



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
HARRISBURG, PENNSYLVANIA
17120

Right-to-Know Law Office
Room 306, North Office Building
401 North Street
Harrisburg, PA 17120-0500
Fax: 717-214-9899

Mailing Date: November 6, 2017

Michelle Michel

info@verityelections.org

RE: Right-to-Know Law Request No. 2017-436

Dear Ms. Michel:

On September 28, 2017, the Department of State received your request for information pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101, et seq. (RTKL), wherein you requested: “absentee, provisional, FWAB, Military and Overseas ballots from the 2016 General Election, including how many ballots were received, counted and how many were rejected.”

On October 5, 2017, a letter indicating the Department required a 30 day extension was forwarded to you.

Your request is granted in part and denied in part.

- Your request is granted in part and excel spreadsheet responsive to your request are enclosed. There is no fee due to the Department’s policy for not charging a fee if the file is sent electronically.
- Your request is denied in part because the Department of State has determined that it does not have the records that you request in its possession, under its custody or its control. Pursuant to the Office of Open Records Final Decision in *Jenkins vs. Pennsylvania Department of State*, OOR Dkt. AP 2009-065, it should be noted that: “It is not a denial of access when an agency does not possess

records and there is no legal obligation to obtain them (see, e.g. Section 67.506(d)(1)).” An agency is not required “to create which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. §67.705. The Department does maintain the data you are requesting by the categories listed in your request. Please be aware that the U.S. Election Assistance Commission <https://www.eac.gov/research-and-data/election-administration-voting-survey/> may have information responsive to your request.

You have a right to appeal this response in writing to the Office of Open Records (OOR), Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. If you choose to file an appeal you must do so within 15 business days of the mailing date of this response and send to the OOR:

- 1) this response;
- 2) your request; and
- 3) the reason why you think the agency is wrong in its response.

Also, the OOR has an appeal form available on the OOR website at: <https://www.dced.state.pa.us/public/oor/appealformgeneral.pdf>.

Respectfully,



Rebecca A. Fuhrman
Agency Open Records Officer
Department of State
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717-783-3585