IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKANS FOR MARY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
NANCY DAHLSTROM, in her official capacity as Lieutenant Governor of Alaska; CAROL BEECHER, in her official capacity as Director of the Alaska Division of Elections; and the ALASKA DIVISION OF ELECTIONS,	)	
	)	
Defendants.	)	
	)	Case No. 3AN-26-10304CI

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

This case involves the 2026 election for U.S. Senator in Alaska, but it is fundamentally a public records case. It was brought by Plaintiff Alaskans for Mary ("the Campaign" or "AFM") against the Division of Elections ("DOE" or "the Division") in the middle of ballot counting[1], but it is not an election dispute. The Campaign seeks copies of records prepared by the Division regarding its ongoing count of absentee ballots in the race for U.S. Senator. Although the case began with a broader focus, AFM clarified its request at oral argument: It now seeks the names of voters whose absentee ballots have been rejected and the reasons for the rejection.[2] According to the Division, the names are already provided but any rejection determination at this stage in the count is necessarily preliminary. Because it is not a final decision, the Division argues the requested records do not qualify as "public records."

The Campaign's initial filing asked the Court to grant a Temporary Restraining Order and Preliminary Injunction requiring the Division to "immediately make available

[1] The 2026 General Election was held on November 3, 2026, but absentee voting commenced on October 19, 2026. Plaintiff's Complaint was filed on Friday afternoon, November 6, 2026.

[2] Preliminary Statement by Counsel for the Campaign at oral argument (11/10/2026).

public records pertaining to ballots rejected in the 2026 General Election."[3] Before this Court are cross-motions for summary judgment. The Campaign's Motion requests that the Division produce the "details report" provided to observers or similar documents containing the names and rejection codes of rejected absentee ballots. The Division's Cross Motion asks the Court to rule that the requested details report is not a public record, and to reject any requirement that the Division create a new report for the Campaign in the middle of ballot counting. For the reasons which follow, Defendant's Motion *for* Summary Judgment is **GRANTED**.

I. BACKGROUND AND PROCEDURAL HISTORY

Plaintiff Alaskans for Mary is the organized political campaign for Mary Peltola to the office of U.S. Senator for Alaska.[4] Defendants are Nancy Dahlstrom, Carol Beecher and the Alaska Division of Elections.[5]

A. The Campaign's Request for Documents

On October 27, 2026 AFM submitted a request to each regional office of the DOE seeking the following documents:

> [T]he Absentee Register showing the accept or reject code for each absentee ballot returned for the 2026 General Election, or any other documents sufficient to show the identities of voters whose absentee ballots for the 2026 General Election have been rejected as well as the reasons for the rejection.[6]

The Campaign received no response, and submitted another request on November 4.[7] The second demand sought an immediate response, and indicated the Campaign would deem any failure to provide the requested records by 4:00pm on November 5 as constructive denial.[8] The parties apparently conferred by telephone and email on

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[3] Plaintiff's Memorandum in Support of Motion for TRO and Preliminary Injunction at p2 (November 6, 2026).
[4] Complaint at 2.
[5] Complaint at 2-3. Nancy Dahlstrom is the Lieutenant Governor of Alaska, and Carol Beecher is the Director of the Division of Elections. Both individuals are sued in their official capacities.
[6] *Id.* at 3; see also Plaintiff's Exhibit 1.
[7] *Id.*
[8] *Id.*

November 5, 2026 but "Defendants declined Plaintiff's request to immediately provide the records at issue."[9]

B. Procedural Posture

The present action was filed on November 6.[10] This Court held an initial hearing late on the afternoon of November 6 with counsel for the parties. The Court heard a brief summary of the parties' dispute, and agreed to expedite the case. The lawyers were ordered to meet and confer on Saturday, November 7 to determine if the issues could be resolved or narrowed and report back to the Court with either a resolution or a schedule for briefing. The Court also scheduled an expedited hearing for Tuesday, November 10. In their report to the Court[11], counsel agreed to file cross-motions for summary judgment on Sunday and Monday, and proceed with argument on Tuesday.

C. Ballot Processing

The General election was held on November 3, 2026. According to the Division, Regional Offices begin opening for Absentee and Early Voting two Saturdays before election day, or on October 24, 2026 for the General Election.[12] For the 2026 General Election, the deadline for Absentee Review Boards to begin review of absentee ballots was October 27, 2026 (seven days prior to election day).[13] District absentee and questioned ballot counting board must certify results by Nov 18.[14]

Absentee ballots are pre-processed by one of the five regional district offices of the DOE.[15] When an absentee ballot is received, staff log it into the voter registration database (VREMS) without opening it and make an initial determination to accept or reject the ballot.[16] After regional review, the ballots are sent to absentee ballot review boards

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[9] *Id.* at 4.
[10] *Id.*
[11] Because of the expedited schedule, these reports and communications with the court were all conducted informally with the undersigned judge by email through the weekend. The email communications will be preserved as part of the record in this case.
[12] Division elections calendar https://www.elections.alaska.gov/calendar/, last visited November 11, 2026. This timeline is by Division policy. By regulation, the Regional Offices must open by November 1, 2026. 6 AAC 25.500.
[13] AS 15.20.201(a).
[14] Complaint at 4; AS 15.20.201(c), AS 15.20.205(c).
[15] Plaintiff's Motion for Summary Judgment at 4.
[16] Defendant's Motion for Summary Judgment at 6.

where bipartisan teams of two verify that the voter is qualified to vote and that the ballot was properly cast.[17] Observers are permitted to observe the process and can challenge count or no count determinations, which are sent to the director for determination.[18] Once a decision is made, the decision may only be appealed during a recount or litigation.[19]

D. The Divisions Reports and Plaintiff's Document Request

The DOE produces several documents relevant to the absentee review process. One such report is the Absentee Register which lists everyone who has applied for an absentee ballot and the date their ballots were received.[20] Another is the Absentee Review Board Report Details (details report) which is the working document used to review ballots that contains a voter's personal information and accept or reject codes.[21] During the review process, Observers are provided a "details report" that excludes some confidential information but otherwise allows observers to follow along.[22] Because the review process including the details report includes confidential information, observers are required to sign in to the review room, and sign a confidentiality agreement.[23]

The specific report document sought by the Campaign is the observer details report. That version is a details report for observers, which excludes some confidential information.[24] At the end of each absentee review board meeting, the details report is used to update VREMS and then all of the details reports are discarded.[25] At the conclusion of the absentee review board process, the State Review Board reviews ballots and makes final determinations.[26] No ballot is accepted or rejected until completion of the State Review Board.[27]

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[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] Defendant's Motion at 7.
[21] *Id.*
[22] Thompson Affidavit at para. 7, Ex. A at 12; see also Alaska Division of Elections, Alaska's Election Process at 4-5.
[23] Election Observers Handbook at p7, attached as Ex. 1 to Plaintiff's Memorandum in Support of Motion for Summary Judgment.
[24] Defendant's Motion at 7.
[25] *Id.* at 9.
[26] *Id.*
[27] *Id.*

On November 10, 2026 oral arguments were held where Plaintiff and Defendant clarified their positions. Plaintiff clarified that they seek the "public version of the details report." This document is the version of the details report given to observers during the absentee ballot review. The Campaign asserts the observers report is a public record. At yesterday's hearing, counsel clarified that the only information the Campaign is now seeking are the names of absentee voters and their associated accept/reject codes. Plaintiff's counsel also asserted the Campaign does not intend to "phone bank" voters and tell them that their ballot was rejected. The Division reiterated the VREMS system which is used to document the ongoing count and ballot determinations cannot easily produce the records that Plaintiff has requested. The Division also asserts the voter's constitutional right to privacy prevents the release of accept/reject codes.

II. LEGAL STANDARDS

A. The Alaska Public Records Act (APRA)

Unless specifically provided otherwise, the public records of all public agencies are open to inspection by the public under reasonable rules during regular office hours, and on request and payment of the fee the public officer having custody of the public records shall give a certified copy of the public record.[28] Public records means;

> books, papers, files, accounts, writings . . . and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency.[29]
>
> Every person has a right to inspect a public record in the state . . . except (4) records required to be kept confidential by a federal law or regulation or by state law.[30] A person having custody or control of a public record who denies . . . the inspection of a public record . . . may be enjoined by the superior court from denying . . . the inspection of the public record.[31]

[28] AS 40.25.110.
[29] AS 40.25.220(3).
[30] AS 40.25.120(a)(4).
[31] AS 40.25.125.

The Alaska Supreme Court has recognized the breadth of the APRA as a matter of public policy.[32] The Act reflects a strong commitment to providing public access to government records. Further, the Court recognizes "the act creates a presumption in favor of disclosure" such that courts should narrowly construe exceptions to disclosure.[33]

Still, not every record created by a state employee is necessarily appropriate for preservation.[34] Stated differently, not every record is a public record. Indeed, the text of the Act indicates the legislature intended that preservation of the record would be an additional step for a document to be considered a public record.[35] Accordingly, agency employees have some discretion in determining whether to preserve a record because "each state agency has the best understanding of the preservation value of its own documents."[36]

Public records of all public agencies are open to inspection by members of the public under reasonable rules during regular office hours, unless specifically provided otherwise.[37] Every person has a right to inspect a public record, subject to the exceptions provided in the Act.[38]

Implementing regulations for the APRA provide further guidance. First, the Regulations recognize the "the policy of the executive branch of government to disclose public records and to provide copies of those records in an expeditious manner."[39] At the same time, it is "the policy of the executive branch of government to limit the collection of personal information only to that data necessary for the efficient administration of a public agency."[40]

A party requesting records "must describe the public records sought in sufficient detail to enable the public agency to which the request is made to locate the records."[41]

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[32] *Fuller v City of Homer*, 75 P.3d 1059, 1061 (Alaska 2003).
[33] *Fuller*, 75 P.3d at 1062.
[34] *McLeod v Parnell*, 286 P.3d 509, 514 (Alaska 2012).
[35] *McLeod*, 286 P.3d at 514.
[36] *McLeod*, 286 P.3d at 514.
[37] AS 40.25.110.
[38] AS 40.25.120.
[39] 2 AAC 96.200(a) (Public information principles).
[40] 2 AAC 96.200(b).
[41] 2 AAC 96.315(a).

On the other hand, if the request is vague or if "the records are described in general terms, the agency shall attempt to communicate with the requester in order to identify the public records requested, speed the response, and lessen the administrative burden of processing an overly broad request."[42]

The regulations further detail the copying, duplication and related obligations of the agencies.

> (a) Subject to the provisions of AS 40.25.110 - 40.25.220, a public record maintained by a public agency is available for inspection and copying in the format in which that agency maintains or disseminates the record. A public agency shall duplicate and provide copies of a public record upon request and upon payment of the applicable fee as described by this chapter. (b) A public agency is not required to compile or summarize its public records in response to a request for public records. (c) A public agency is not required to manipulate its data to create new records in response to a request for public records. A public agency may manipulate its data to create electronic services and products if (1) the public agency can do so without impairing its functioning; (2) the data is protected from intentional or accidental modification or destruction; and (3) the requester pays for the cost of developing the requested electronic service or product, based on fees established by the public agency under 2 AAC 96.460. (d) When providing public records or electronic services or products, a public agency shall ensure that access to confidential information and proprietary software is protected. Except as provided by law, if the request is for a public record that contains confidential information, the public agency shall delete or mask the nondisclosable confidential information and provide the requested public records upon payment of the applicable fee as described in 2 AAC 96.360.[43]

Finally, the regulations provide response times. If the records requested are "public records", the agency shall act "as soon as practicable, but not later than the 10th working day" after receipt of the request to: "(1) furnish all requested records that are disclosable; and (2) advise the requester which of the requested records are non-disclosable, if any, and the specific legal authority and specific facts supporting nondisclosure."[44] If the agency determines the request is actually a request for electronic services and products,

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[42] 2 AAC 96.315(a).
[43] 2AAC 96.210.
[44] 2 AAC 96.325(a).

the agency must also advise the requestor of that decision within 10 working days, and send notice that the request will generate chargeable fees.[45]

B. Absentee Ballot Statutes

The district absentee ballot counting board shall examine each absentee ballot envelope and shall determine whether the absentee voter is qualified to vote at the election and shall determine whether the vote has been properly cast.[46] An absentee ballot may not be counted if:

(1) the voter has not properly executed the certificate;
(2) an official or the witness authorized by law to attest the voter's certificate fail to execute the certificate;
(3) the ballot is not attested on or before the date of the election;
(4) the ballot, if postmarked, is not postmarked on or before the date of the election;
(5) after the day of the election, the ballot was delivered by a means other than mail; or
(6) the voter did not provide proper identification.[47]

Certain information about absentee voters is public. "The election supervisors and election officials shall have available for public inspection the names and addresses of persons who voted absentee."[48] However, a voter may ask that their residential address be kept private.[49] The request must be in writing, and the voter must provide a mailing address.[50] Other information collected by the Division in order to verity voter qualifications is private. A voter's age, date of birth, social security number, driver's license number, voter identification number, place of birth, and signature are confidential and not open to public inspection.[51]

Candidates may appoint watchers to observe a place of voting or counting.[52] Any person present at the district absentee ballot counting review may challenge the name of an absentee voter when read from the voter's certificate on the envelope if the person

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[45] 2 AAC 96.325(b).
[46] AS 15.20.203(a).
[47] AS 15.20.203(b).
[48] AS 15.20.180.
[49] AS 15.07.195(b).
[50] *Id.*
[51] AS 15.07.195(a)(1)-(6).
[52] AS 15.10.170(a).

has good reason to suspect that the challenged voter is not qualified to vote, is disqualified, or has voted at the same election.[53] The district absentee ballot counting board by majority vote may refuse to accept and count the absentee ballot of a person properly challenged on certain grounds.[54]

The time for counting absentee and questioned ballots is strictly set by statute.[55] Not later than the 15th day following the election, in this case November 18, 2026, "the district absentee ballot counting board shall certify the absentee ballot review."[56] The same deadline applies for questioned ballots.[57]

C. Summary Judgment

Summary judgment is appropriate "where 'there is no genuine issue as to any material fact' and 'the moving party is entitled to judgment as a matter of law.'"[58] Questions of "statute interpretation and public policy . . . are issues of law" properly decided on summary judgment.[59] On a motion for summary judgment, "[w]hen interpreting a statute, courts look to the plain meaning of the statute, the legislative purpose, and the intent of the statute."[60]

III. ARGUMENTS

A. Plaintiff's Arguments

Plaintiff seeks the details report given to observers. Plaintiff argues that the sought records are "public records", that the records are not exempt from disclosure, and that Defendants have a duty to disclose the documents as soon as possible. They argue the APRA requires that public records be open to inspection by the public under reasonable rules during regular office hours, and on request the public officer with custody must provide a certified copy of the public record.

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[53] AS 15.20.203(c)
[54] AS 15.20.203(b).
[55] AS 15.20.201 and 15.20.205.
[56] AS 15.20.201(c).
[57] AS 15.20.205(c).
[58] *Christensen v. Alaska Sales & Serv., Inc.,* 335 P.3d 514, 517 (Alaska 2014)
[59] *Farquhar v. Alaska Nat Ins. Co.,* 20 P.3d 577, 578 (Alaska 2001)
[60] *Premera Blue Cross v. State*, 171 P.3d 1110, 1115 (Alaska 2007)

Plaintiff insists the absentee ballot related records are "public records", including the information stored in electronic databases such as the Voter Registration and Election Management System (VREMS). Further, the presence of confidential information in the records does not defeat their status as public records according to the Campaign because DOE can simply redact confidential information. The Campaign additionally asserts that the destruction of the "Absentee Register" after the daily absentee review does not prevent the record form being a public record because they are appropriate for preservation under the Alaska Records Management Act.

The Campaign also argues the information they more narrowly seek, names and rejection codes of voters, is public information and thus not protected from disclosure. Plaintiff believes that sending election observers is insufficient to satisfy requirements under the APRA and that disclosing these records would improve accuracy and transparency. Finally, the Campaign argues that public records must be produced as soon as practicable (because the 10-day deadline is an outer limit) and that Defendants could immediately produce the records but refuse to do so.

B. Defendants' Arguments

The Division counters that no records exist about final decisions on voter's ballots because no final determination has been reached on ballots. The "Absentee Register" is already a document that has been provided to Plaintiff, although that document does not contain accept or reject codes. Further, Defendants were unclear about exactly which documents Plaintiff sought. Defendants assert that any determination that a ballot has been accepted or rejected is a preliminary decision at this stage that may change. Because the determination may change until final certification, the requested records are not "public records" according to the Division.

Defendants also argue the details report is not a public record because it is only accessible to appointed observers bound by a confidentiality agreement. Additionally, the records contain confidential information on voters. More significantly, the reports are updated continuously and discarded at the end of the day because the information becomes stale (out of date.) Because the documents are not preserved and are not appropriate for preservation, the Division argues the details report is not a public record.

The Division additionally argues that much of the information sought does not exist in accessible records – it is contained in the VREMS database - and that the division could not feasibly produce such information on short notice while reviewing ballots and maintaining voter confidentiality.

Yet another argument made by Defendants is that revealing voter information would violate voter's rights to privacy and compromise ballot secrecy. Public records cannot be disclosed that are required to be confidential under state law, which would include information protected under the Right to Privacy in the Alaska Constitution. The Right to Privacy protects personal information that if disclosed could cause embarrassment, anxiety, harassment, or humiliation. Defendant argues that absentee ballot rejection status is embarrassing enough to qualify as protected information under the Right to Privacy and that making names and reject code information public will result in harassment due to voters being contacted over their rejected ballot status.

Defendants' final argument is that disclosing ballot information would cause harm to the interests of the DOE and voters. Voter ballot status would be public information to the country as a whole which could lead to harassment and humiliation. DOE would be impaired by having voters attempt to cure their defective ballots, which is not permitted under current state law. The requests for information would also burden DOE staff while they are already busy processing election results.

IV. ANALYSIS

Both parties agree that there are no genuine issues of material fact, and the issues before the court are issues of law. As a result, the following analysis will focus on which side is correct as a matter of law. Plaintiff's complaint seeks "public records" pertaining to ballots rejected in the 2026 general election. The original request sought a specific document (the Absentee Register), but included a broad catch all (any other documents showing identities of voters whose ballots were rejected, as well as the reasons for each rejection.) But after the November 10 hearing that what the Campaign actually wants is a copy of the observer details report or analogous information which must from the VREMS database.

A. The details report is not a public record.

In the Court's view, the details report (both the original version and the observer version) are not public records and thus not subject to disclosure under the APRA. Public records are records "*that are preserved* for their informational value or as evidence of the organization or operation of the public agency."[61] Public records include records that should be preserved under the Record Management Act, but not every record created by the state is necessarily appropriate for preservation.[62]

The original details report lists the pending absentee ballots of the district and serves as a working checklist for the review process. The Absentee Review Board reviews absentee ballots in sequential order based on the details report.[63] The reports are created and updated daily during the ballot review process. Significantly, the determination to reject a ballot is preliminary and subject to change up until the Board completes its work and the results are certified.[64]

The observer details report is a truncated version provided to observers for them to follow along during the review process. Although the report is printed and made available on a daily basis to the observers, in practice the Division collects the documents at the end of each day and discards them. Because the reports contain confidential information protected by statute, the observers are not permitted to retain the reports or share the information outside the review boards. Further, the information in the reports is updated in the electronic management system throughout the day, so the reports are outdated almost as soon as they are printed.

In practice, the original and observer details reports are not preserved by the Division because they become outdated by the end of the day as the pending ballots are processed.[65] They are in effect a snapshot in time of a preliminary determination. In addition, the observer details reports have no ongoing informational value to the review board because they represent a truncated version of the original details report. Further,

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[61] AS 40.25.220(3).
[62] *See McLeod v. Parnell* 286 P.3d 509, 514-515 (Alaska 2012).
[63] Division of Elections, Election Observers' Handbook at 11-12.
[64] Thompson Affidavit at para.15-16.
[65] Defendant's Motion at 17.

even the original details report has limited value at the end of the day since they merely serve as a checklist or working document for the daily work of the Absentee Review Board.

Simply because the Division creates the details report (both versions) does not automatically transform it into a "public record." As the Supreme Court has recognized, the APRA defines "public records," in relevant part, as those "preserved for their informational value or as evidence of the organization or operation of the public agency."[66] But more significantly, "the literal interpretation of the Public Records Act's text suggests the legislature intended "preservation" to be an additional step for a document to become a public record."[67]

Here, the Division persuasively argues the details report is not public both because it is not actually preserved (as a matter of practice), and because there is no reason for the Division to preserve it. The report becomes outdated throughout each day of the ballot review, and a new report is created for the following day's review. Further, the information contained in the report comes from other sources that are preserved (the voter registration, the ballot envelope, and the VREMS system.) Accordingly, the details report is of no utility to the Review Board other than as a checklist for that day's work.

The observer details report also has no evidentiary value as a record of the organization or operation because their only purpose is to help the observers to follow along with ballot processing. Both versions of the details report have limited value as evidence because the information changes throughout the day as it is uploaded into VREMS.

Because the details reports have little informational value or value as evidence of organization and operation, they are not "worthy of preservation." In the Court's view, the observer details reports are simply temporary records that are not preserved in practice, and don't qualify as records that should be preserved. Accordingly, the details report is not a "public record" and therefore not subject to disclosure under the APRA.

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[66] *McLeod*, 286 P.3d at 513 (quoting AS 45.25.220(3).
[67] *McLeod*, 286 P.3d at 514.

The Court emphasizes that this decision is based upon the record before the Court and the problematic timing of Plaintiff's request. The Campaign's request for records was initially sent to the Division on October 27, 2026 – the same day review boards began their work. The Division had already established processes for review of the absentee ballots, and the absentee ballots were already being cast. The Division's established practice was to discard the reports because they have no intrinsic value to the Division, or its review process.

B. The Campaign's Original Request

The Campaign's original request to Defendants sought a copy of the Absentee Register, "or any other documents that showing the accept or reject code for each absentee ballot returned for the 2026 General Election, or any other documents sufficient to show the identities of voters whose absentee ballots for the 2026 General Election have been rejected as well as the reasons for the rejection."[68]

Throughout the course of these expedited proceedings, Plaintiff's request has evolved. In part, this is because some of the Division's public materials identify the Absentee Register as including the accept or reject codes. On the other hand, Plaintiff has also narrowed its request along the way. It now seeks just the names of absentee voters (which it is entitled to, and has already been provided), plus the accept and reject codes. Plaintiff has abandoned the request for voter's addresses.

As noted by the Division, the Absentee Register providing the voter's name, but not the codes, is already provided twice per week to anyone who requests it, including presumably the Campaign. Accordingly, the Court concludes the only remaining portion of Plaintiff's request at issue is the identity of the voters whose absentee ballots have been rejected, and the reasons for the rejection.

The Division argues the request by Plaintiff is in reality a request for documents which do not yet exist because there has been no *final determination* that any absentee ballot is rejected. While that argument is superficially attractive, it is not persuasive. The regulations governing the APRA make clear the Division has an obligation to assist a

[68] Complaint at 3; see also Plaintiff's Exhibit 1.

member of the public who makes a records request if the request is ambiguous or otherwise unclear.[69] Simply because there is no final decision on acceptance or rejection does not mean the Division is off the hook. Still, the information actually sought by the Campaign can only come from the Division's electronic VREMS system, and is addressed in the next section.

C. VREMS is an Electronic System which Includes Public Record, but the Division is not required to provide VREMS records to Plaintiff at this Time.

The VREMS database meets the definition of a public record because it is an item preserved for informational value. Much of the information contained within VREMS is confidential by law. But in theory, VREMS records could be redacted and produced in a format that allowed for the public disclosure of the records sought by the Campaign. However, the DOE is not required to disclose the requested records because the requested VREMS records cannot reasonably be produced at this juncture, nor redacted of confidential information.

A public agency is not required to compile or summarize its public records in response to a request for public records.[70] If the disclosable portions of a record cannot reasonably be segregated from the non-disclosable portions in a manner that allows information meaningful to the requester to be disclosed, the public agency may not disclose the record.[71]

The Court agrees with the Division that Plaintiff's request for data showing absentee voter names with the accept and reject codes would constitute an "electronic service or product," which the statute defines to include "electronic manipulation of the data contained in public records in order to tailor the data to the person's request or to develop a product that meets the person's request." [72] But the statute does not *require* the Division to prepare a specific report for the Campaign, even if the information the

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[69] 2 AAC 96.315(a) ("The public agency shall make reasonable efforts to assist in the identification and description of records sought, and to assist the requester in formulating the request. If the records are described in general terms, the agency shall attempt to communicate with the requester in order to identify the public records requested, speed the response, and lessen the administrative burden of processing an overly broad request.").
[70] 2 AAC 96.210(b).
[71] 2 AAC 96.330(a).
[72] AS 40.25.220(1)(A).

report would otherwise provide is public information. Instead, the statute provides that "a public agency *may* provide electronic services and products involving public records to members of the public."[73]

Further, any such electronic reporting services "may not take priority over the primary responsibilities of a public agency."[74] This point is critical. The Division is actively in the middle of counting ballots. It has active deadlines it must meet. The Division asserts its staff is actively working long hours to accomplish its fundamental responsibility – administering elections. The timing of the Campaign's request could simply not be worse.

Moreover, VREMS is antiquated software that cannot produce the requested information while also keeping confidential residential addresses protected.[75] Producing the requested information from VREMS would be both expensive and time consuming, and the Division could not quickly disclose records while properly redacting information.[76] Plaintiff has clarified that the only information they seek is names and ballot accept/reject codes, but the sheer volume of absentee ballots would still make providing the requested information extremely difficult. The Division argues the project would entail writing a software program to specifically generate a report with the information culled from the details report which has been requested by the Campaign. The Division simply does not have either the internal capability to generate such a report, or the available resources to procure a software program from the vendor.

Given that the DOE is currently busy processing ballots from the 2026 general election, it is understandable that the Division simply lacks the capacity to generate the report from VREMS records at Plaintiff's behest. Such electronic services are not mandatory, but permissive. And the request must be reasonable. Even if the request were otherwise considered reasonable outside the peak election time of year, it is simply not reasonable nor required right now. Because of the difficulty in disclosing VREMS records,

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[73] AS 40.25.115(a) (emphasis added). Unlike AS 40.25.110, which directs that the custodian of records "*shall*" produce copies of records, .115(a) uses "may" which indicates discretion. *See, e.g.*, *Anderson v. Dep't of Administration, DMV*, 440 P.3d 217, 223 (Alaska 2019) ("[T]he term 'may' generally denotes permissive or discretionary authority.").
[74] AS 40.25.115(a).
[75] Affidavit of Michaela Thompson at 3.
[76] *Id.*

the DOE is not required to disclose VREMS records. Because Plaintiff requests information that is not a public record or is not required to be disclosed, Plaintiff's *Motion for Summary Judgment* necessarily fails.

V. CONCLUSION

For the reasons stated herein, Defendant's Motion for Summary Judgment is **GRANTED.**[77]

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 11th day of November, 2026.

Thomas A. Matthews
Superior Court Judge

[77] Because the Court has determined the requested details report is not a public record under the APRA, and the Division is not required to generate a report from VREMS for the Campaign at this juncture, the Court need not address the privacy arguments raised by the Defense.