



June 23, 2021

VIA EMAIL: elections@wi.gov
reid.magney@wi.gov

Reid Magney
Public Information Officer
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984

Dear Mr. Magney:

The Wisconsin Elections Commission has failed to provide records in response to numerous requests submitted by American Oversight under Wisconsin's public records law, Wis. Stat. §§ 19.31–19.39. Specifically, your office has failed to respond to a dozen separate requests for records in the possession of Commissioner Robert Spindell. As you know, your office has a legal obligation to respond to such requests “as soon as practicable and without delay.” Wis. Stat. § 19.35(4)(a). We write today to identify the pending records requests to which your office has not responded and to inform you that we will pursue all legal avenues to obtain the records to which we are entitled pursuant to Wisconsin law.

Since 2019, American Oversight has submitted 13 requests to your office seeking Commissioner Spindell's records.¹ To date, the Wisconsin Elections Commission has responded to only one of these requests, more than a year ago, providing only a single page.²

Between December 2019 and May 2021, American Oversight submitted 12 other public records requests naming Commissioner Spindell as a custodian, to which we have received no response. These requests are identified below, using American Oversight's

¹ American Oversight has additional requests pending before your office, seeking records from other Wisconsin Elections Commission custodians, to which no response has yet been received. However, due to an egregious lack of response from Commissioner Spindell, the requests identified in this letter are American Oversight's top priority requests for which it seeks an urgent response. This letter should not be construed as narrowing or limiting in any way American Oversight's continued interest in the other requests it has submitted but not included herein.

² See Email from Open Records Officer to American Oversight (March 12, 2020) (regarding WI-20-0155), available at <https://www.americanoversight.org/document/wisconsin-elections-commissioner-spindell-communications-with-state-legislature>.

internal tracking numbers, found in the lower right-hand corner of the documents. These requests are also attached as Exhibits A-L.

- WI-19-1572, submitted December 23, 2019³
- WI-20-0552, submitted March 11, 2020
- WI-20-1041, submitted April 23, 2020
- WI-20-1204, submitted May 8, 2020
- WI-20-1439, submitted June 10, 2020⁴
- WI-20-1441, submitted June 10, 2020⁵
- WI-20-1884, submitted July 27, 2020⁶
- WI-WEC-20-2880, submitted December 8, 2020
- WI-WEC-20-2881, submitted December 8, 2020
- WI-WEC-21-0679, submitted May 26, 2021
- WI-WEC-21-0680, submitted May 26, 2021
- WI-WEC-21-0681, submitted May 26, 2021

In each instance, your office acknowledged receipt of the request, but neither provided records nor communicated with us in any way as to the progress of any searches for responsive records. Instead, without explanation and in violation of your obligations under the Wisconsin Open Records Law, responses to our requests seeking Commissioner Spindell's records have languished, in most cases for months, if not over a year.

American Oversight is committed to continuing to work cooperatively with your office but cannot wait indefinitely for compliance, especially when our experience to date strongly suggests no foreseeable response.

As you know, Wisconsin law requires your office to respond to requests "as soon as practicable and without delay," Wis. Stat. § 19.35(4)(a), and the Wisconsin Department of Justice advises that authorities "should make every reasonable effort to respond to requests in a timely fashion and in a way that does not leave the requester wondering if the authority has forgotten" about the request.⁷ Furthermore, long delays in releasing public records thwart the core purposes of the open records law. As the United States Court of Appeals for the District of Columbia wrote regarding the federal Freedom of Information Act, "stale information is of little value." *Payne Enters., Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988).

³ Commissioner Spindell was listed as one of six custodians in this request.

⁴ Commissioner Spindell was listed as one of five custodians in this request.

⁵ This request sought records from all "WEC staff or Commissioners," including Commissioner Spindell.

⁶ Commissioner Spindell was listed as one of five custodians in this request.

⁷ "How much time does an authority have to respond to my public records request?", Wis. Dep't of Justice, <https://www.doj.state.wi.us/office-open-government/ask-the-oog/how-much-time-does-authority-have-respond-my-public-records>.

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Accordingly, American Oversight respectfully requests that your office either fulfill the above-listed requests or notify American Oversight of any denials as soon as practicable and without delay. If your office continues to violate its obligations under Wisconsin public records law, American Oversight may resort to legal action to enforce our rights. Wis. Stat. § 19.37(1)(a).

Should any of our requests require further clarification or explanation, I can be reached by email at emma.lewis@americanoversight.org or by telephone at (202) 919-6303.

Thank you for your prompt attention to this matter.

Sincerely,



Emma Lewis
Counsel
American Oversight

cc: Law Forward, Inc.
Attn: Mel Barnes, Staff Counsel
P.O. Box 326
Madison, WI 53703

Attachment