

From: Eric Forcier
Sent: Wednesday, September 13, 2017 2:16 PM
To: [REDACTED]
Cc: David Scanlan; Perrow, Jill; Adrian S. LaRochelle
Subject: RE: Right To Know Law Request

Good afternoon, Mr. Munoz:

This e-mail acknowledges the Right to Know Request you filed on September 6, 2017. Here is our response:

The New Hampshire Right-to-Know law provides the public "the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies ... except as otherwise prohibited by statute or [exempted from disclosure by] RSA 91-A:5." RSA 91-A:4, I. The statute defines "governmental records," in relevant part, as "any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in furtherance of its official function." RSA 91-A:I-a, III. Public agency and public body are defined in RSA 91-A:a:V and VI as governmental bodies of the state of New Hampshire or New Hampshire political subdivisions. The Presidential Advisory Commission on Election Integrity is not a New Hampshire state agency or political subdivision. While documents were identified as responsive to this request, they are withheld because they are not government records as defined in RSA 91-A:I-a, III. The documents are not in furtherance of the Secretary State's Office's official function. See *ATV Watch v. N.H. Dep't of Transportation*, 161 N.H. 746, 760 (2011) (holding that "bearing on an agency's business" is not sufficient to require disclosure under RSA 91-A, but rather must be for "an official purpose"); *Judicial Subject, Inc. v. Dep't of Energy*, 412 F.3d 125 (D.C. Cir. 2005) (holding that documents were not federal agency records subject to FOIA because the documents related to the agency employees service on the President's National Energy Policy Development Group).

This response is provided with respect to the New Hampshire Secretary of State's Office and/or Secretary Gardner in his state official capacity under RSA 91-A. It does not represent whether a federal agency may produce any of the requested documents under the Freedom of Information Act.

Thank you.

Sincerely,

Eric Forcier
Staff Attorney