



July 27, 2023

VIA FOIA Public Access Link

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Freedom of Information Act Request: White House Directive for OCR to Appoint Coordinator to Advise Localities on Book Challenges

Dear Sir or Madam:

America First Legal Foundation (“AFL”) is a national, nonprofit organization. AFL works to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and promote knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. Our mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and media, including social media platforms. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL’s Twitter page has over 160,000 followers, and the Twitter page of our Founder and President has over 485,000 followers.

I. Introduction

Over the past several years, parents across the country have watched a proliferation of age-inappropriate books being purchased by government-run schools and placed in K-12 libraries in the name of “diversity, equity, and inclusion.” Many of these books are how-to guides encouraging young children to engage in sexual activity, question their biological sex, and avoid parental involvement in their mental, physical, and emotional well-being. In response, parents have exercised their rights under the U.S. Constitution, state law, and school policy to challenge these government-sponsored books.

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Washington, DC 20003

320 South Madison Avenue
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By way of example, the book “Gender Queer” has been challenged in several middle and high schools¹ for graphic, age-inappropriate depictions such as those below:



Additionally, *It Feels Good to Be Yourself*, a book geared towards 1st and 2nd graders, encourages children to question their biological sex, stating: “See, when you were born, you couldn’t tell people who you were or how you felt. They looked at you and made a guess. Maybe they got it wrong, maybe they got it right. What a baby’s body looks like when they’re born can be a clue to what a baby’s gender will be, but not always.”²

¹ Damien Fischer, *Sexually Explicit Books Are Available in NH Middle Schools*, NH J. (Mar. 15, 2023), <https://bit.ly/3Od1pBh>.

² Theresa Thorn, *It Feels Good to Be Yourself: A Book About Gender Identity* (2019).



Unfortunately, while many books have long been found inappropriate for public school libraries — e.g., *The Anarchist's Cookbook* — leftist extremists and their media propaganda arm have attacked parents for exercising their legal rights by falsely claiming that parents are trying to “ban books.”

Given the Biden Administration’s well-documented history of abusing federal power to surveil, track, censor, and punish constitutionally protected speech and conduct by, *inter alia*, parents, religious and political conservatives, journalists, political opponents, and COVID dissenters, we are alarmed by the June 8, 2023, announcement that the Department of Education’s Office of Civil Rights is appointing a new “coordinator” to fortify government-run schools’ efforts to trample parental rights.³ The Supreme Court has repeatedly affirmed that parents, not the State, have the authority to direct their child’s education and upbringing and that this right may

³ See Jeremiah Poff, *Biden Announces New Department of Education Position to Combat ‘Book Bans’*, WASH. EXAMINER (June 8, 2023), <https://bit.ly/475xSIP>.

not be hindered by government school ideologues and bureaucrats.⁴ Yet, once again the Biden Administration is weaponizing the federal government, overrunning the Constitution to advance leftist indoctrination and promote a cultural revolution. The American people have a right to know what the Department of Education is up to. To help expose the truth and protect parents' fundamental legal rights, America First Legal demands release of the records specified below.

II. Custodians

- A. All political appointees in the Office of the Secretary including, but not limited to, the following:
 - a. Miguel Cardona
 - b. James Lane
 - c. Roberto Rodriguez
 - d. Sheila Nix
 - e. Lawanda Toney
 - f. Dietra Trent
 - g. Alexis Holmes
 - h. Melody Gonzales

- B. All political appointees and all career employees with a grade equivalent of GS-14 or higher in the following Office for Civil Rights components:
 - a. Office of the Assistant Secretary
 - b. Office of the Deputy Assistant Secretary for Policy
 - c. Office of the Deputy Assistant Secretary for Legal Affairs
 - d. Office of the Deputy Assistant Secretary for Enforcement
 - e. Office of the Deputy Assistant Secretary for Strategic Operations and Outreach

- C. All political appointees and all career employees with a grade equivalent of GS-14 or higher in the Office of the General Counsel

- D. Each of the following individuals:
 - a. Catherine Lhamon
 - b. Sam Ames
 - c. Monique Dixon

⁴ See *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Pierce v. Society of Sisters*, 268 U.S. 510, 534–535 (1925).

- d. Alejandro Reyes
- e. Seth Galanter
- f. Alice Abrokwa
- g. Jasmine Bolton
- h. Jady Hsin
- i. Adaku Onyeka-Crawford
- j. Heather Gunnarson
- k. Trina Shields
- l. Lisa Chang
- m. Randolph Wills
- n. Mia Karvonides
- o. Emily McCarthy
- p. Sherell Evans
- q. Joshua Schopf

III. Requested Records

The timeframe for each of the following items is January 1, 2022, to the date each item is processed.

- A. All records regarding or relating to the Biden Administration’s plan, announced on June 8, 2023, for “the Department of Education [to] appoint a new coordinator to address the growing threat that book bans pose for the civil rights of students.”
- B. All calendar items containing the terms “Protection of Pupil Rights Amendment” or “PPRA.”
- C. All records containing the terms “book bans” or “banning books” or “book challenges” or “challenged books.”
- D. All communications to and from any email account ending in “ala.org” or “nea.org” or “aft.org” or “eop.gov”.

IV. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees associated with this request.

First, AFL is a qualified non-commercial public education and news media requester. AFL is a new organization, but it has already demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website. For example, its officials routinely appear

on national television and use social media platforms to disseminate the information it has obtained about federal government activities. In this case, AFL will make your records and your responses publicly available for the benefit of citizens, scholars, and others. The public's understanding of your policies and practices will be enhanced through AFL's analysis and publication of the requested records. As a nonprofit organization, AFL does not have a commercial purpose and the release of the information requested is not in AFL's financial interest. This has previously been recognized by the Department of Education, as well as the Departments of Defense, Energy, Interior, State, and Homeland Security, and the Office of the Director of National Intelligence.

Second, waiver is proper as disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government."⁵

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination. To accelerate your release of responsive records, AFL welcomes production on an agreed rolling basis. Please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

VI. Request for Expedited Processing

AFL requests expedited processing for items A and F of this request. In support thereof, AFL certifies its compelling need for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 34 CFR § 5.21(a)(i)(2)(i)(B), which provides in relevant part:

(2) *Expedited processing.* (i) The Department gives expedited treatment to FOIA requests and appeals whenever the Department determines that a FOIA request involves one or more of the following . . . (B) The urgent need of a person primarily engaged in disseminating information to inform the public about an actual or alleged Federal Government

⁵ 5 U.S.C. § 552(a)(4)(A)(iii).

activity; or (C) Other circumstances that the Department determines demonstrate a compelling need for expedited processing.

First, as other federal agencies have acknowledged in granting AFL expedited processing, AFL is primarily engaged in disseminating information.

Second, there is an urgent need to inform the public about the Department's PPRA-related activity. There is extensive public and media interest in parents' rights to protect their children at school and in the Department's role in attempting to limit those rights. The Department's back-room involvement in the infamous Garland Memorandum (labeling parents as "domestic terrorists"), its cynically unlawful formation of the National Parents and Families Engagement Council, its close collaboration with and/or capture by organizations such as the National Education Association and the American Federation of Teachers that are dedicated to denying parents their statutory and Constitutional rights, and its historic failure to enforce the PPRA suggest a politically motivated pattern and practice of intentional disregard for statutory duties, raising serious and exigent questions and concerns regarding the lawfulness and integrity of its political leadership. These questions demand answers now.

Thank you in advance for your cooperation.

Sincerely,

/s/ Ian D. Prior

Ian D. Prior

America First Legal Foundation