

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL CENTER FOR YOUTH LAW
2300 18th St., N.W.
P.O. Box 21156
Washington, D.C. 20006

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
EDUCATION
400 Maryland Ave., S.W.
Washington, DC 20202,

Defendant

Civ. No.

COMPLAINT

1. From the very start of the second Trump Administration, the President and the Department of Education (“Department” or “Defendant”) have taken a series of action to dismantle the Department, including its Office for Civil Rights (“OCR”).¹ Within days of the start of the Administration, the Department froze the processing and investigation of all civil rights complaints.² While that freeze was lifted in the following weeks, the Department soon issued a

¹ See Dana Goldstein, *Could Trump Shut Down the Department of Education?*, N.Y. Times (Nov. 13, 2024), <https://www.nytimes.com/2024/11/13/us/trump-close-department-of-education.html>; Michael C. Bender, *Asked if U.S. Needs Education Department, Its Head Says ‘No’*, N.Y. Times (Mar. 7, 2025), <https://www.nytimes.com/2025/03/07/us/politics/education-department-mcmahon-trump.html>.
6 U.S. Dep’t of Educ., *U.S. Department of Education Launches “End DEI” Portal* (Feb. 27, 2025)

² Jennifer Smith Richards & Jodi S. Cohen, *“We’ve Been Essentially Muzzled”: Department of Education Halts Thousands of Civil Rights Investigations Under Trump*, ProPublica (Feb. 13, 2025), <https://www.propublica.org/article/department-of-education-civil-rights-office-investigations>.

reduction in force that drastically lowered the OCR workforce.³ It also shuttered seven of OCR's twelve regional offices, a move that further undermined OCR's ability to effectively handle civil rights complaints.

2. The elimination of OCR offices and staff had the purpose and effect of preventing OCR from fulfilling its statutory and regulatory functions to enforce civil rights in schools. As Former Assistant Secretary Lhamon reported to ProPublica: "What you've got left is a shell that can't function."⁴

3. Children and families are the ones most victimized by these actions. OCR is charged with "ensur[ing] equal access to education and [] promot[ing] educational excellence through vigorous enforcement of civil rights in our nation's schools."⁵ For decades, as part of this crucial mandate and in accordance with federal law, including Title VI of the Civil Rights Act of 1964 ("Title VI"), Title IX of the Education Amendments of 1972, as amended ("Title IX"), Section 504 of the Rehabilitation Act of 1973, as amended ("Section 504"), and Title II of the Americans with Disabilities Act ("Title II") and their implementing regulations,⁶ OCR has received, investigated, and resolved complaints submitted by members of the public alleging discrimination on the basis of race, sex, disability, and other protected characteristics. This service is available without financial cost to students and families. Students and families' ability to have their civil rights

³ Press Release: U.S. Dep't of Educ., *U.S. Department of Education Initiates Reduction in Force* (Mar. 11, 2025), <https://bit.ly/42fXyf8>; see also Michael C. Bender & Dana Goldstein, *Education Department Fires 1,300 Workers, Gutting Its Staff*, N.Y. Times (Mar. 11, 2025).

⁴ See Jodi S. Cohen & Jennifer Smith Richards, *Massive Layoffs at the Department of Education Erode Its Civil Rights Division*, ProPublica (Mar. 12, 2025), <https://www.propublica.org/article/education-department-civil-rights-division-eroded-by-massive-layoffs>.

⁵ U.S. Dep't of Educ., *Office for Civil Rights (OCR)* (Jan. 19, 2025), <https://www.ed.gov/about/ed-offices/ocr>; see also Kristen A. Graham, Susan Snyder & Maddie Hanna, *What the Department of Education Cuts Mean for Local Schools*, Philadelphia Inquirer (Mar. 12, 2025), <https://www.inquirer.com/education/us-education-department-cuts-trump-administration-20250312.html>.

⁶ 34 C.F.R. Part 100, 34 C.F.R. Part 106, 34 C.F.R. Part 104, and 28 C.F.R. Part 35, respectively.

complaints thoroughly reviewed in a prompt, impartial, and non-discriminatory manner is integral to the mission of OCR. In 2024 alone, OCR received 22,687 complaints from the public.⁷

4. These harms have not been felt equally by all students. Students of color and LGBTQ+ students have been particularly targeted by the Administration. For example, on January 29, 2025, President Trump signed the “Ending Radical Indoctrination in K-12 Schooling” executive order, directing federal agencies to withhold federal funding from institutions that directly or indirectly promote “discriminatory equity ideology”—including through policies that recognize and ameliorate racial discrimination—under the guise of enforcing compliance with Title VI.⁸ And then on February 5, 2025, President Trump signed the “Keeping Men Out of Women’s Sports” executive order, directing federal agencies to rescind all funds from educational programs and institutions that allow transgender students to participate on sports teams aligning with their gender identity.⁹

5. OCR also took steps to target these populations. For example, on February 14, 2025, OCR issued a Dear Colleague letter regarding its interpretation of civil rights law and intended enforcement under Title VI and the Equal Protection Clause.”¹⁰ The letter alleged that in recent years U.S. educational institutions have discriminated against white students and contorts civil rights law to command the dismantling of protections for students of color. And at the same time

⁷ U.S. Dep’t of Educ., Office for Civil Rights, *2024 Fiscal Year Annual Report: Report to the President and Secretary of Education* (2024) at 8, <https://www.ed.gov/media/document/ocr-report-president-and-secretary-of-education-2024-109012.pdf>.

⁸ Exec. Order No. 14190, 90 Fed. Reg. 8853 (Jan. 29, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-indoctrination-in-k-12-schooling/>.

⁹ No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025), available at <https://www.whitehouse.gov/presidential-actions/2025/02/keeping-men-out-of-womens-sports/>.

¹⁰ U.S. Dep’t of Educ., *Dear Colleague Letter: Title VI of the Civil Rights Act in Light of Students for Fair Admissions v. Harvard* (Feb. 14, 2025), <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>.

that the investigation of discrimination complaints was frozen, OCR affirmatively opened selected investigations targeting programs and actions designed to combat discrimination against students of color and LGBTQ+ students and to provide them with equal access to educational opportunities. Many are “directed investigations,” meaning they were initiated by the agency, rather than by individual students and their families and advocates.

6. Additionally, on February 27, 2025 OCR launched an “End DEI” (short for “End Diversity, Equity, and Inclusion”) portal. The portal purports to collect “reports of discrimination based on race or sex in publicly-funded K-12 schools” from parents, students, teachers, and the broader community.¹¹ The press release announcing the portal made clear that the goal was to solicit information for use in potential investigations targeting programs designed to combat discrimination against LGBTQ+ students and students of color and provide them with equal access to educational opportunities. Tiffany Justice, Co-Founder of Moms for Liberty, explained that the Department was soliciting information about the use of “critical race theory”—a reference to the recognition of systemic racism against people of color in society—and “rogue sex education and divisive ideologies”—a reference to recognizing and affirming the identities of LGBTQ+ people—in public schools for the purpose of “identify[ing] potential areas for investigation.”¹²

7. ED has also taken steps to undermine the critically important research and data collections conducted by the Department and OCR. The Department has canceled nearly \$1 billion in contracts administered by the Institute of Education Sciences (“IES”), which threatens to end important educational research projects.

8. Similarly, OCR has failed to release data from the Civil Rights Data Collection (“CRDC”), a mandatory biannual survey that gathers civil rights data from public schools. The

¹¹ U.S. Dep’t of Educ., *U.S. Department of Education Launches “End DEI” Portal* (Feb. 27, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-launches-end-dei-portal>.

¹² *Id.*

CRDC is a universal collection covering nearly every school and district in the nation. The data is used to ensure all students have equal access to education, regardless of race, gender, disability, or other protected traits. Without access to this data, families, advocates, school districts, and other stakeholders are less able to take corrective action when appropriate. Equally important, the data from the CRDC is also used by researchers and policymakers to reveal serious racial differences in educational opportunity including those that may inform changes to policies and practices. The CRDC data may also provide evidence of unlawful discrimination including, but not limited to, unlawful segregation, harassment, the denial of equal access to educational programs, blatantly different treatment, and the failure of school leaders to otherwise meet their obligation to protect students from systemic discrimination based on race, disability, English Learner status, gender or national origin. OCR has failed to release CRDC data for the 2023-2024 school year.

9. To better understand the nature of these wholesale changes to the Department and their impacts on vulnerable students, on March 3, 2025, Plaintiff National Center for Youth Law, a not-for-profit organization that advocates on behalf of children and students, filed three Freedom of Information Act (“FOIA”) requests. It filed a fourth request on April 29, 2025, for the data collected in the Civil Rights Data Collection (CRDC) for the 2023-2024 academic year.

10. Over a year has passed since Plaintiff submitted its FOIA requests, and Defendant has failed to make a determination on any of them. Plaintiff therefore seeks an order directing Defendant to immediately begin searching for, processing and producing all non-exempt records responsive to its requests.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201, and 2202.

12. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

13. Because Defendant has failed to comply with the applicable time-limit provisions of FOIA, Plaintiff is deemed to have exhausted their administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and is now entitled to an order requiring Defendant to process their FOIA request.

PARTIES

14. Since 1971, Plaintiff National Center for Youth Law, a Section 501(c)(3) organization, has pursued a vision in which every child—no matter their race, family background, gender identity, or immigration status—has the freedom, support, and power to thrive. Using law, policy, research, and community partnerships, all guided by young people’s experiences, the National Center for Youth Law works to transform public systems, to strengthen families and communities, to promote equity, opportunity and dignity, and to pursue accountability and justice.

15. Defendant United States Department of Education is an agency within the meaning of 5 U.S.C. § 552(f)(1), has possession and control of the requested records, and is responsible for fulfilling Plaintiff’s FOIA request.

STATUTORY FRAMEWORK

16. The FOIA provides that “each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules ... shall make the records promptly available to any person.” 5 U.S.C. § 552(a)(3)(A).

17. Upon receipt of a FOIA request, an agency must make a determination whether to comply with it and to notify the requester of that determination within twenty days of receipt of a request, excluding Saturdays, Sundays, and legal public holidays. 5 U.S.C. § 552(a)(6)(A)(i).

18. Agencies shall grant requesters requests for expedited processing of their FOIA requests when they demonstrate “compelling need.” 5 U.S.C. § 552(a)(6)(E)(i)(I). “Compelling need” requires the requestor to show that they are “a person primarily engaged in disseminating information” with an urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II).

19. A determination of whether to provide expedited processing shall be made and notice of the determination shall be provided to the person making the request within 10 days after the date of the request. 5 U.S.C. § 552(a)(6)(E)(ii)(I).

20. Agency action to deny a request for expedited processing pursuant to this subparagraph, and failure by an agency to respond in a timely manner to such a request, is subject to judicial review. 5 U.S.C. § 552(a)(6)(E)(iii).

21. After a FOIA request is received by an agency, it must “make reasonable efforts to search for the records.” 5 U.S.C. § 552(a)(3)(C). If the agency identifies any responsive records, the agency must make them “promptly available.” *Id.*

22. If an agency fails to make a determination within the prescribed time frame, requesters are deemed to have exhausted their administrative remedies under 5 U.S.C. § 552(a)(6)(C)(i).

23. The FOIA further provides that records shall be furnished without charge, or at a reduced charge, when disclosure is likely to contribute significantly to public understanding of government operations or activities and is not primarily in the requester’s commercial interest. 5 U.S.C. § 552(a)(4)(A)(iii).

STATEMENT OF FACTS

Request 1

24. As noted above, early in the second Trump Administration, the President and the Department issued, respectively, Executive Orders and Dear Colleague Letters purporting to protect female students from “gender ideology extremism,” bar transgender girls from participating in sports at school, sanction discrimination based on gender identity, and challenge the use of diversity, equity and inclusion to combat forms of historical discrimination, policies that impact the lives of students throughout the country.

25. In addition, the Defendant made substantial cuts in the Office of Civil Rights (OCR) staff, which would likely lead to diminished civil rights enforcement.

26. As a result, on March 3, 2025, Plaintiff filed a federal FOIA request with the Department of Education, seeking four categories of records. The first sought data on the numbers of open, pending and closed OCR investigations and efforts to delay or close such investigation. The second sought records showing changes to the Defendant’s Case Processing Manual. The third sought records related to the EndDEI.Ed.gov portal. The fourth sought lists of probationary OCR employees and communications about them. The full request is attached as Exhibit A.

27. By letter dated March 6, 2025, Defendant assigned the request 25-02655-F. The letter stated it required no further information and that the average processing time was 185 days.

28. In its March 3, 2025, FOIA request, Plaintiff sought a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A). Exhibit A. It stated that disclosure of the requested information is in the public interest because it would shed light on the operations or activities of the government. It further stated that the records were not sought for commercial purposes and that it intended to distribute the records and information contained in them to other educational institutions and the public at no charge.

29. In addition, Plaintiff explained that it is a representative of the news media. It gathers information of potential interest to the public and distributes it at no cost to interested parties.

30. Defendant has not decided Plaintiff's request for a fee waiver.

31. Plaintiff also included in its March 3, 2025, submission a request for expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E). *See* Exhibit A.

32. It sought 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, "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," 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 government's integrity which affect public confidence," 5 U.S.C. § 552(a)(6)(E)(ii).

33. Further, Plaintiff sought records concerning a matter of great urgency. Children, families, and stakeholders who advocate on their behalf need to understand how these policy changes impact the Department's investigatory and enforcement approach to discrimination experienced by students and what these students might do to protect their rights and services.

34. The Defendant denied Plaintiff's request for expedited processing in its March 6, 2025 acknowledgment letter.

35. As of the date of filing this Complaint, Defendant has not further responded substantively to Plaintiff's March 3, 2025 request.

36. More than twenty days have passed since Plaintiff submitted its request, and Defendant has therefore failed to comply with 5 U.S.C. § 552(a)(6)(A)(i).

37. As a result, Plaintiff has constructively exhausted its administrative remedies, 5 U.S.C. § 552(a)(6)(C)(i), and seeks immediate judicial review.

Request 2

38. On January 29, 2025, President Trump issued Executive Order 14190, “Ending Radical Indoctrination in K-12 Schooling,” which aims to address alleged concerns about the “indoctrination” of students with ideologies deemed “radical” and “anti-American,” and attempts to restrict any discussions on race, gender, and LGBTQ+ issues in school.

39. To understand the scope of the Order and the impact it may have on the children that the Plaintiff seeks to serve, Plaintiff filed a federal FOIA request with the Defendant on March 3, 2025.

40. The Plaintiff’s request sought records pertaining to the Executive Order and communications between agency officials within the Office of the Secretary and the Office for Civil Rights and a number of outside organizations and individuals. A copy of the full request is attached as Exhibit B.

41. By letter dated March 6, 2025, Defendant assigned the request 25-02656-F. The letter stated it required no further information and that the average processing time was 185 days.

42. In its March 3, 2025, FOIA request, Plaintiff sought a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A). Exhibit B. It stated that disclosure of the requested information is in the public interest because it would shed light on the operations or activities of the government. It further stated that the records were not sought for commercial purposes and that it intended to distribute the records and information contained in them to other educational institutions and the public at no charge.

43. In addition, Plaintiff explained that it is a representative of the news media. It gathers information of potential interest to the public and distributes it at no cost to interested parties.

44. Defendant has not decided Plaintiff's request for a fee waiver.

45. Plaintiff also included in its March 3, 2025, submission a request for expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E). *See* Exhibit B.

46. It sought 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, "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," 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 government's integrity which affect public confidence," 5 U.S.C. § 552(a)(6)(E)(ii).

47. Further, Plaintiff sought records concerning a matter of great urgency. Children, families, and stakeholders who advocate on their behalf need to understand the scope and implementation of the Executive Order and how it impacts their rights and the services they seek or receive.

48. As of the date of filing this Complaint, Defendant has not further substantively responded to Plaintiff's March 3, 2025 request.

49. More than twenty days have passed since Plaintiff submitted its request, and Defendant has therefore failed to comply with 5 U.S.C. § 552(a)(6)(A)(i).

50. As a result, Plaintiff has constructively exhausted its administrative remedies, 5 U.S.C. § 552(a)(6)(C)(i), and seeks immediate judicial review.

Request 3

51. Early in the Second Trump Administration, the Defendant made substantial cuts to IES. According to the Department of Education website, IES is “the nation's leading source for rigorous, independent education research, evaluation, and statistics.”¹³ In particular, news reports stated that the Defendant had terminated nearly 100 IES contracts worth about a billion dollars.

52. As a result, on March 3, 2025, Plaintiff filed a federal FOIA request with the Defendant for records relating to IES grants, contracts and cooperative agreements entered into or terminated since January 20, 2025. A copy of the full request is attached as Exhibit C.

53. By letter dated March 6, 2025, Defendant assigned the request 25-02658-F. The letter stated it required no further information and that the average processing time was 185 days.

54. In its March 3, 2025, FOIA request, Plaintiff sought a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A). Exhibit C. It stated that disclosure of the requested information is in the public interest because it would shed light on the operations or activities of the government. It further stated that the records were not sought for commercial purposes and that it intended to distribute the records and information contained in them to other educational institutions and the public at no charge.

55. In addition, Plaintiff explained that it is a representative of the news media. It gathers information of potential interest to the public and distributes it at no cost to interested parties.

56. Defendant has not decided Plaintiff's request for a fee waiver.

57. Plaintiff also included in its March 3, 2025, submission a request for expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E). *See* Exhibit C.

58. It sought 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,

¹³ <https://ies.ed.gov/> (last visited June 9, 2026).

“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,” 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 government’s integrity which affect public confidence,” 5 U.S.C. § 552(a)(6)(E)(ii).

59. Further, Plaintiff sought records concerning a matter of great urgency. Children, families, and stakeholders who advocate on their behalf need to understand the scope and implementation of these terminations to assess how they may impact their rights and the services they seek or receive.

60. The Defendant did not decide Plaintiff’s request for expedited processing.

61. As of the date of filing this Complaint, Defendant has not further substantively responded to Plaintiff’s March 3, 2025 request.

62. More than ten days have passed since Plaintiff’s request for expedited processing. Defendant has therefore failed to comply with 5 U.S.C. § 552(a)(6)(E)(ii)(1).

63. More than twenty days have passed since Plaintiff submitted its request, and Defendant has therefore failed to comply with 5 U.S.C. § 552(a)(6)(A)(i).

64. As a result, Plaintiff has constructively exhausted its administrative remedies, 5 U.S.C. § 552(a)(6)(C)(i), and seek immediate judicial review.

Request 4

65. For more than five decades, the Department’s Civil Rights Data Collection (CRDC) has captured data on students’ equal access to educational opportunities to understand and inform schools’ compliance with the civil rights laws enforced by the Department’s Office for Civil Rights.

66. According to the Department’s website, “OCR uses data from the CRDC to inform investigations, policy guidance and technical assistance to school districts and schools. Other ED offices and federal agencies, policymakers and researchers, educators and school officials, parents and students, and the public also use the CRDC as a valuable resource for understanding students' access to educational opportunities in our nation's public schools.”¹⁴

67. On April 29, 2025, Plaintiff filed a federal Freedom of Information Act request with the Defendant requesting “(1) All the data collected pursuant to the Civil Rights Data Collection (CRDC) for the 2023-2024 academic year and (2) All the data notes and, if applicable, data notes appendix that currently exist for the 2023-2024 CRDC collection.

68. On May 19, 2025, the Defendant acknowledged receipt of the request and assigned it number 25-03685-F. The letter stated it required no further information.

69. In its April 29, 2025 request, Plaintiff sought a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A). It stated that disclosure of the requested information is in the public interest because it would shed light on the operations or activities of the operations and activities of our public schools, especially at the school and local district levels. Moreover, the request stated that after each collection year the discipline data that are part of the request are used by each state to formulate the state and local report cards required by the Every Student Succeeds Act. It further stated that the records were not sought for commercial purposes.

70. Defendant has not decided Plaintiff’s request for a fee waiver.

71. As of the date of filing this Complaint, Defendant has not further substantively responded to Plaintiff’s April 29, 2025 request.

72. More than twenty days have passed since Plaintiff submitted its request, and Defendant has therefore failed to comply with 5 U.S.C. § 552(a)(6)(A)(i).

¹⁴ <https://civilrightsdata.ed.gov/> (last visited June 9, 2026).

73. As a result, Plaintiff has constructively exhausted its administrative remedies, 5 U.S.C. § 552(a)(6)(C)(i), and seek immediate judicial review.

PLAINTIFF'S CLAIMS

Count I (Failure to Grant Expedited Processing)

74. Plaintiff repeats and realleges paragraphs 1-73 as if they were fully set forth herein.

75. Pursuant to the FOIA, Plaintiff sought expedited processing of its March 3, 2025 requests (Requests 1-3).

76. As an organization with a mission to uncover and reveal to the public the activities of the federal government as it pertains to the children they serve, Plaintiff is actively engaged in disseminating information. The records sought address matters of great importance and urgency to children whose federal rights the Defendant had traditionally protected and enforced. The Executive Orders and Department letters threaten the government's continued investigation of alleged violations of these federal rights and enforcement of them to protect and benefit students with disabilities.

77. Because Requests 1 and 2 were made by a person primarily engaged in disseminating information, and there was urgency to inform the public concerning actual or alleged Federal Government activity, Defendant's denial of the requests for expedited processing violated the FOIA.

78. A determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request. 5 U.S.C. § 552(a)(6)(E)(ii)(1).

79. In violation of that statute, Defendant did not respond to Plaintiff's expedited processing request in Request 3 within 10 days, or at any time.

Count II (Failure to Search for and Produce Requested Records and Failure to Respond to Request for Fee Waiver)

80. Plaintiffs repeat and reallege paragraphs 1-73 as if they were fully set forth herein.

81. In Requests 1-4, Plaintiff properly sought records within the custody and control of Defendant.

82. Defendant wrongfully withheld agency records requested by Plaintiff by failing to make determinations on Plaintiff's requests within the statutorily prescribed time period of 20 business days, as required by 5 U.S.C. § 552(a)(6)(A), and by continuing to withhold documents that are non-exempt and responsive to Plaintiff's FOIA requests.

83. Defendant's failure to grant Plaintiff's request for a waiver of fees violates the FOIA, 5 U.S.C. § 552(a)(4)(A)(iii), and Defendant's corresponding regulations, 45 C.F.R. §§ 5.54 and 5.53(d)(1).

84. Defendant's failure to grant Plaintiff's requests for a reduction of fees violates the FOIA, 5 U.S.C. § 552(a)(4)(A)(ii)(II), and Defendant's corresponding regulations, 45 C.F.R. § 5.53(b) and (d)(1).

85. Plaintiff has constructively exhausted its administrative remedies.

86. Accordingly, Plaintiff is entitled to injunctive and declaratory relief requiring Defendant to immediately process and disclose all requested records to Plaintiff.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests this Court:

1. Issue a declaration that Plaintiff is entitled to the immediate processing and disclosure of the requested records to it;
2. Issue a declaration that Plaintiff is entitled to expedited processing of all requests for which it has sought such handling;

3. Order the Defendant to preserve all records, in whatever form they exist, potentially responsive to Plaintiff's requests prior to and during the processing of its requests;
4. Order Defendant to immediately process and disclose all responsive records to Plaintiff;
5. Order Defendant to grant Plaintiff's request for fee waivers;
6. Provide for expeditious processing of this action;
7. Retain jurisdiction over this action to ensure that no agency records are wrongfully withheld;
8. Award Plaintiff attorneys' fees and costs pursuant to 5 U.S.C. § 552(a)(4)(F)(i); and
9. Grant any other such relief that this Court may deem just and proper.

Dated: July 16, 2026

Respectfully submitted,

/s/Jeffrey S. Gutman
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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 Office for Civil Rights Investigations

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.

Over the past month, President Donald Trump has issued a series of executive orders impacting the lives of students and families across the country. On January 20, 2025, President Trump issued Executive Order 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, which does nothing to “defend women” and instead directs the federal government to regulate, control, and police gender.¹

On January 29, President Donald Trump issued Executive Order 14190, Ending Radical Indoctrination in K-12 Schooling (“Executive Order”), which allegedly aims to address concerns about the “indoctrination” of students with ideologies deemed “radical” and “anti-American,” and attempts to restrict any discussions on race, gender, and LGBTQ+ issues in school.² On January 31, 2025, OCR issued a Dear Colleague letter stating that it would no longer interpret Title IX to protect students from discrimination on the basis of gender identity.³ On February 5,

¹ Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025).

² Exec. Order No. 14190, 90 Fed. Reg. 8853 (Jan. 29, 2025).

³ ED OCR, Jan. 31, 2025 Dear Colleague Letter.

EXHIBIT A

President Trump issued Executive Order 14201, Keeping Men Out of Women's Sports, banning transgender girls from participating in sports at school.⁴

On February 14, 2025, OCR issued another Dear Colleague letter, identifying alleged harm to white students and accusing schools of using diversity, equity, and inclusion (DEI) as a justification for “smuggling racial stereotypes and explicit race-consciousness into everyday training, programming, and discipline.”⁵ This is highly misleading, and seeks to erase the historical and ongoing realities of racial discrimination while weaponizing the language of “equal treatment” to undermine policies designed to address systemic inequities. It is fundamentally an attack on racial justice and the equal protection owed to all in our country.

While the nominee for Secretary of Education testified that it would take an act of Congress to dismantle ED, President Trump campaigned, and has repeatedly threatened, to shut down or significantly diminish ED.⁶ On February 13, 2025, ProPublica reported that, in the days and weeks after President Trump took office, investigations by OCR “have ground to a halt” and that there has been “a dramatic drop in the number of new cases opened.”⁷ ProPublica reports that an OCR employee said that there is “a complete disruption of the services we provide” and that “members of the public are suffering with these disruptions.”⁸ The very few cases that OCR attorneys have been directed to investigate have been ordered by the Trump administration rather than opened in response to the public, and reflect the priorities outlined in Trump's Executive Orders: getting rid of gender-neutral bathrooms, banning transgender athletes from participating in women's sport and alleged discrimination against white students.⁹ ProPublica reports that around 75 of OCR's 400 employees have been fired or placed on administrative leave.¹⁰

On February 20, 2025, ProPublica reported that ED was lifting its freeze on investigating discrimination claims, but only as to claims alleging solely disability discrimination.¹¹ Thousands of ongoing investigations regarding complaints that allege race or gender discrimination, or race or gender and disability discrimination, are still on pause.¹² Most recently, ED OCR announced the launch of EndDEI.Ed.Gov, a public portal that allows parents and other

⁴ Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025).

⁵ ED OCR, Feb. 14, 2025 Dear Colleague Letter, <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>

⁶ Corey Turner & Jonaki Mehta, *At McMahon's confirmation hearing, it was the Education Department on trial*, NPR All Things Considered (Feb. 13, 2025), <https://www.npr.org/2025/02/13/nx-s1-5258255/trump-cabinet-picks-linda-mcmahon-confirmation-hearing>; Dana Goldstein, *Could Trump Shut Down the Department of Education?*, N.Y. Times (Nov. 13, 2024), <https://www.nytimes.com/2024/11/13/us/trump-close-department-of-education.html>.

⁷ Jennifer Smith Richards & Jodi S. Cohen, *“We've Been Essentially Muzzled”: Department of Education Halts Thousands of Civil Rights Investigations Under Trump*, ProPublica (Feb. 13, 2025), <https://www.propublica.org/article/departement-of-education-civil-rights-office-investigations/>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Jennifer Smith Richards & Jodi S. Cohen, *Education Department “Lifting the Pause” on Some Civil Rights Probes, but Not for Race or Gender Cases*, ProPublica (Feb. 20, 2025), <https://www.propublica.org/article/departement-education-civil-rights-investigations-disability-gender-race-discrimination>.

¹² *Id.*

individuals to submit complaints regarding “concerning practices” and “reports of discrimination.”⁶

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 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 the Executive Orders and Dear Colleague letters described above. Given the ongoing and widespread media attention to this issue, 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 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 records¹³ 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, related to efforts to open, close, delay, and/or pause OCR investigations, including, but not limited to:
 - a. Records reflecting the number of new investigations opened on or after January 20, 2025;
 - b. Records reflecting the number of investigations closed on or after January 20, 2025;
 - c. Records reflecting any efforts to delay, pause, slow down, slow walk, reassign, or close any investigations pending as of January 19, 2025, including but not limited to, meetings and/or mediation sessions that have been cancelled or postponed, closing letters sent to complainants or respondents, or any letters declining to open investigations;
 - d. Records reflecting any efforts to treat the processing and/or investigation of complaints alleging disability discrimination differently from any other complaints, including complaints alleging discrimination based on race or sex; and
 - e. E-mail communications among, between, or cc'ing OCR personnel at Headquarters and/or Regional Offices sent or received on or after January 20, 2025, containing any of the following words or terms: "rac!," "gender!," "disabil!," "gender-neutral," "biological sex," "gender identit!," "bathroom," "trans!," "transgender athletes," "discrimination against white students," "antisemitism," or "discriminatory equity ideology."¹⁴
2. Any and all records created on or after January 20, 2025, related to changes to the Case Processing Manual.
3. Any and all records pertaining to submissions received via the EndDEI.Ed.Gov portal, including, but not limited to:

¹³ 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.

¹⁴ The "!" character is intended to capture any combination of letters that complete the partial word provided. If it is not possible to perform searches with Boolean logic, please use similar terms and search procedures.

- a. The total number of submissions received;
 - b. The total number of submissions received alleging race-based and/or sex-based discrimination;
 - c. The total number of submissions received based upon which OCR initiated investigations;
 - d. The total number of submissions received alleging race-based and/or sex-based discrimination based upon which OCR initiated investigations;
 - e. A copy of all submissions received via the EndDEI.Ed.Gov portal based upon which OCR initiated investigations;
 - f. A copy of all submissions received via the EndDEI.Ed.Gov portal based upon which OCR did not initiate investigations; and
 - g. All correspondences from OCR to individuals who made submissions to the EndDEI.Ed.Gov portal which gave rise to OCR investigations.
4. Any and all records that would indicate changes in staffing in OCR from January 1, 2025, through the date of this request:
- a. A list of probationary employees, including job title, who were employed by OCR prior to January 20, 2025;
 - b. A list of probationary employees, including job title, who are currently employed by OCR;
 - c. A list of probationary employees, including job title, who were employed by OCR as of January 20, 2025, and who were terminated on or after January 20, 2025;
 - d. Any and all written communications sent on or after January 20, 2025, by any staff at the Department of Education, the Office of Management and Budget, or the Department of Governmental Efficiency, to probationary employees who were formerly part of OCR as of January 20, 2025, and who were terminated on or after January 20, 2025; and
 - e. Any and all written communications sent on or after January 20, 2025, by any staff at the Department of Education, the Office of Management and Budget, or the Department of Governmental Efficiency, to probationary employees who are currently working in OCR.

* * *

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 stylized flourish at the end.

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



Sent Via Email to: EDFOIAManager@ed.gov

March 3, 2025

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

**Re: Freedom of Information Act Request Regarding Executive Order
14190, Ending Radical Indoctrination in K-12 Schooling**

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”) as appropriate.

Over the past month, President Donald Trump has issued a series of executive orders impacting the lives of students and families across the country. On January 20, 2025, President Trump issued Executive Order 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, which does nothing to “defend women” and instead directs the federal government to regulate, control, and police gender.¹

On January 29, President Trump issued Executive Order 14190, Ending Radical Indoctrination in K-12 Schooling (“Executive Order 14190”), which allegedly aims to address concerns about the “indoctrination” of students with ideologies deemed “radical” and “anti-American,” and attempts to restrict any discussions on race, gender, and LGBTQ+ issues in school.² On January 31, OCR issued a Dear Colleague letter stating that it would no longer interpret Title IX to protect students from discrimination on the basis of gender identity.³ On February 5, President Trump issued Executive Order 14201, Keeping Men Out of Women’s Sports, banning transgender girls from participating in sports at school.⁴

¹ Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025).

² Exec. Order No. 14190, 90 Fed. Reg. 8853 (Jan. 29, 2025)

³ ED OCR, Dear Colleague Letter (Jan. 31, 2025).

⁴ Exec. Order No. 14201, 90 Fed. Reg. 9279 (Feb. 5, 2025).

On February 14, 2025, OCR issued another Dear Colleague letter, identifying alleged harm to white students and accusing schools of using diversity, equity, and inclusion (DEI) as a justification for “smuggling racial stereotypes and explicit race-consciousness into everyday training, programming, and discipline.”⁵ This is highly misleading, and seeks to erase the historical and ongoing realities of racial discrimination while weaponizing the language of “equal treatment” to undermine policies designed to address systemic inequities. It is fundamentally an attack on racial justice and the equal protection owed to all in our country.

While the nominee for Secretary of Education testified that it would take an act of Congress to dismantle ED, President Trump campaigned, and has repeatedly threatened, to shut down or significantly diminish ED.⁶ On February 13, 2025, ProPublica reported that, in the days and weeks after President Trump took office, investigations by OCR “have ground to a halt” and that there has been “a dramatic drop in the number of new cases opened.”⁷ ProPublica reports that an OCR employee said that there is “a complete disruption of the services we provide” and that “members of the public are suffering with these disruptions.”⁸ The very few cases that OCR attorneys have been directed to investigate have been ordered by the Trump administration rather than opened in response to the public, and reflect the priorities outlined in Trump’s Executive Orders: getting rid of gender-neutral bathrooms, banning transgender athletes from participating in women’s sport and alleged discrimination against white students.⁹ ProPublica reports that around 75 of 400 OCR employees have been fired or placed on administrative leave.¹⁰

On February 20, 2025, ProPublica reported that ED was lifting its freeze on investigating discrimination claims, but only as to claims alleging solely disability discrimination.¹¹ Thousands of ongoing investigations regarding complaints that allege race or gender discrimination, or race or gender and disability discrimination, are still on pause.¹²

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

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⁷ Jennifer Smith Richards & Jodi S. Cohen, *“We’ve Been Essentially Muzzled”: Department of Education Halts Thousands of Civil Rights Investigations Under Trump*, ProPublica (Feb. 13, 2025), <https://www.propublica.org/article/departments-of-education-civil-rights-office-investigations/>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Jennifer Smith Richards & Jodi S. Cohen, *Education Department “Lifting the Pause” on Some Civil Rights Probes, but Not for Race or Gender Cases*, ProPublica (Feb. 20, 2025), <https://www.propublica.org/article/departments-of-education-civil-rights-investigations-disability-gender-race-discrimination>.

¹² *Id.*

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 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 for 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 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 records¹³ that were prepared, received, transmitted, collected and/or maintained by the agency:

¹³ 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

1. Any and all records created on or after January 20, 2025, pertaining to “Ending Radical Indoctrination in K-12 Schooling,” Executive Order 14190;
2. Any and all records created on or after January 20, 2025, involving communications between (a) agency officials within the Office of the Secretary and/or the Office for Civil Rights and (b) any of the following individuals and/or organizations:
 - i. Heritage Foundation;
 - ii. Alliance Defending Freedom;
 - iii. America First Legal Foundation;
 - iv. Equal Protection Project;
 - v. Manhattan Institute for Policy Research;
 - vi. Moms for Liberty;
 - vii. Parents Defending Education;
 - viii. Department of Government Efficiency, and/or its members, including, but not limited to:
 1. Elon Musk;
 2. Christopher Stanley;
 3. Brad Smith;
 4. Thomas Shedd;
 5. Amanda Scales;
 6. Michael Russo;
 7. Rachel Riley;
 8. Nikhil Rajpal
 9. Justin Monroe;
 10. Katie Miller;
 11. Tom Krause;
 12. Gavin Kliger;
 13. Gautier Killian;
 14. Stephanie Holmes;
 15. Luke Farritor;
 16. Marko Elez;
 17. Steve Davis;
 18. Edward Coristine;
 19. Nate Cavanaugh;
 20. Akash Bobba;
 21. Brian Bjelde;
 22. Riccardo Biasini;

and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

23. Anthony Armstrong;
24. Keenan Kmiec;
25. James Burnham;
26. Jacob Altik;
27. Jordan Wick;
28. Ethan Shaotran;
29. Kyle Schutt;
30. Ryan Riedel;
31. Adam Ramada;
32. Kendell Lindemann;
33. Nicole Holander;
34. Alexandra Beynon;
35. Jennifer Balajadia;
36. Stephen Duarte;
37. Stephen Ehikian;
38. Justin Fulcher;
39. Christina Hanna;
40. Greg Hogan;
41. Jeremy Lewin;
42. Kathryn Armstrong Loving;
43. Bryanne-Michelle Mlodzianowski;
44. Brooks Morgan;
45. Noah Peters
46. Austin Raynor;
47. Chris Young.

ix. Christopher Rufo.

* * *

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 stylized flourish at the end.

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



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

National Center for Youth Law

Daniel J. Losen
Sr. Director of Education
National Center for Youth Law
20 Hillcrest Avenue,
Lexington, MA
12/24/2024

U.S. Department of Education
Office of Management
Regulatory Information Management Services
400 Maryland Avenue, SW, LBJ 2W220
Washington, DC 20202-4536
ATTN: FOIA Public Liaison

Dear FOIA team:

This is a request under the Freedom of Information Act, 5 U.S.C. 552. I hereby request the following information:

1. All the data collected was collected pursuant to the Civil Rights Data Collection (CRDC) for the 2023-2024 academic year.
2. All the data notes and, if applicable, data notes appendix that currently exist for the 2023-2024 CRDC collection.

Please treat each of the enumerated requests as segregable and provide the requested information within 20 working days.

For each enumerated request above, please provide the data in an electronic format such as a link to a downloadable file containing the data, a CDR Rom or other electronic/digital format. Please send links via email to my dlosen@youthlaw.org email address. If the data are sent by CD Rom or other physical device carrying the data please send it to: Dan Losen, 20 Hillcrest Avenue, Lexington, MA 02420.

We request that you waive any fees associated with this request: To help you determine my status for consideration with regarding any assessed fees, I am making this request in my capacity as the Sr. Education Director of the National Center for Youth Law (NCYL). I make this request to serve the public interest, and it is not for commercial use. Please contact me directly if there will be any fees charged in excess of \$100 associated with request.

EXHIBIT D



Disclosure of the requested information to NCYL is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of our public schools, especially at the school and local district levels. I make this request on behalf of NCYL in my role as researcher.

Moreover, after each collection year the discipline data that are part of our request are used by each state to formulate the state and local report cards required pursuant to Every Student Succeeds Act. Our only intention is to serve the public interest and the public's right to know information about their public schools.

If you have any questions about this request, please do not hesitate to call or email. Thank you for considering this time sensitive request.

Sincerely,

Daniel J. Losen
dlosen@youthlaw.org
617-285-4745