CREW

CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

September 18, 2024

SUBMITTED VIA EMAIL

Georgia State Election Board
2 Martin Luther King Jr. Drive
Suite 802, Floyd West Tower
Atlanta, GA 30334
openrecords@sos.ga.gov
ahardin@sos.ga.gov

RE: Open Records Act Request

Dear Open Records Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") submits this request for records from the Georgia State Election Board pursuant to the Georgia Open Records Act ("GORA"), O.C.G.A. § 50-18-70.

Requested Records

1. All communications **sent by** or **received by** SEB board members Janice Johnston, Rick Jeffares, or Janelle King and any of the following individuals:

    - Alex B. Kaufman (including, but not limited to, communications with the email akaufman@chalmersadams.com)
    - Clayton Robert Barker III, a.k.a. Robert Barker (including, but not limited to, communications with the email robert.barker@stanfordalumni.org)

2. All communications **sent by** or **received by** SEB board members Johnston, Jeffares, or King mentioning either of the names listed above in Part 1 of this request.

    CREW seeks public records of any kind stored in any account, whether government

or personal,[1] including emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, and all emails on which the above-listed individuals or organizations were direct recipients, cc'ed or bcc'ed.

Please be advised that CREW intends to pursue all legal remedies to enforce its rights under GORA. SEB members who fail or refuse to provide access to records not subject to lawful exemption or who in any way frustrate or delay CREW's access to records or destroy records to prevent their disclosure may be subject to criminal or civil penalties. O.C.G.A. § 50-18-74(a). Because litigation is reasonably foreseeable, the SEB should institute a board-wide preservation hold on all documents potentially responsive to this request.

This request is made for noncommercial purposes. CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and reducing the influence of money on politics. The release of information obtained through this request is not in CREW's financial interest.

CREW requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because CREW intends to analyze the information responsive to this request and to share its analysis with the public. The public has a significant interest in the administration and certification of elections in Georgia, including the activities of those tasked with overseeing elections who may be involved in efforts to undermine public confidence in elections in Georgia.[2] The requested records would contribute to public understanding of operations of the government, including the State Election Board's responsiveness to the concerns of the public.

If costs or fees for copying and postage charges in connection with processing this request are expected to exceed $100, please contact me at (202) 408-5565 or [redacted].

Conclusion

[1] Per the Georgia Attorney General's Office, a government employee's personal email accounts or device used for work purposes must be reviewed when the government entity receives a public records request and any relevant records are subject to disclosure. O.C.G.A. §§ 50-18-71(g), 50-18-71(h); *see also Can government employees' personal emails be subject to open records requests?*, Consumer Ed, https://consumered.georgia.gov/ask-ed/2018-08-24/can-government-employees-personal-emails-be-subject-open-records-requests (last visited Aug. 23, 2024); *The Georgia Open Records Act and the Municipal HR Professional*, Ga. Mun. Ass'n, https://www.gacities.com/gmasite/media/pdf/HR%20Express/Open-Records-Act.pdf (last visited Aug. 23, 2024).

[2] *See, e.g.*, *Democracy Under Threat: A Spotlight on 204 Officials Who Could Undermine Our Elections*, Informing Democracy (Apr. 20, 2023), https://www.informingdemocracy.org/research-library/democracy-under-threat.

Pursuant to O.C.G.A. § 50-18-70(f), please produce these records within three business days. If it is your position any portion of the requested records is exempt from disclosure, please cite each specific exemption you feel justifies the refusal to release the information and notify CREW of the appeal procedures available under the law within three business days. CREW requests that you state in writing and with particularity the reasons for any conclusion that a record is exempt or confidential. If responsive records exist but are not available within three business days, please provide "a written description of such records, together with a timetable for their inspection and copying." *Id.* If some portions of the requested records are properly exempt from disclosure, please redact those portions and produce the remainder of the requested records.

If you have any questions about this request or foresee any problems in fully releasing the requested records, please email me at [redacted] and foia@citizensforethics.org or call me at (202) 408-5565.

Where possible, please produce records in electronic format. Please send the requested records to foia@citizensforethics.org or by mail to Jordan Pilant, Citizens for Responsibility and Ethics in Washington, [redacted].

Sincerely,

Jordan Pilant

Jordan Pilant