March 23, 2026

VIA ONLINE PORTAL

North Carolina State Board of Elections
P.O. Box 27255
Raleigh, NC 27611
Via Online Portal

Re: Public Records Act Request

Dear Public Records Custodian:

Pursuant to the North Carolina Public Records Act, as codified at North Carolina General Statutes ch. 132, American Oversight makes the following request for records.

Requested Records

American Oversight requests that your agency produce the following records as promptly as possible:

For all parts of this request, please provide all responsive records from March 3, 2026, through the date the search is conducted.

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between any of the officials listed below and any of the external individuals listed below.

   North Carolina State Board of Elections Staff:
   i. Sam Hayes, Executive Director
   ii. Brian LiVecchi, Chief of Staff

   External Individuals:
   a. Phil Berger
   b. Kolt Ulm
   c. John Mitchell
   d. Jonathan Felts

2. All Signal messages between any of the officials listed above in part 1 and any of the external individuals listed above in part 1.

   American Oversight requests that all images, videos, audio recordings, or other attachments regarding official government business shared via Signal be produced in response to this request. To the extent any hyperlinks and/or

URLs were shared via Signal, American Oversight requests records in a form that displays the full URL.

3. All text messages and messages on messaging platforms (such as X (formerly Twitter) direct messages, Slack, GChat or Google Hangouts, Lync, Skype, Facebook messages, Microsoft Teams messages, WhatsApp, Telegram, Parler, Mattermost, Wickr, TeleMessage, TM SGNL or any app that can interface with an app such as those listed or otherwise borrow its technology) between any of the officials listed above in part 1 and any of the external individuals listed above in part 1.

   American Oversight requests that all images, videos, audio recordings, or other attachments regarding official government business shared via text message and/or messaging platforms be produced in response to this request. To the extent any hyperlinks and/or URLs were shared via text message and/or messaging platforms, American Oversight requests records in a form that display the full URL.

   American Oversight is not in a position to provide a phone number for the listed individuals. If the listed officials are unable to provide them, please use the individuals' names as search terms. For example, a search for text messages between an official and Phil Berger would be conducted by searching the official's text messages using the key terms "Phil" and "Berger" to identify potentially responsive records.

To the extent that officials sent or received any emails, Signal messages, text messages, and/or messages on messaging platforms to or from State Senator Phil Berger, those records are responsive to this request and should be produced.

The search should include emails, Signal messages, text messages, and messages on messaging platforms from personal accounts and devices, as well as those from official accounts and devices.[1]

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:

[1] *See* Atty. Gen. Josh Stein, *North Carolina Open Government Guide* at 22 (2019), https://ncdoj.gov/wp-content/uploads/2020/01/2019-Open-Government-Guide-2.pdf ("Emails about official business are public records even if they are sent using the personal email account of an employee or official.").

- 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.[2] 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.

- 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 Public Records Act.[3]

- In the event some portions of the requested records are properly exempt from disclosure, please disclose all reasonably segregable non-exempt portions of the requested records. 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.**

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.

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[2] N.C. Gen. Stat. Ann. § 132-1(a) (public records consist of documentary material "regardless of physical form or characteristics.").
[3] *Id.*

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).[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 Elizabeth Haddix at records@americanoversight.org or (252) 359-7424.

Sincerely,

/s/ Elizabeth Haddix
Elizabeth Haddix
on behalf of
American Oversight

[4] American Oversight currently has approximately 16,000 followers on Facebook and 94,900 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited Mar. 20, 2026); American Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited Mar. 20, 2026).