



## Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: Berks County Open Records Officer (Attn: AORO)

Date of Request: 8/16/2022 Submitted via:  Email  U.S. Mail  Fax  In Person

### PERSON MAKING REQUEST:

Name: Mehreen Rasheed Company (if applicable): American Oversight

Mailing Address: American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005

City: Washington, DC State: DC Zip: 20005 Email: records@americanoversight.org

Telephone: (202) 848-1320 Fax: \_\_\_\_\_

How do you prefer to be contacted if the agency has questions?  Telephone  Email  U.S. Mail

**RECORDS REQUESTED:** *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law. Use additional pages if necessary.*

Please see attached request (PA-BERKS-22-0805)

**DO YOU WANT COPIES?**  Yes, printed copies (default if none are checked)  
 Yes, electronic copies preferred if available  
 No, in-person inspection of records preferred (may request copies later)

Do you want certified copies?  Yes (may be subject to additional costs)  No  
RTKL requests may require payment or prepayment of fees. See the [Official RTKL Fee Schedule](#) for more details.

Please notify me if fees associated with this request will be more than  \$100 (or)  \$\_\_\_\_\_.

### ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: \_\_\_\_\_ Date Received: \_\_\_\_\_ Response Due (5 bus. days): \_\_\_\_\_

30-Day Ext.?  Yes  No (If Yes, Final Due Date: \_\_\_\_\_) Actual Response Date: \_\_\_\_\_

Request was:  Granted  Partially Granted & Denied  Denied Cost to Requester: \$\_\_\_\_\_

Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: In most cases, a completed RTKL request form is a public record.  
More information about the RTKL is available at <https://www.openrecords.pa.gov>

Form updated Feb. 3, 2020



August 16, 2022

**VIA EMAIL**

Carmen Torres,  
County Open Records Officer  
13th Floor Services Center  
633 Court Street  
Reading, PA 19601  
[Countyopenrecordsofficer@countyofberks.com](mailto:Countyopenrecordsofficer@countyofberks.com)

**Re: Right-to-Know Law Request**

Dear Open Records Officer:

Pursuant to the Right-to-Know Law (RTKL), as codified at 65 P.S. §§ 67.101 et seq., American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your office produce the following records within five business days:

All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent by the county officials listed below (or anyone communicating on their behalf) to any email address ending in .com, .co, .us, .net, .org, .mail, .edu, .me or .law.

Please provide all responsive records from May 16, 2022 through May 21, 2022.

**Berks County Officials**

- i. Chair Christian Leinbach
- ii. Vice Chair Kevin Barnhardt
- iii. Commissioner Michael Rivera
- iv. Elections Director Paige Riegner
- v. Chief Clerk Carmen Torres

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 Chair Leinbach's response to an email from an entity bearing the email domain



extension law and the initial received message are responsive to this request and should be produced.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee.

### **Fee Waiver Request**

In accordance with 65 P.S. § 67.1307(f)(2), American Oversight requests a waiver of fees associated with processing this request for records, because disclosure of the requested information is “in the public interest.”

The public has a significant interest in Pennsylvania counties not certifying their primary election results.<sup>1</sup> Records with the potential to shed light on who county officials were in communication with during the relevant time period would contribute significantly to public understanding of operations of the government, including helping the public better understand the reasons why Berks County decided against certifying its primary election results.

American Oversight is committed to transparency and makes the responses agencies provide to open 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. 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 Twitter.<sup>2</sup>

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.<sup>3</sup> Examples reflecting this commitment to the public disclosure of

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<sup>1</sup> See, e.g., *Pennsylvania Certifies Primary Election in All but Three Counties*, WHYY, July 21, 2022, <https://whyy.org/articles/pennsylvania-primary-election-2022-certification-berks-lancaster-fayette/>; Mark Scoloro, *Pennsylvania Sues 3 Counties Over Counting Mail-In Ballots*, AP, July 12, 2022, <https://apnews.com/article/2022-midterm-elections-pennsylvania-lawsuits-legislature-lancaster-b34122ea661222a31fee22fc249bdfd8>; Blake Hounshell & Nick Corasaniti, *A Hidden New Threat to U.S. Elections*, N.Y. Times, July 22, 2022, <https://www.nytimes.com/2022/07/22/us/politics/county-election-certify.html>.

<sup>2</sup> American Oversight currently has approximately 16,000 followers on Facebook and 118,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited July 27, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited July 27, 2022).

<sup>3</sup> See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

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;<sup>4</sup> posting records and analysis of federal and state governments' responses to the Coronavirus pandemic;<sup>5</sup> posting records received as part of American 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;<sup>6</sup> 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.<sup>7</sup>

Finally, this request is primarily and fundamentally for non-commercial purposes. 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.

Accordingly, American Oversight qualifies for a fee waiver.

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<sup>4</sup> 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>.

<sup>5</sup> 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>.

<sup>6</sup> 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>.

<sup>7</sup> *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>.

## **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.
- 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 Right-to-Know Law.<sup>8</sup>
- 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 under 65 P.S. § 67.706. 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.

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<sup>8</sup> See, e.g., *Barkeyville Borough v. Stearns*, 35 A.3d 91, 95–97 (Pa. Commw. Ct. 2012).

## 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 Mehreen Rasheed at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 848-1320. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Mehreen Rasheed  
Mehreen Rasheed  
on behalf of  
American Oversight