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Attorneys for Plaintiff

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
 THIRD JUDICIAL DISTRICT AT ANCHORAGE

AMERICA FIRST LEGAL	)	
FOUNDATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 3AN-26-09043CI
	)	
ALASKA JUDICIAL COUNCIL,	)	
	)	
Defendant.	)	
	)	

COMPLAINT

1. Plaintiff America First Legal Foundation ("AFL") brings this action against the Alaska Judicial Council ("AJC") to compel compliance with the Alaska Public Records Act ("APRA"), ALASKA STAT. § 40.25.110 *et seq.*

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to ALASKA STAT. §§ 22.10.020 and 40.25.125.

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3. Venue is proper in this Court pursuant to ALASKA STAT. § 22.10.030 and ALASKA R. CIV. P. 3(c). The public agency that is the subject of this action maintains its headquarters in this district, and the records at issue are held or controlled within this district.

PARTIES

4. Plaintiff AFL is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans. AFL encourages public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States. AFL's mission includes promoting government transparency and accountability by gathering official government records and disseminating relevant information from the records through reports, press releases, and other media to educate the public.

5. Defendant Alaska Judicial Council is a "public agency," under ALASKA STAT. §§ 40.25.220(2) and 40.25.110(a). Its offices are located at 510 L Street, Ste. 450, Anchorage, Alaska, 99501. The Alaska Judicial Council has possession and control of the records AFL seeks.

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FACTS

6. On June 5, 2026, AFL filed an APRA request with the AJC related to Diversity, Equity, & Inclusion. Exhibit A.

7. On the same day, the AJC confirmed receipt of the request. Exhibit B.

8. As of the date of filing, AFL has received no further communications from AJC concerning this request.

CLAIM

Violation of APRA, Alaska Stat. § 40.25.110

9. AFL repeats and realleges paragraphs 1-8 as fully incorporated herein.

10. AFL properly requested records within the possession, custody, and control of the Defendant.

11. Defendant has not responded to AFL's request for nearly three months, well beyond the maximum ten (10) days allowed for response in ALASKA ADMIN. CODE tit. 2, § 96.325(a).

12. Consequently, Defendant has denied or obstructed the inspection of a public record subject to inspection, and Plaintiff is accordingly entitled to relief. ALASKA STAT. § 40.25.125.

PRAYER FOR RELIEF

WHEREFORE, AFL respectfully requests this Court:

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i. Declare that the records sought by this request, as described in the foregoing, must be disclosed pursuant to ALASKA STAT. § 40.25.110;

ii. Declare that the Plaintiff is entitled to relief under ALASKA STAT. § 40.25.125;

iii. Order the Defendant to conduct an immediate search for all records responsive to AFL's APRA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of responsive records;

iv. Order the Defendant to produce by a date certain all non-exempt records responsive to AFL's APRA request; and

v. Grant AFL such other and further relief as this Court deems proper.

Dated: September 2, 2026.

Respectfully submitted,

By: /s/ Alexandra N. Dunn

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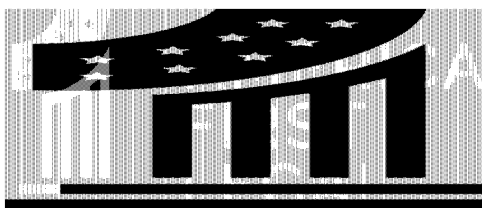
* *pro hac vice* forthcoming

Attorneys for Plaintiff

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June 5, 2026

Via electronic mail

Susanne DiPietro
Executive Director
Alaska Judicial Council
510 L Street, Ste. 450
Anchorage, Alaska 99501

Alaska Public Records Act Request: Diversity, Equity, & Inclusion

Dear Ms. DiPietro:

America First Legal Foundation (AFL) is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file records requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms.

I. Background

AFL has been the tip of the spear, exposing and combating the toxic effects of diversity, equity, and inclusion (DEI) policies.¹ These policies can be broadly defined as those “in which employees, applicants, or contracting parties are treated differently, separated, or singled out based on their race or ethnicity, rather than treated equally and objectively based on their merit and without regard to their

¹ See, e.g., *America First Legal Advances Lawsuit Against Bausch + Lomb for Racial Discrimination in Board Appointments*, AM. FIRST LEGAL (Apr. 20, 2026), <https://perma.cc/7AXJ-JHH6>; *America First Legal Files Class-Action Lawsuit over the Philadelphia Police Department’s DEI Hiring and Promotion Practices*, AM. FIRST LEGAL (Feb. 26, 2026), <https://perma.cc/Z4LS-GNJR>; *University of Virginia to Dismantle Illegal DEI Infrastructure Following U.S. Department of Justice Investigation and America First Legal Complaint*, AM. FIRST LEGAL (Oct. 23, 2025), <https://perma.cc/6UA3-4DE2>.

immutable characteristics.”² Recent Supreme Court decisions have made clear that disparate treatment institutionalized in DEI policies is unconstitutional.³ DEI is inherently and profoundly harmful.⁴ Discrimination based on immutable characteristics “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone.”⁵ More broadly, the discrimination ... necessarily foments contention and resentment; it is “odious and destructive.”⁶ “Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.”⁷ It truly “is a sordid business, this divvying us up” by race or sex.⁸

The Alaska Judicial Council (AJC) has, unfortunately for the people of Alaska, fallen victim to the pervasive infection of DEI, which has gripped the legal profession. The AJC goes so far as to use DEI when deciding who to recommend to the governor for positions on Alaska’s courts. AJC bylaws explicitly mandate that the council make “every effort to promote diversity, including gender and ethnic diversity” when evaluating potential judicial recommendations.⁹ The AJC’s selection procedures and solicitations for applicants to judicial roles include specific statements that “life experience,” defined as “diversity of the applicant’s personal and educational history,”¹⁰ and “demonstrated commitment to equal justice and the legal needs of the diverse communities of Alaska” are important evaluation factors.¹¹ These statements exemplify the Department of Justice’s concerns about the use of proxy factors to engage in unlawful DEI discrimination *sub rosa*.¹² These efforts to achieve a “diverse bench” have drawn praise from the equally woke Alaska Bar.¹³

Therefore, AFL files this Alaska Public Records Act (APRA) request, so that the American people, and specifically those who call Alaska “home,” can obtain clarity

² Exec. Order No. 14398, 91 Fed. Reg. 16147 (Mar. 31, 2026); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007).

³ See, e.g., *Ames v. Ohio Dep’t of Youth Servs.*, 605 U.S. 303, 309–10 (2025).

⁴ *Muldrow v. City of St. Louis, Mo.*, 601 U.S. 346, 355 (2024) (internal citations omitted).

⁵ *Brown v. Bd. of Educ.*, 347 U.S. 483, 494 (1954).

⁶ *Texas v. Johnson*, 491 U.S. 397, 418 (1989); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 240 (1995) (Thomas, J., concurring) (racial classifications have a “destructive impact on the individual and our society”).

⁷ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 208 (2023) (quoting *Rice v. Cayetano*, 528 U.S. 495, 517 (2000)).

⁸ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).

⁹ BYLAWS OF THE ALASKA JUD. COUNCIL art. I, § 2.

¹⁰ *Judicial Selection Procedures*, ALASKA JUD. COUNCIL, <https://perma.cc/X5HR-S37W>.

¹¹ Press release, Alaska Jud. Council, Judicial Vacancy Announcements (Jan. 3, 2025), <https://perma.cc/4K47-QPKS>.

¹² Memorandum from the Hon. Pamela Bondi, U.S. Att’y Gen., to all fed. agencies (July 29, 2025), <https://perma.cc/WM7X-8U56>.

¹³ ALASKA BAR DIVERSITY COMM’N, FINAL REPORT 5 (2023), <https://perma.cc/5GPY-7LDM>.

concerning the effects of DEI on Alaska's courts. Judges wield immense power, and their selection must be solely based on meritocratic principles.¹⁴ DEI must have no impact here. Your prompt production of the requested records will begin the process by which Alaskans will regain trust in their courts.

II. Records Request

Accordingly, pursuant to APRA, ALASKA STAT. § 40.25.110 *et seq.*, AFL hereby requests:

1. All memoranda and communications, both internal and external, discussing the statistical diversity or ethnic composition of Alaska's bench.
2. All research memoranda and communications discussing the race or gender of applicants for judicial positions.
3. All documents reflecting the criteria, rubrics, scoring sheets, or evaluation frameworks used to assess or rank candidates for judicial nomination, including the relative weight assigned to each criterion and any instructions provided to AJC members on applying such criteria.
4. All completed scoring sheets, evaluation forms, interview assessments, and written evaluations for each candidate considered during the relevant period.
5. All documents reflecting any goals, targets, benchmarks, or quotas related to the demographic composition of nominee lists or the judiciary, and all communications among AJC members, staff, or between the AJC and any external party — including the Governor's office, advocacy organizations, or bar associations — that reference the race, sex, gender identity, sexual orientation, ethnicity, religion, or disability status of any candidate in connection with that candidate's evaluation or selection.
6. All communications between the AJC and the Governor's Office concerning preferences for the type of candidate to be nominated, the characteristics of nominees, or the demographic composition of nominee lists.

The timeframe for this request is January 1, 2020, to the date of processing.

¹⁴ THE FEDERALIST No. 78 (Alexander Hamilton) ("there can be but few men in the society who will have sufficient skill in the laws to qualify them for the stations of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be still smaller of those who unite the requisite integrity with the requisite knowledge.").

III. Processing

The AJC makes sweeping claims in its bylaws about what records it can withhold under APRA.¹⁵ These provisions are illegal under Alaska law, and our request should not be processed using them. While the 1984 opinion of the Attorney General recommended that the AJC adopt its own APRA procedures,¹⁶ the AJC wildly exceeded that mandate in the bylaws.

At the outset, the Alaska Supreme Court has explicitly recognized that “there is a strong public interest in disclosure ... and in an open selection process for high public officials in particular.”¹⁷ Accordingly, Alaska law does not empower the AJC to adopt its own APRA provisions; rather, the Alaska Court System’s administrative director “shall supervise and adopt provisions for the operation and implementation of [APRA] by public agencies in the judicial branch.”¹⁸ Consequently, the AJC bylaws were not properly adopted and are unenforceable.

Section 3’s broad assertion of the Deliberative Process Privilege (DPP) is likewise overly broad. The DPP is not a blanket privilege in Alaska. Even once the Agency has shown that the document it is seeking to withhold is both “predecisional” and “deliberative,” the court then balances “the public’s interest in disclosure against the agency’s interest in confidentiality.”¹⁹ Withholdings under the DPP are reviewed *de novo* by Alaska courts, which do not grant deference to the agency’s finding.²⁰ As such, be on notice that any attempt to apply the DPP according to § 3’s provisions, beyond the pale of ordinary principles of law, risks AFL seeking all appropriate relief under ALASKA STAT. § 40.25.125’s right of action.

Similarly, the AJC’s confidentiality provisions are also overly broad under Alaska law. For instance, the subsection that designates as confidential any letters sent in support or against a potential judge is squarely contradicted by an Alaska Supreme Court ruling, which found that “the right of privacy is not implicated when an individual voluntarily sends an unsolicited letter to a public official commenting on a public issue such as the appointment of a state officer.”²¹ All five enumerated categories of records that are designated confidential in Section 2 of the bylaws are placed under the umbrella of Alaska’s constitutional privacy protection. Cases on the right to privacy granted by the Alaska Constitution stress that the protection only applies to “the type of personal information which, if disclosed even to a friend, could

¹⁵ BYLAWS OF THE ALASKA JUD. COUNCIL art. XI, §§ 1–3.

¹⁶ 1984 OP. ALASKA ATT’Y GEN. (Oct. 3; No. 366-625-84).

¹⁷ *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1316, 1323 (Alaska 1982).

¹⁸ ALASKA STAT. § 40.25.123(c).

¹⁹ *Griswold v. City of Homer*, 428 P.3d 180, 186 (Alaska 2018); *Capital Info. Grp. v. Office of the Governor*, 923 P.2d 29 (Alaska 1996); *Gwich’in Steering Comm. v. Office of the Governor*, 10 P.3d 572 (Alaska 2000); *Fuller v. City of Homer*, 75 P.3d 1059, 1065 (Alaska 2003).

²⁰ *Id.* at 185.

²¹ *Doe v. Alaska Sup. Ct., Third Jud. Dist.*, 721 P.2d 617, 629 (Alaska 1986).

cause embarrassment or anxiety.”²² Self-evident demographic and similar information cannot be shielded from APRA by the constitutional right to privacy.

Instead, the requested documents should be readily produced, in line with APRA’s stated bias towards disclosure, and only minimal redactions should be applied. AFL suggests that ordinary principles of judicial branch APRA law be used in making these determinations. Please do not hesitate to contact us if we can be of assistance to ensure that the search and production complies with Alaska law.

IV. Fee Waiver

AFL hereby requests a waiver of all search and duplication fees pursuant to ALASKA STAT. § 40.25.110(d) because the disclosure of these records is in the public interest. First, AFL is a qualified non-commercial public education and news media requester. Our officials routinely appear on national television and use social media platforms to disseminate the information AFL has obtained about government activities. In this case, AFL will make your records and responses publicly available for the benefit of citizens, scholars, and others, thereby enhancing the public’s understanding of your judicial selection policies and practices through AFL’s analysis and publication of the requested records.

V. Conclusion

If you have any questions about how to construe this request for records or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at FOIA@aflegal.org. Finally, if AFL’s request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

Sincerely,

/s/ Bobby Crossin
America First Legal Foundation

²² *Id.*



AFL FOIA <foia@aflegal.org>

RE: [EXTERNAL]:APRA Request

Susanne DiPietro <SDiPietro@ajc.state.ak.us>
To: AFL FOIA <foia@aflegal.org>

Fri, Jun 5, 2026 at 2:52 PM

Receipt confirmed.

S. DiPietro

From: AFL FOIA <foia@aflegal.org>
Sent: Friday, June 5, 2026 10:29 AM
To: Susanne DiPietro <SDiPietro@ajc.state.ak.us>
Subject: [EXTERNAL]:APRA Request

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.

Good morning,

Please see the attached APRA request, and confirm receipt. Thank you.

Sincerely,

America First Legal

Exhibit B
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