



August 7, 2020

Khahilia Shaw
Counsel
American Oversight
1030 15th St. NW
Suite B255
Washington, DC 20005

Sent via email

Ms. Shaw,

This email is to respond to your amended request for public records, which was received by this office on June 22, 2020. Specifically, you have requested:

“eliminate schedulers and assistants from our requested custodian list so that the list includes only Secretary Frank LaRose, Director Mandi Grandjean, and Deputy Elections Director Karen Pawloski...for sent communications concerning vote by mail considerations *related to the COVID-19 outbreak*...from March 1, 2020 to April 23, 2020.”

In response to your initial request, which was received by this office April 23, 2020, we asked, in a May 28, 2020 letter that you clarify your original request because our office could not identify the records you are seeking with sufficient clarity because you have not specified an employee correspondent who may be a sender or recipient, and you have not identified a specific subject matter. We appreciate your willingness to clarify your request. While you have narrowed the list of correspondents who may be senders (by eliminating schedulers and assistants from our requested custodian) and clarified that the list of keywords “are not required keywords for the search,” however, your request is still overly broad for the reasons stated below.

As was stated in our previous response, the Ohio Public Records Act requires that a requester identify the records he or she is seeking with “reasonable clarity” so that the public office can identify responsive records based on the manner in which it ordinarily maintains and accesses the public records it keeps. See *State ex rel. Glasgow v. Jones*, 119 Ohio St.3d 391, 2008-Ohio-4788, ¶ 17; *State ex rel. Morgan v. New Lexington*, 112 Ohio St. 3d 33, 2006-Ohio-6365, 857 N.E.2d 1208, ¶ 29. “A records request is not specific merely because it names a broad category of records listed within an agency's retention schedule.” See *State ex rel. Zidonis v. Columbus State Community College*, 2011-Ohio-6817.

Ohio courts have found requests for communications to be proper when limited temporally, by subject matter, and by specific employee or employees concerned. See *State ex rel. Zidonis v. Columbus State Community College*, 133 Ohio St. 3d 122, at 128, 2012 Ohio 4228; *State ex rel. Kesterson v. Kent State Univ.*, 156 Ohio St. 3d 22, 2018-Ohio-5110; *State ex rel. Bott Law Group, LLC v. Ohio Dep't of Natural Res.*, 10th Dist. Franklin No. 12AP-448, 2013-Ohio-5219.

Here, while you have eliminated assistants and schedulers from those who may be senders of the desired communications, your request is still overly broad because you have not reasonably identified a recipient of the desired correspondence. Ohio courts have found similar requests to be problematic. See *Kanter v. City of Cleveland Heights*, 2018-Ohio-4592 (finding that requests, which seek records of all communications between Police Chief Jeff Robertson and The Cleveland Jewish News, between March 20, 2013 and April 12, 2013, to be problematic). Additionally, you have identified Karen Pawloski, as a specific sender of the desired correspondence, however, there is no such employee of our office with this name, nor is there an employee fitting the title or description of Deputy Elections Director.

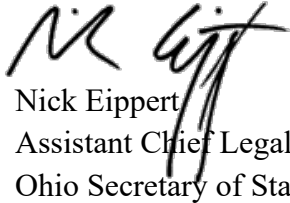
Additionally, in your amended request you have clarified that the list of keyword terms, provided in the original request, were “merely suggested terms meant to guide and inform [our] office’s search. They are not required keywords for the search.” Accordingly, you have limited the desired subject matter to be for “communications concerning vote by mail considerations related to the COVID-19 outbreak.” It is important to remember, when making request for public records, that Ohio courts have found similar requests for broad ranges of records identifying specific subject matters to be impermissible requests for information as opposed to requests for specific records. A request to search for information “regarding,” or “relating” to, a topic is generally improper. See *Hicks v. Newton*, 2017-Ohio-8952. The terms “concerning” and “related to” are vague terms of expansion rather than specificity. See *Neff v. Knapp*, 2018-Ohio-2357A public office is not obligated to seek out and retrieve those records, which would contain the information of interest to the requestor.” See *State ex rel. Fant v. Tober*, 1993 Ohio App. Lexis 2591; *State ex rel. Kesterson v. Kent State Univ.*, 156 Ohio St. 3d 22, 2018-Ohio-5110; *State ex rel. Dillery v. Icsman*, 92 Ohio St.3d 312, 314, 2001 Ohio 193. “A general request, which asks for everything, is not only vague and meaningless, but essentially asks for nothing.” See *Kanter v. City of Cleveland Heights*, 2018-Ohio-4592. “The dilemma for the public office may not be whether the public office can identify any responsive records to the request, but whether the terms of the request permit it to reasonably identify all responsive records.” See *Kanter v. City of Cleveland Heights*, 2018-Ohio-4592.

Therefore, for these reasons stated above, our office cannot identify the records you are seeking with sufficient clarity because you have not specified a correspondent who may be a recipient of your desired correspondence, and you have not identified a specific subject matter. Thus, our office cannot properly respond to your request as currently presented, without your clarification. If you wish to revise your request and provide greater specificity (*i.e.*, specific recipient, and subject

matter), our office will be better able to assist you in identifying the records you seek. For your reference, to aid you in identifying records kept by this office, you may view the current retention schedules for the Ohio Secretary of State, which are maintained by the Ohio Department of Administrative Services (DAS); these records may be accessed at the following location:

<https://apps.das.ohio.gov/RIMS/GeneralSchedule/Search>

Sincerely,

A handwritten signature in black ink, appearing to read 'Nick Eippert', is written over the printed name and title.

Nick Eippert
Assistant Chief Legal Counsel
Ohio Secretary of State