursuant to the Missouri Sunshine Law, Mo. Rev. Stat. § 610.010 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that your agency produce copies of the following records within three business days:

> **For all parts of this request, please provide all responsive records from January 13, 2025, through the date the search is conducted.**

1. All formal or informal final guidance, recommendations, or directives created by or issued to the Missouri Department of Elementary and Secondary Education (DESE) related to any federal or state regulation on gender identity, including, but not limited to, Executive Order 14168, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government."[1]

2. All formal or informal final guidance, recommendations, or directives created by or issued to DESE related to any federal or state regulation on diversity, equity, and inclusion initiatives, including, but not limited to, Executive Order 14151, "Ending Radical and Wasteful Government DEI Programs and Preferencing."[2]

[1] For further identifying information, see *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, The White House (Jan. 20, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/; Exec. Order 14168, 90 Fed. Reg. § 8615 (2025).
[2] For further identifying information, see *Ending Radical and Wasteful Government DEI Programs and Preferencing*, The White House (Jan. 20, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-

3. All formal or informal final impact assessments, reports, or analyses (including memoranda and other written products) prepared by or otherwise provided to your agency regarding any termination of diversity, equity, and inclusion initiatives such as those mentioned above in part 2.

4. All formal or informal final guidance, recommendations, or directives created by or issued to DESE related to any federal or state regulation on gender-affirming care, including, but not limited to, Executive Order 14187, "Protecting Children from Chemical and Surgical Mutilation."[3]

5. All formal or informal final impact assessments, reports, or analyses (including memoranda and other written products) prepared by or otherwise provided to your agency regarding the provision of gender-affirming care as mentioned above in part 4.

If American Oversight's request for a fee waiver or reduction, below, is not granted in full, please contact us immediately upon making such a determination. **Please notify us of any anticipated fees or costs in excess of $50 prior to incurring such costs or fee.**

Fee Waiver Request

In accordance with Mo. Rev. Stat. § 610.026.1(1), American Oversight requests a waiver or reduction 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 understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver or reduction of fees because disclosure of the requested information "is likely to contribute significantly to public understanding of the operations or activities of [a] public governmental body."[4] The public has a significant interest in recent federal regulations related to gender identity and diversity, equity, and inclusion.[5] Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including how and to what extent these federal regulations affect the operations of key state agencies. American Oversight is committed to transparency and makes the

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wasteful-government-dei-programs-and-preferencing/; Exec. Order 14151, 90 Fed. Reg. § 8339 (2025).

[3] For further identifying information, see *Protecting Children from Chemical and Surgical Mutilation*, The White House (Jan. 28, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/protecting-children-from-chemical-and-surgical-mutilation/; Exec. Order 14187, 90 Fed. Reg. § 8771 (2025).

[4] Mo. Rev. Stat. § 610.026.1(1).

[5] Martin Pengelly, *Trump Rolls Back Trans and Gender-Identity Rights and Takes Aim at DEI*, The Guardian (Jan. 20, 2025, 9:01 PM), https://www.theguardian.com/us-news/2025/jan/20/trump-executive-order-gender-sex.

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.

This request is primarily and fundamentally for non-commercial purposes.[6] 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 X (formerly Twitter).[7]

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.[8] 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;[9] posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;[10] posting records received as part of American

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[6] Mo. Rev. Stat. § 610.026.1(1).

[7] American Oversight currently has approximately 16,000 followers on Facebook and 95,700 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited Feb. 17, 2025); American Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited Feb. 17, 2025).

[8] *See generally News*, American Oversight, https://www.americanoversight.org/blog.

[9] *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.

[10] *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.

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;[11] 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.[12]

Accordingly, American Oversight qualifies for a fee waiver or reduction.

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.

- In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions.[13]

- 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

[11] *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.

[12] *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.

[13] Mo. Rev. Stat. § 610.010(6).

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.[14] 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, please contact Danny Martinez at records@americanoversight.org or (202) 897-2465. Also, if American Oversight's

[14] Mo. Rev. Stat. § 610.024.1.

request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Danny Martinez
Danny Martinez
on behalf of
American Oversight