



From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Date: Thursday, April 30, 2020 at 8:55 AM
To: AO Records <records@americanoversight.org>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: [Ext]RE: Public Records Request (TX-SOS-20-0651)

Good morning,

Consistent with our April 20 email, please see the attached zipped folder containing documents responsive to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009).

We require more time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on May 8, 2020. *See* Tex. Gov't Code § 552.221(d).

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, April 20, 2020 3:56 PM
To: 'AO Records' <records@americanoversight.org>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Records Request (TX-SOS-20-0651)

Good afternoon,

We are continuing to process your request in accordance with the terms of the Public Information Act. We require additional time to review our records and produce responsive documents. We will provide you any responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on April 30, 2020. See Tex. Gov't Code § 552.221(d).

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, April 6, 2020 3:50 PM
To: 'AO Records' <records@americanoversight.org>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Records Request (TX-SOS-20-0651)

Good afternoon,

Please see the attached letter in response to your request for information under Chapter 552 of the Texas Government Code.

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: [Trey Trainor](#)
To: [Keith Ingram](#)
Cc: [Joe Nixon](#)
Subject: Foreman-Davis Original Petition.docx
Date: Friday, December 20, 2019 2:23:01 PM
Attachments: Foreman-Davis Original Petition.docx

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Keith,

Attached is my clients' intervention into the MISD bond election contest. Let me know if you have any questions.

Sincerely,

Trey Trainor
Trainor Law Firm, P.C.
(512) 924-6501

Sent from my iPhone

CAUSE NO. CV 56255

CHRISTINE FOREMAN and
DAVID JOYNER,
Contestants,

and

BRANDON W. HODGES, THOMAS
WOLFMUELLER, KENYE KAY
MURCHISON AND JAMES
BEAUCHAMP,
Intervenors and Contestants

VS

RICK DAVIS, in his official capacity as
Presiding Officer of Midland Independent
School District Board of
Trustees
Contestee

IN THE DISTRICT COURT OF

MIDLAND COUNTY, TEXAS

142ND JUDICIAL DISTRICT

**PETITION IN INTERVENTION OF BRANDON W. HODGES, THOMAS
WOLFMUELLER, KENYE KAY MURCHISON AND JAMES BEAUCHAMP,
INTERVENORS AND CONTESTEES**

TO THE HONORABLE COURT:

NOW COMES, Intervenor of Brandon W. Hodges, Thomas Wolfmueller, Kenye Kay Murchison and James Beauchamp, Contestants intervening in the election contest brought under the Texas Election Code against RICK DAVIS, in his capacity as presiding officer of the final canvassing authority for the contested election, and would respectfully show:

I. PARTIES, VENUE AND JURISDICTION

1. Intervenor and Contestants intend that a Level 2 Discovery Control Plan govern this action under Rule 190.1 of the Texas Rules of Civil Procedure.

2. This original petition initiating an election contest was filed and accepted pursuant to Chapter 233 of the Texas Election Code,

3. Intervenor and Contestants Brandon W. Hodges, Thomas Wolfmueller, Kenye Kay Murchison and James Beauchamp are qualified and registered voters of Midland Independent School District (MISD), the territory covered by the election. *See* Tex. Elec. Code §233.002.

4. As required by Section 233.006(c) of the Texas Election Code the original Contestants delivered a copy of this original petition to the Texas Secretary of State on or before the filing deadline.

5. Contestee, as required by Texas Election Code Section 233.003(a), is Rick Davis, presiding officer of the final canvassing authority for the contested election and President of the Board of Trustees for Midland Independent School District. Contestee has appeared and answered in this suit.

6. This court has jurisdiction of this election contest, and venue is proper in Midland County. Tex. Elec. Code §221.002; §233.005(b).

7. On November 5, 2019, Midland Independent School District (MISD) held an election on a bond measure (the “contested election”, seeking approval of a \$569,000,000 bond package.

8. On Tuesday, November 12, 2019, MISD conducted a canvass of the initial election results. Because Intervenors and Contestants were aware of discrepancies in the actual number of votes provided by the Election Administrator, Deborah Land, a recount was requested and held pursuant to the provisions of the Texas Election Code and there was a change in the results. Therefore, on Tuesday, November 26, 2019, MISD canvassed the recount results as the official election results. The deadline for submission of a petition in an election contest from that date is December 27, 2019. Therefore, this petition is timely filed within 30 days of the date the result of the election was officially determined in accordance with Tex. Elec. Code §233.006.

II. FACTS AND CLAIMS OF CONTESTANTS

9. Intervenor and Contestants assert that the outcome of the contested election, as shown by the final canvass, is not the true outcome because an election officer or other person officially involved in the administration of the election failed to properly count legal votes. *See* Tex. Elec. Code §221.003(a)(2)(B),

10. Missing ballots were discovered from this election on Monday, December 16, 2019 and were not included in the final canvass. Various records will need to be subpoenaed from the Clerk to ensure that all the information available is obtained. Intervenor and Contestants want to ensure that all votes that should have been counted are, in fact, counted. Upon information and belief, approximately 836 ballots possibly cast in this election, were located after the count was canvassed. The chain of custody of these ballots creates doubts as to their validity and the validity of the election.

11. Moreover, Intervenor and Contestant contend that an election officer or other person officially involved in the administration of the election made a mistake and/or engaged in illegal conduct. *See*, Tex. Code §221.003(a)(2)(C).

12. MISD contracted with Midland County to conduct their elections. Deborah Land, the Election Administrator, is charged with conducting the MISD elections pursuant to this contract. The MISD school bond (bond) election was held on November 5, 2019. Initially, the results reported that the bond passed by 12 votes. After the Early Voting Ballot Board met and the results were tallied, the bond failed by 25 votes. Because of inconsistencies and irreconcilable results, the original Contestants, as part of We Choose Our Future PAC, requested a recount. The results of the recount showed the bond passing by 11 votes.

13. During the recount, the following was found: (1) ballots that were unsigned by the election judge; (2) a ballot marked as duplicate that was counted because it appeared to be an original ballot and mismarked as a duplicate; and (3) various other issues relating to the actual ballots. In addition, once the recount ended, the Election Administrator confirmed that all the ballot boxes from the election had been provided to the recount committee.

14. On the information and belief of Intervenors and Contestants, the evidence will show that the Election Administrator made many mistakes that affected the outcome of the election. Ms. Land did not properly conduct the election by securing all ballot boxes for the November 5, 2019 election. A ballot box containing 836 ballots was found on Thursday, December 12, 2019. That ballot box contained votes which appear should have been counted on election day but were not. The chain of custody of those ballots is in question.

15. Intervenors and Contestants reserve the right to timely amend this original petition if additional evidence concerning the counting of votes, or mistakes related to the contested election is discovered.

III. CONDITIONS PRECEDENT

16. All conditions precedent has been performed or have occurred.

IV. RULE 47(c) STATEMENT

17. Intervenors and Contestants seek monetary relief of \$100,000.00 or less and/or non-monetary relief.

V. REQUEST FOR RELIEF

18. Based on the foregoing, Intervenors and Contestants request that a new election be ordered because the true outcome of the original election cannot be legally ascertained.

Intervenors and Contestants pray for all such further relief, both general and special, at law or in equity to which they are justly entitled.

Respectfully submitted,

/s/Joseph M. Nixon
Joseph M. Nixon
The Nixon Law Firm, P.C,
Texas State Bar No. 15244800
6363 Woodway, Suite 800
Houston, TX 77057
Telephone: (713) 550-7535

James E. "Trey" Trainor, III
Trainor Law Firm, P.C.
8201 Montoya Cir
Austin, TX 78717
(512) 924-6501

ATTORNEY FOR CONTESTANTS

CERTIFICATE OF SERVICE

I certify that on December 20, 2019, a true and correct copy of the foregoing document has been electronically filed with the Clerk of Court using the electronic case filing system with the Court which automatically provided notice to all attorneys of record.

/s/ Joseph M. Nixon
Joseph M. Nixon
Attorney-In-Charge

From: [REDACTED]
To: [Keith Ingram](#)
Subject: Issue regarding Order of Election for Dripping Springs ISD
Date: Monday, May 7, 2018 11:44:58 AM
Importance: High

CAUTION: This email originated from outside of the organization. **Do not click links or open attachments** unless you recognize the sender and know the content is safe.

Keith,

I've reviewed the order for the recent May 5, 2018 election that was issued by Dripping Springs ISD <https://www.dsisdtx.us/cms/lib/TX02204855/Centricity/Domain/451/Election%20Order%20Notice%202018%20FINAL.pdf>. There is a small portion of DSISD that is in Travis County but the order makes no mention of where the Travis County voters were to appear to vote as their Travis County Precincts are not listed in the order. It is my understanding from the Travis County Elections Office that the Travis County voters would have had to travel to Hays County to vote in the election (they have a similar situation with regard to Leander ISD). Has the SOS given Dripping Springs ISD or Travis County any guidance with regard to this issue?

As you might imagine, with a 31 vote margin on a bond passage, the communication to the 51 voters in Travis County has become an issue.

Respectfully,

Trey Trainor

Partner
Akerman LLP | 500 West 2nd Street, Suite 1900 | Austin, TX 78701
D: 512 623 6753
[REDACTED]

[vCard](#) | [Profile](#)



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From: [REDACTED]
To: [Keith Ingram](#)
Subject: ORR for Pete Gallego application for place on the ballot for SD 19 Special election
Date: Thursday, August 9, 2018 11:59:07 AM

CAUTION: This email originated from outside of the organization. **Do not click links or open attachments** unless you recognize the sender and know the content is safe.

Keith,

Pursuant to the Texas Open Records Act, I hereby request a copy of the Application for Place on the Ballot filed by Pete Gallego for the SD19 Special Election. I would like to receive the copy via return e-mail if possible and will pay any costs associated with this request.

Respectfully,

Trey Trainor

Partner

Akerman LLP | 500 West 2nd Street, Suite 1900 | Austin, TX 78701

D: 512 623 6753
[REDACTED]

[vCard | Profile](#)



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From: [Keith Ingram](#)
To: ["Trey Trainor"](#)
Cc: [Joe Nixon](#)
Subject: RE: Foreman-Davis Original Petition.docx
Date: Friday, December 20, 2019 2:57:13 PM

Thank you, Trey.

Keith

From: Trey Trainor [REDACTED]
Sent: Friday, December 20, 2019 2:21 PM
To: Keith Ingram <KIngram@sos.texas.gov>
Cc: Joe Nixon [REDACTED]
Subject: Foreman-Davis Original Petition.docx

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Keith,

Attached is my clients' intervention into the MISD bond election contest. Let me know if you have any questions.

Sincerely,

Trey Trainor
Trainor Law Firm, P.C.
(512) 924-6501

Sent from my iPhone

From: [Keith Ingram](#)
To: [REDACTED]
Subject: RE: Issue regarding Order of Election for Dripping Springs ISD
Date: Monday, May 7, 2018 2:29:00 PM
Attachments: image001.jpg

Trey,

We do not believe that we advised either Dripping Springs ISD or Travis County on this matter.

Keith

From: [REDACTED] [mailto:[REDACTED]]
Sent: Monday, May 07, 2018 11:44 AM
To: Keith Ingram <KIngram@sos.texas.gov>
Subject: Issue regarding Order of Election for Dripping Springs ISD
Importance: High

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Trey Trainor

Partner
Akerman LLP | 500 West 2nd Street, Suite 1900 | Austin, TX 78701
D: 512 623 6753
[REDACTED]

[vCard](#) | [Profile](#)



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From: [Lindsey Aston](#)
To: [REDACTED]
Subject: RE: ORR for Pete Gallego application for place on the ballot for SD 19 Special election
Date: Friday, August 10, 2018 10:28:00 AM
Attachments: 0025_001_Redacted.pdf
image002.jpg

Dear Mr. Trainor:

Please see the attached document in response to your request for information, with the date of birth redacted, as agreed.

Regards,

Lindsey (Wolf) Aston

General Counsel

Texas Secretary of State

512-475-2813

From: [REDACTED]
Sent: Thursday, August 09, 2018 11:59 AM
To: Keith Ingram <KIngram@sos.texas.gov>
Subject: ORR for Pete Gallego application for place on the ballot for SD 19 Special election

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Keith,

Pursuant to the Texas Open Records Act, I hereby request a copy of the Application for Place on the Ballot filed by Pete Gallego for the SD19 Special Election. I would like to receive the copy via return e-mail if possible and will pay any costs associated with this request.

Respectfully,

Trey Trainor

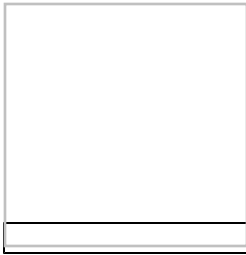
Partner

Akerman LLP | 500 West 2nd Street, Suite 1900 | Austin, TX 78701

D: 512 623 6753

[REDACTED]

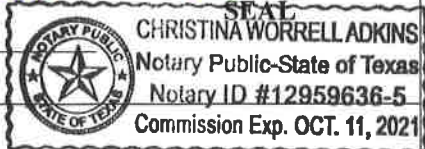
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SECRETARY OF STATE
ELECTIONS DIVISION
'18 JUN 22 AM 9:36

All information is required to be provided unless indicated as optional.

APPLICATION FOR A PLACE ON THE BALLOT (Special Election to Fill Vacancy)														
TO: Secretary of State														
I request that my name be placed on the above-named official ballot as a candidate for the office indicated below.														
OFFICE SOUGHT Include any place number or other distinguishing number, if any. Texas Senate District 19				PARTY AFFILIATION (if any) Democratic										
FULL NAME (First, Middle, Last) Pete P. Gallego			PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT Pete Gallego											
PERMANENT RESIDENCE ADDRESS (Street address and apartment number. If none, describe location of residence. Do not include P.O. Box or Rural Rt.) 600 N Harrison			MAILING ADDRESS (If different from residence address) 300 Convent St Ste 300											
CITY Alpine	STATE TX	ZIP 79830	CITY San Antonio	STATE TX	ZIP 78205									
EMAIL ADDRESS (OPTIONAL) ppg@petegallego.com		OCCUPATION (Do not leave blank) Attorney	DATE OF BIRTH [REDACTED]	COUNTY OF RESIDENCE Brewster										
TELEPHONE NUMBER (Include area code) (Optional) OFFICE: (432) 701-0529 HOME:		Length of Continuous Residence as of Date Application Sworn <table border="1"><thead><tr><th>IN STATE</th><th>IN CITY</th><th>IN DISTRICT OR PRECINCT</th></tr></thead><tbody><tr><td>56 yr(s)</td><td>56 yr(s)</td><td>56 yr(s)</td></tr><tr><td>6 mos</td><td>6 mos</td><td>6 mos</td></tr></tbody></table>				IN STATE	IN CITY	IN DISTRICT OR PRECINCT	56 yr(s)	56 yr(s)	56 yr(s)	6 mos	6 mos	6 mos
IN STATE	IN CITY	IN DISTRICT OR PRECINCT												
56 yr(s)	56 yr(s)	56 yr(s)												
6 mos	6 mos	6 mos												
If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election.														
Before me, the undersigned authority, on this day personally appeared (name) <u>Pete Gallego</u> , who being by me here and now duly sworn, upon oath says: "I, (name) <u>Pete P. Gallego</u> , of <u>Brewster</u> County, Texas, being a candidate for the office of <u>Texas Senate District 19</u> , swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the Constitution and laws of this state. I have not been finally convicted of a felony for which I have not been pardoned or had my full rights of citizenship restored by other official action. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code.														
I further swear that the foregoing statements included in my application are in all things true and correct."														
X <u>Pete P. Gallego</u> SIGNATURE OF CANDIDATE														
Sworn to and subscribed before me at <u>Travis County</u> , this the <u>22</u> day of <u>June</u> , <u>2018</u> .														
<u>[Signature]</u> Signature of Officer administering oath		<u>Notary Public</u> Title of Officer administering oath												
 Notary without Bond														
TO BE COMPLETED BY SECRETARY OF STATE:														
This document and \$ <u>1250</u> filing fee or a nominating petition of <u>N/A</u> pages received.														
(See Section 1.007)														
			<u>6-22-18</u> Date Received											
			<u>Christina W. Adkins</u> Signature of Receiving Officer											

From: [REDACTED]
To: [Lindsey Aston](#)
Subject: Re: ORR for Pete Gallego application for place on the ballot for SD 19 Special election
Date: Friday, August 10, 2018 2:01:35 PM
Attachments: image002.jpg

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Thank you

Trey Trainor
Akerman LLP

Sent from my iPhone

On Aug 10, 2018, at 10:28 AM, Lindsey Aston <LAston@sos.texas.gov> wrote:

Dear Mr. Trainor:

Please see the attached document in response to your request for information, with the date of birth redacted, as agreed.

Regards,

Lindsey (Wolf) Aston
General Counsel
Texas Secretary of State
512-475-2813

From: [REDACTED]
Sent: Thursday, August 09, 2018 11:59 AM
To: Keith Ingram <KIngram@sos.texas.gov>
Subject: ORR for Pete Gallego application for place on the ballot for SD 19 Special election

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Keith,

Pursuant to the Texas Open Records Act, I hereby request a copy of the Application for Place on the Ballot filed by Pete Gallego for the SD19 Special Election. I would like to receive the copy via return e-mail if possible and will pay any costs associated with this request.

Respectfully,

Trey Trainor

Partner

Akerman LLP | 500 West 2nd Street, Suite 1900 | Austin, TX 78701

D: 512 623 6753



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[<image002.jpg>](#)

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[<0025_001_Redacted.pdf>](#)