



Sent Via Email to: EDFOIAManager@ed.gov

March 3, 2025

U.S. Department of Education
Office of the Executive Secretariat
FOIA Service Center
400 Maryland Avenue, SW, LBJ 7W106A
Washington, DC 20202-4536
Attn: FOIA Public Liaison

**Re: Freedom of Information Act Request Regarding the Institute of
Education Sciences**

Dear FOIA Public Liaison,

The National Center for Youth Law (“Requestor”) submits this letter to the FOIA Service Center at the U.S. Department of Education (“ED” or the “agency”) as a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, et seq. We ask that this request be expedited pursuant to 5 U.S.C. § 552(a)(6)(E) and that we be granted a fee waiver. We also ask that you refer the requests contained in this letter to the Office for Civil Rights (“OCR”) and/or the Institute of Education Sciences (“IES”) as appropriate.

Since January 20, 2025, President Donald Trump and his administration have taken a series of executive actions impacting the lives of students and families across the country. Among other things, ED has terminated nearly 100 contracts worth approximately \$1 billion from IES.¹

In light of these developments, Requestor is hereby serving a Freedom of Information Act Request as outlined below.

Application for Expedited Processing

Requestor seeks expedited processing of this request because: (1) there is an “urgency to inform the public about an actual or alleged Federal Government activity” by organizations, like the National Center for Youth Law, “primarily engaged in disseminating information,” 5 U.S.C. § 552(a)(6)(E)(i) & (v)(II); (2) the request concerns “[t]he loss of substantial due process rights,” 6 C.F.R. § 5.5(e)(1)(iii); 5 U.S.C. § 552(a)(6)(E)(ii); and (3) the request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the

¹ Jonaki Mehta & Cory Turner, *Trump Administration Targets Education Department Research Arm in Latest Cuts*, NPR (Feb. 10, 2025), <https://www.npr.org/2025/02/10/nx-s1-5292444/trump-musk-education-department-schools-students-research-cuts>

government's integrity which affect public confidence," 6 C.F.R. § 5.5(e)(1)(iv); 5 U.S.C. § 552(a)(6)(E)(ii).

As discussed above, reports about the Department of Education's recent activity raise many complex questions about how the agency's operations may be shifting under the Trump administration. Children, families, and stakeholders who advocate on their behalf need to understand these changes and how they might impact their rights and the services they are expecting to receive through their local schools and educational institutions. The requested records seek to inform the public about an urgent issue affecting children and families across the country.

Given the foregoing, the National Center for Youth Law has satisfied the requirements for expedited processing of this Request. We, therefore, ask that we receive a response within 20 days.

Application for Waiver or Limitation of Fees

The Requestor further asks that a waiver of document search, review, and duplication fees be granted on the grounds that disclosure of the requested records is in the public interest and is "likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). The National Center for Youth Law is a not-for-profit organization that advocates on behalf of vulnerable children. Because of that work, the National Center for Youth Law is uniquely situated to be able to understand the information sought through this request. This information is not being sought for commercial purposes, and it is the intent of the National Center for Youth Law to distribute the information gleaned from the records sought from this request to other public interest groups and members of the public.

A. The Request is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the Requestor.

As discussed above, there is a substantial public interest in understanding the actions and intentions of the government as it relates to Executive Order 14190. Given the ongoing and widespread media attention to this Executive Order, the receipt, review, and dissemination of the records sought will significantly contribute to public understanding of an issue of profound public importance.

B. The Requestor is a representative of the news media and the records are not sought for commercial use.

The Requestor is also not filing this Request to further a commercial interest. As such, a waiver of search fees would be appropriate here since Requestor qualifies as a "representative of the news media" and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). The Requestor meets the statutory and regulatory definitions of "representative of the news media" because it gathers information, exercises editorial discretion

in selecting and organizing documents, and “distribute[s] the resulting work to the public.” *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). The Requestor is therefore a “representative of the news media” for the same reasons it is “primarily engaged in [the] dissemination of information.” 5 U.S.C. § 552(a)(4)(A)(ii)(II), (6)(E)(v)(II).

Any information disclosed to its members and the public by the Requestor as a result of the responsive productions to this FOIA Request will be made available at no cost. Thus, a fee waiver would fulfill Congress’s legislative intent in amending FOIA. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (internal quotation marks omitted)).

Furthermore, courts have found other organizations whose mission, function, publishing, and public education activities are similar in kind to the Requestor’s to be “representative[s] of the news media” as well. Requestor the National Center for Youth Law, for example, in 2014 published a two-part series in its former journal “Youth Law News” called “Achieving Equal Educational Opportunities for Native American Youth: Lessons from Communities Working for Change” and “Equal Educational Opportunities for Native American Youth” that relied, in part, upon information obtained from an OCR FOIA about the resolution of complaints filed by Indigenous students and families. *Cf. Judicial Watch, Inc. v. U.S. Dep’t of Justice*, 133 F. Supp. 2d 52, 53-54 (D.D.C. 2000) (finding Judicial Watch, self-described as a “public interest law firm,” a news media requester).

On account of these factors, fees associated with responding to FOIA requests should be waived for the requestor as a “representative of the news media.”

Request for Information

The Requestor requests disclosure of the following records² that were prepared, received, transmitted, collected and/or maintained by the agency, including but not limited to, OCR and IES:

1. Any and all records created on or after January 20, 2025, relating to grants, contracts, or cooperative agreements with the Department of Education overseen by IES, including but not limited to:

² The term “records” includes all records or communications preserved in electronic or written form, including but not limited to correspondence, regulations, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, legal and policy memoranda, minutes or notes of meetings and phone calls, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, text communications between phones or other electronic devices (including, but not limited to, communications sent via SMA or other text, Blackberry Messenger, iMessage, WhatsApp, Signal, Gchat, Microsoft Teams, Slack, or Twitter direct message), training materials or studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

- a. Records reflecting any new grants, contracts, or cooperative agreements awarded by, entered into, or overseen by IES on or after January 20, 2025;
- b. Records reflecting or pertaining to the cancellation of any grants, contracts, or cooperative agreements awarded by, entered into, or overseen by IES that were active as of January 20, 2025;
- c. Any and all stop-work orders issued on or after January 20, 2025, to current or former grantees, contractees, or parties involved in cooperative agreements awarded by, entered into, or overseen by IES;
- d. Any written communications or notifications sent on or after January 20, 2025, to current or former grantees, contractees, or parties involved in cooperative agreements awarded by, entered into, or overseen by IES; and
- e. Any written communications sent or received on or after January 20, 2025 – including e-mail communications between, among, cc'ing, or received by Department of Education personnel – pertaining to or discussing any previous, current, or terminated grants, contracts, or cooperative agreements awarded by, entered into, or overseen by IES.

* * *

Requestor asks that you search all records regarding agency business, including files or emails in the personal custody of agent officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. *See Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149-50 (D.C. Cir. 2016).

With respect to the form of production, *see* 5 U.S.C. § 552(a)(3)(B), the Requestor requests that responsive electronic records be provided electronically in their native file format, if possible. Alternatively, the Requestor requests that the records be provided electronically in a text searchable, static-image format (PDF), in the best image quality in the agency's possession, and that the records be provided in separate, Bates-stamped files.

Pursuant to applicable statutes and regulations, the Requestor expects a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii).

If the Request is denied in whole or in part, the Requestor asks that you justify all deletions by reference to specific FOIA exemptions. The Requestor expects the release of all segregable portions of otherwise exempt material. The Requestor reserves the right to appeal a decision to withhold any information or deny a waiver of fees.

Additionally, in order to avoid delays in receiving records, the Requestor requests that records be produced seriatim as they become available. Due to the exigent circumstances surrounding this request, the Requestor is amenable to narrowing the request if it would accelerate production. Please provide all responses, requests for narrowing or clarification, or other answers in writing.

Thank you for your prompt attention to this matter. Where possible, please provide responsive records in electronic format by email to jsmith@youthlaw.org. Please furnish any responsive records being sent by mail to:

Johnathan Smith
National Center for Youth Law
818 Connecticut Avenue NW
Suite 425
Washington, DC 20006

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi).

Sincerely,

A handwritten signature in black ink, appearing to read "Johnathan Smith", with a long horizontal flourish extending to the right.

Johnathan Smith
Chief of Staff and General Counsel
National Center for Youth Law