

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

AMERICA FIRST LEGAL
FOUNDATION,
611 Pennsylvania Ave., SE #231
Washington, D.C. 20003

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
EDUCATION
400 Maryland Ave SW
Washington, DC 20202,

Defendant.

Civil Action No.: 24-448

COMPLAINT

1. Plaintiff America First Legal Foundation (“AFL”) brings this action against the United States Department of Education (“DOE”), to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief pursuant to 28 U.S.C. § 2201, *et seq.*

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

PARTIES

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

5. The Defendant DOE is an agency under 5 U.S.C. § 552(f), with its headquarters at 400 Maryland Avenue, SW, Washington, DC 20202.

6. The Defendant has possession, custody, and control of the requested records.

BACKGROUND

7. The Biden Administration has stated that it is committed to a transparent, open, and ethical government.¹

¹ *FACT SHEET: Biden-Harris Administration Prioritizes Effectiveness, Accountability, and Transparency in Bipartisan Infrastructure Law Implementation*, THE WHITE HOUSE (Apr. 29, 2022), <https://tinyurl.com/bdhrccyk>; *Biden White House Pledges Data, Transparency, Respect for Free Press*, REUTERS (Jan. 20, 2021), <https://tinyurl.com/3fzz25mf>; *Mark Joyella, Biden's White House Press Secretary Promises 'Trust and Transparency,'* FORBES (Jan. 20, 2021), <https://tinyurl.com/2p8729wz>.

8. “Timely disclosure of records is also essential to the core purpose of FOIA.” U.S. DEPT JUST., Freedom of Information Act Guidelines (Mar. 15, 2022), <https://tinyurl.com/2yd463dv>.

AFL’S FOIA REQUESTS

National Summit on Equal Opportunity Request

9. On August 21, 2023, AFL submitted a FOIA request to DOE seeking records and communications related to the DOE’s National Summit on Equal Opportunity and Higher Education and records and communications related to the DOE’s August 14, 2023 “Dear College Letter” and “Question and Answers resource” released via a press release entitled “Advance Diversity and Opportunity in Higher Education: Justice and Education Departments Release Resources to Advance Diversity and Opportunity in Higher Education.” *Ex. 1*.

10. The request named the custodians of the requested documents and communications and established a timeframe for the search – May 1, 2023 to the date the FOIA was fully processed. *Id.*

11. This request sought a fee waiver. *Id.*

12. As of the date of this filing, Defendant DOE has not provided any response or records under this request.

Book Czar Request

13. On July 27, 2023, AFL submitted a FOIA request to DOE seeking records related to the Biden Administration’s appointment of a coordinator to fight “book bans.” *Ex. 2*.

14. The request named the custodians of the requested documents and communications and established a timeframe for the search – January 1, 2022 to the date each part of the FOIA was processed. *Id.*

15. On August 16, 2023, the DOE sent an email to AFL asking for clarification regarding the request. *Ex. 3.*

16. On August 17, 2023, AFL responded and provided such clarification. *Ex. 4.*

17. On August 25, 2023, DOE notified AFL that the average processing time for a FOIA request at DOE is now 185 business days. *Ex. 5.*

18. As of the date of this filing, Defendant DOE has not provided any records under this request.

PPRA-NPRM Request

19. On February 1, 2023, AFL submitted a FOIA request to DOE seeking records concerning DOE's Notice of Proposed Rulemaking on the Protection of Pupil Rights Amendment. *Ex. 6.*

20. The request named the custodians of the requested documents and communications and established a timeframe for the search – February 2, 2022 to the date each part of the FOIA was processed. *Id.*

21. On February 9, 2023, DOE sent two letters to AFL. *Ex. 7.*

22. The first letter granted AFL's request for a fee waiver. *Id.*

23. The second letter denied AFL's request for expedited processing. *Id.*

24. On August 4, 2023, DOE emailed AFL and stated that it was “unable to process your request at this time, because your request does not reasonably describe the records that you have sought under FOIA 5 U.S.C. § 552(a)(3)(A).” *Ex. 8.*

25. DOE’s August 4, 2023 letter requested clarification on the requests. *Id.*

26. AFL responded that same day (August 4, 2023), requesting a phone call to discuss the FOIA. *Ex. 9.*

27. DOE did not respond to AFL’s August 4, 2023 email.

28. On November 3, 2023, AFL emailed the FOIA service center to check on the status of the FOIA request. *Ex. 10.*

29. DOE did not respond to AFL’s November 3, 2023, email.

30. On November 15, 2023, believing that DOE had administratively closed the FOIA request, AFL filed an appeal with DOE. *Ex. 11.*

31. On November 16, 2023, DOE emailed AFL and stated that the FOIA had not been administratively closed and that it remained pending. Thus, DOE was not entertaining AFL’s appeal. *Ex. 12.*

32. As of the date of this filing, Defendant DOE has not provided any records under this request.

CLAIM FOR RELIEF

Violation of the FOIA, 5 U.S.C. § 552

33. AFL incorporates paragraphs 1–32 by reference.

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

35. The Defendant failed to conduct searches for responsive records.

36. Moreover, because Defendant failed to conduct searches, it has failed to disclose any segregable, non-exempt portions of responsive records. *See* 5 U.S.C. § 552(b).

37. The Defendant has failed to respond to AFL's requests within the statutory time period. *See* 5 U.S.C. § 552(a)(6).

38. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

39. The Defendant has violated the FOIA by failing to reasonably search for records responsive to AFL's FOIA request and release nonexempt records within the prescribed time limit.

PRAYER FOR RELIEF

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that the records sought by AFL's requests must be disclosed pursuant to 5 U.S.C. § 552;
- ii. Order the Defendant to search immediately, demonstrating search methods reasonably likely to lead to the discovery of responsive records;
- iii. Order the Defendant to produce by a date certain all non-exempt records responsive to AFL's FOIA requests, accompanied by a Vaughn index of any responsive records or portions of responsive records being withheld under a claim of exemption;
- iv. Order the Defendant to grant AFL's requests for fee waivers;

v. Award AFL attorneys' fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

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

Date: February 15, 2024

Respectfully Submitted

/s/ Jacob Meckler

Ian Prior (D.C. Bar No. 90001650)

Jacob Meckler (D.C. Bar No. 90005210)

Tel: (202) 964-3721

E-mail: Jacob.meckler@aflegal.org

AMERICA FIRST LEGAL FOUNDATION

611 Pennsylvania Avenue SE #231

Washington, D.C. 20003

Counsel for the Plaintiff

America First Legal Foundation



August 21, 2023

VIA ELECTRONIC MAIL

U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202
EDFOIAManager@ed.gov

Freedom of Information Act Request: National Summit on Equal Opportunity in Higher Education

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL's Twitter page has over 176,000 followers, and the Twitter page of our Founder and President has over 497,000 followers.

I. Introduction

On June 29, 2023, the Supreme Court of the United States issued a decision in *Students for Fair Admissions v. President and Fellows of Harvard College*.¹ The Court held that Harvard had used unconstitutional, discriminatory practices in its admissions process by favoring African American and Hispanic applicants over members of other races. In the ruling, the Court overturned previous Supreme Court rulings that had allowed universities to employ affirmative action programs in their admission processes.

Following the decision, President Joe Biden claimed that the Supreme Court was “not a normal court” and that it was unmoored in its efforts to “unravel basic rights and

¹ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 143 S. Ct. 2141, 2147 (2023).

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Monroe, Georgia 30655

basic decisions.”² Vice President Kamala Harris stated that the Court did not “fully understand the importance of equal opportunity for the people of our country” and that the decision is “a denial of opportunity.”³ Secretary of Education Miguel Cardona told CBS that the “decision eliminates a valuable tool that universities have utilized to provide access to students from diverse backgrounds.”⁴

Despite the Biden Administration’s attacks on the Supreme Court, the American public overwhelmingly approves of the Supreme Court’s decision. In a national poll taken during the days following the decision, 52% of Americans supported the decision, and only 32% disapproved.⁵

Undaunted by the weight of public opinion supporting the Supreme Court’s decision to restore equal opportunity in college admissions, on July 26, 2023, the U.S. Department of Education hosted the National Summit on Equal Opportunity in Higher Education. Its purpose, as publicly stated, was to “bring together senior Biden-Harris Administration officials and national educational institutions and leaders to discuss innovative strategies and resources for colleges and students ... in the wake of the recent Supreme Court ruling on affirmative action.”⁶

Following the summit, the Departments of Education and Justice released, on August 14, 2023, a “Dear Colleague Letter”⁷ and a “Questions and Answers resource”⁸ to help universities and colleges understand the Supreme Court’s decision and how they could “continue to pursue campuses that are racially diverse.”⁹

Considering the significance of the Supreme Court decision and the precedent set, the Biden Administration’s attacks on the Court and its decision, and the Department of Education’s actions to limit the application of that decision, fulfilling this Freedom of Information Act request is imperative. It is to ensure openness and clarity within

² Zoe Richards, *Supreme Court Ends Affirmative Action, Drawing Criticism from Biden, Harris*, NBC NEWS (June 29, 2023), <https://nbcnews.to/3P1YDRI>.

³ *Id.*

⁴ Analisa Novak, *Education Secretary Miguel Cardona: Affirmative Action Ruling “Eliminates a Valuable Tool” for Universities*, CBS NEWS (June 30, 2023), <https://cbsn.ws/44eVBNC>.

⁵ Hannah Demissie, *Most Americans Approve of Supreme Court Decision Restricting Use of Race in College Admissions*, ABC NEWS, (July 2, 2023), <https://abcn.ws/3KLekd7>.

⁶ U. S. DEP’T OF EDUC., *U.S. Department of Education to Host National Summit on Equal Opportunity in Higher Education on July 26*, <https://bit.ly/3QIh5iQ> (last visited on Aug. 17, 2023).

⁷ Kristen Clarke, Assistant Att’y Gen., Dep’t of Just., and Catherine E. Lhamon, Assistant Sec’y for Civ. Rts., Dep’t of Educ., *Dear Colleague Letter* (Aug. 14, 2023), <https://bit.ly/3DZ5PqL>.

⁸ U. S. DEP’T OF EDUC., *Questions and Answers Regarding the Supreme Court’s Decision in Students for Fair Housing, Inc. v. Harvard College and University of North Carolina* (Aug. 14, 2023), <https://bit.ly/3sheOcc>.

⁹ U. S. DEP’T OF EDUC., *Advance Diversity and Opportunity in Higher Education: Justice and Education Departments Release Resources to Advance Diversity and Opportunity in Higher Education* (Aug. 14, 2023), <https://bit.ly/3YGO5u7>.

the Department of Education and to ensure it is held accountable to the public for any movement it takes regarding affirmative action in higher education.

II. Requested Records

The timeframe for each of the following items is May 1, 2023, to the date each item is processed.

- A. All records regarding or relating to the July 26, 2023, “National Summit on Equal Opportunity in Higher Education.”
- B. All records regarding or relating to the August 14, 2023 “Dear Colleague Letter” and “Questions and Answers resource” announced by the Department in a press release entitled “Advance Diversity and Opportunity in Higher Education: Justice and Education Departments Release Resources to Advance Diversity and Opportunity in Higher Education.”
- C. All communications discussing the United States Supreme Court’s decision in “Students for Fair Admissions v. President and Fellows of Harvard College.”
- D. All calendar records containing the names “Kristen Clarke” or “Neera Tanden” or “Steve Benjamin.”
- E. All emails including the terms “affirmative action” or “diversity in higher education” or “equity” or “inclusive campus communities.”

III. 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. Under Secretary James Kvaal
- C. Catherine Lhamon and all political appointees and career employees in the Office of Civil Rights, including, but not limited to, the following:

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

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 the creation of editorial content through regular substantive analyses posted on 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, a 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."¹⁰

¹⁰ 5 U.S.C. § 552(a)(4)(A)(iii).

V. Processing and Production

Processing should occur in strict compliance with the process guidance of the Attorney General's Memorandum on the 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.

Thank you in advance for your cooperation.

Sincerely,

/s/ Ian D. Prior

Ian D. Prior

America First Legal Foundation



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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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



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

FOIA Service Center

August 16, 2023

Gene Hamilton
America 1st Legal
611 Pennsylvania Ave SE #231
Washington, DC 20003

RE: FOIA Request No. 23-02386-F

Dear Gene Hamilton:

This letter is in response to your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated July 27, 2023 and received in this office on July 27, 2023.

You requested the following: "White House Directive for OCR to Appoint Coordinator to Advise Localities on Book Challenges (see attached)

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".

In order to process your request more effectively, we need clarification of the information that you requested. The information needed is as follows:

Please clarify if the topics you mentioned in elements A, B and C, also apply to the communications you are seeking for element D. If not, please provide a topic/subject of the documents and/or search terms for element D.


Please provide the clarification and additional information requested above within ten (10) business days from the date of this letter. Once we receive the information, we will assign your request to the appropriate office(s) to search for documents responsive to your request.

If you have any questions, please contact the FOIA Service Center (FSC) at 202-401-8365 or EDFOIAManager@ed.gov.


Sincerely,

ED FOIA Manager
Government Information Specialist
Office of the Secretary

FOIA Request No. 23-02386

 Ian Prior <[REDACTED]>
8/17/2023 11:26 AM

To: EDFOIAManager@ed.gov

 Clarification Request - 23-02386...
116.72 KB

In response to your request for clarification attached, this confirms that the topics mentioned in elements A, B and C, also apply to the communications we are seeking for element D.

Thank you

Ian Prior

Sent from [Mail](#) for Windows



United States Department of Education

Office of the Secretary

FOIA Service Center

August 25, 2023

Gene Hamilton
America 1st Legal
611 Pennsylvania Ave SE #231
Washington, DC 20003

RE: FOIA Request No. 23-02386-F

Dear Gene Hamilton

This is a status update regarding your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated July 27, 2023, and received in the U.S. Department of Education's (Department) FOIA Service Center (FSC) on August 18, 2023.

When received, your request was forwarded to the appropriate office(s) within the Department to conduct a search for any responsive records. At this time, your request is still being processed.

We appreciate your patience as we work diligently to process your request. Please be advised that the average request processing time is approximately 185 business days. As this is an average, your request may take more time or may be processed sooner. You can check the status of your request at <https://foiaexpress.pal.ed.gov/app/CheckStatus.aspx>.

Narrowing or reformulating a request can often lead to decreased processing times. If you are interested in reformulating or narrowing your request, or have any other questions, please contact the FSC at 202-401-8365 or EDFOIAManager@ed.gov.

You have the right to seek assistance and/or dispute resolution services from the Department's FOIA Public Liaison or the Office of Government Information Services (OGIS). The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes. The FOIA Public Liaison may also assist in reformulating or narrowing your request. OGIS, which is outside the Department, offers ombuds services, including dispute resolution, to assist FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. You may contact the FOIA Public Liaison or OGIS at:

FOIA Public Liaison
Office of the Secretary
U.S. Department of Education

Page 2 - Gene Hamilton
FOIA Request No. 23-02386-F

400 Maryland Ave., SW, LBJ 7W104
Washington, DC 20202-4500
Email: robert.wehausen@ed.gov
Phone: 202-205-0733
Fax: 202-401-0920

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road, OGIS
College Park, MD 20740-6001
Email: OGIS@nara.gov
Phone: 202-741-5770 or 1-877-684-6448

Sincerely,

ED FOIA Service Center
Office of the Secretary



February 1, 2023

VIA EDFOIAManager@ed.gov

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

Freedom of Information Act Request: Notice of Proposed Rulemaking for the Protection of Pupil Rights Amendment

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 email list contains over 45,000 unique addresses, our Twitter page has approximately 54,100 followers, the Twitter page of our Founder and President has over 399,500 followers, our Facebook page has 109,000 followers, and we have another approximately 31,600 followers on GETTR.

I. Introduction

The Protection of Pupil Rights Amendment, 20 U.S.C. §1232h (“PPRA”), codifies, in part, parents’ Constitutional right to control the education and upbringing of their children. The PPRA was first passed in 1974 and was last amended in 2015.¹ On September 6, 1984, the Department of Education promulgated the PPRA’s regulations, 34 CFR Part 98.²

¹ See 20 U.S. Code § 1232h - Protection of Pupil Rights, CORNELL L. SCH. LEGAL INFO. INST., <https://bit.ly/3HkiSWA> (last visited Jan. 19, 2023).

² See § 98.4 - Protection of Students’ Privacy in Examination, Testing, or Treatment, GOVREGS, <https://bit.ly/3QQizWy> (last visited Jan. 19, 2023).

On February 2, 2022, America First Legal (“AFL”) released and posted on its website a PPRA Toolkit to provide parents with a resource that informs and explains their PPRA rights and how to exercise them.³ Thereafter, on March 28, 2022, AFL released a downloadable version of the AFL Toolkit for Parents to facilitate their use and share with others.⁴

On September 15, 2022, AFL supplemented this Toolkit by posting a “Parental Rights Demand Letter Template” on its website to further assist parents to exercise their PPRA rights.⁵

On August 16, 2022, AFL sent a demand letter to the Department of Education on behalf of parents in Cedar Grove, New Jersey, who had previously filed requests with the Department to investigate their school district for violations of the PPRA but whose requests went unanswered.⁶ Following AFL’s demand letter, the Department’s Student Privacy Policy Office sent an October 20, 2022, letter to AFL’s clients informing them that the Department was investigating and apologizing for the delay.⁷

On September 7, 2022, and November 23, 2022, AFL filed two lawsuits in U.S. district courts in the Sixth⁸ and Seventh⁹ Circuits on behalf of aggrieved K-12 parents alleging that the subject school districts had violated their rights. These lawsuits included claims arising from alleged PPRA violations based, in part, on the Department’s longstanding regulatory text.

On January 9, 2023, the Department announced it would be issuing a Notice of Proposed Rulemaking to “update, clarify, and improve current regulations by addressing outstanding policy issues,” among other things.¹⁰

³ See *AFL Launches Toolkit to Help Parents Protect Their Children from Woke Indoctrination in Public Schools*, AMERICA FIRST LEGAL (Feb. 2, 2022), <https://bit.ly/3D0CFrk>.

⁴ See *AFL Releases Printable Version of “The Protection of Pupil Rights Amendment: A Toolkit for Parents,”* AMERICA FIRST LEGAL (March 28, 2022), <https://bit.ly/3XD1zYM>.

⁵ See *AFL Releases Parental Consent Letter, Arming Parents to Combat Sinister Woke Agenda in American Public Schools*, AMERICA FIRST LEGAL (Sept. 15, 2022), <https://bit.ly/3GUA57n>.

⁶ See *AFL Demands Answers from the U.S. Department of Education for Failing to Respond to PPRA Complaints of Cedar Grove, NJ Parents Whose Children Were Unlawfully Subjected to Invasive Family Demographics Survey*, AMERICA FIRST LEGAL (Aug. 16, 2022), <https://bit.ly/3Xn0aDe>.

⁷ See *Following AFL Intervention, U.S. Department of Education Investigates Woke New Jersey School District*, AMERICA FIRST LEGAL (Nov. 15, 2022), <https://bit.ly/3ZMFgPp>.

⁸ See *AFL Sues Bethel School Board in Ohio for Forcing Children to Share Bathrooms and Locker Rooms with Members of the Opposite Sex and for Violating Parents’ Rights*, AMERICA FIRST LEGAL (Nov. 23, 2022), <https://bit.ly/3kjsQhC>.

⁹ See *AFL Sues to Stop the Eau Claire Area School District, Board of Education Members, from Encouraging Children to “Transition” Gender Identity and Deceiving Parents*, AMERICA FIRST LEGAL (Sept. 7, 2022), <https://bit.ly/3kwgnaJ>.

¹⁰ See *Protection of Pupil Rights Amendments*, U.S. OFF. OF INFO. AND REGUL. AFFS., <https://bit.ly/3XLnABJ> (last visited Jan. 19, 2023).

Given the importance of the PPRA and its existing regulations to parents seeking to exercise their Constitutional rights of oversight and control regarding their children's education, this Freedom of Information Act request is crucial to provide transparency on the Department's process and motivations for the proposed rulemaking, and to ensure the Department's current political leadership is held accountable for any action that limits or impairs parental rights.

II. Definitions

For the purposes of this request:

"PPRA" means 20 U.S.C. § 1232h

"PPRA regulations" means 34 CFR Part 98 and all of its sections

III. Custodians

- A. All political appointees in the Office of the Secretary including, but not limited to, the following:
 - a. Miguel Cardona
 - b. Shelia Nix
 - c. LaWanda Toney

- B. James Lane and all political appointees and career employees in the Office of Elementary and Secondary Education with a grade of GS-14 or its equivalent

- C. Gwen Graham and all political appointees in the Office of Legislation and Congressional Affairs

- D. Kelly Leon and all political appointees in the Office of Communications and Outreach

- E. Cindy Marten and all political appointees in the Office of the Deputy Secretary

- F. In the Office of the General Counsel:
 - a. Lisa Brown
 - b. Lynn Eisenberg
 - c. Greg Schmidt
 - d. Toby Merrill
 - e. John Bailey

- f. Joanna Darcus
 - g. Will Desmond
 - h. Jessica Mirtle
 - i. Gypsy Moore
 - j. Ron Petracca
 - k. Rob Wexler
 - l. Lynn Mahaffie
 - m. Amanda Amann
 - n. Hilary Malawar
 - o. Phil Rosenfelt
 - p. All political appointees and career employees with a grade equivalent of GS-13 and higher
- G. In the Student Privacy Policy Office:
- a. Kevin Herms
 - b. Frank Miller
 - c. Ross Lemke
 - d. Bernie Cieplak
- H. Roberto Rodriguez, Dale King, and all political appointees and career employees with a grade equivalent of GS-13 or higher in the Office of Planning, Evaluation and Policy Development.

IV. Requested Records

The timeframe for each of the following items is February 2, 2022, to the date each item is processed.

- A. All records regarding or relating to RIN: 1875-AA13 and its subject matter as published in the Unified Agenda at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=1875-AA13>.
- B. All calendar items containing the terms “Protection of Pupil Rights Amendment” or “PPRA.”
- C. All emails regarding, referring, or relating to PPRA and/or the PPRA regulations, including *but not limited to* emails to or from persons with email addresses containing “nea.org,” “aft.org,” “nsba.org,” and “eop.gov.”
- D. All records containing the terms “America First Legal” or “AFL” or “NEA” or “AFT” *and* “Protection of Pupil Rights Amendment,” “PPRA,” or any of the PPRA regulations.

E. All records containing the terms “NPRM” or “Notice of Proposed Rulemaking” or “proposed rule” *and* “Protection of Pupil Rights Amendment” or “PPRA.”

F. All records containing the terms “Cedar Grove” or “Clear Creek” *and* “Protection of Pupil Rights Amendment,” “PPRA,” or “AFL”.

V. 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.”¹¹

VI. 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. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or

¹¹ 5 U.S.C. § 552(a)(4)(A)(iii).

in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

We note that redactions are disfavored as the FOIA's exemptions are exclusive and must be narrowly construed. *Am. Immigration Lawyers Ass'n v. Exec. Office for Immigration Review (AILA)*, 830 F.3d 667, 676-79 (D.C. Cir. 2016). If a record contains information responsive to a FOIA request, the Department must disclose the entire record; a single record cannot be split into responsive and non-responsive bits. *Id.*; see also *Parker v. United States DOJ*, 278 F. Supp. 3d 446, 451 (D.D.C. 2017). Consequently, the Department should produce email attachments.

In connection with this request, and to comply with your legal obligations:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please construe the term “record” in the broadest possible sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek all records, including electronic records, audiotapes, videotapes, and photographs, as well as texts, letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions.
- Our request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; AFL has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to governmentwide requirements to manage agency information electronically, and many agencies have adopted the National Archives and Records Administration (“NARA”) Capstone program or similar policies. These systems

provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; you may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

- If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.

Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

VII. 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 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



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

FOIA Service Center

February 9, 2023

Ian Prior
Senior Advisor
America First Legal

RE: FOIA Request No. 23-00913-F

Dear Ian Prior:

This letter is in response to your request dated February 1, 2023, requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was received in this office on February 2, 2023. Your request has been assigned to the appropriate office(s) within the Department to search for documents that may be responsive to your request.

You have asked for expedited processing of your request. That request is denied. The Department has concluded that you have not demonstrated a compelling need for the information. In addition, you have not substantiated that there is an urgency to inform the public concerning any actual or alleged Federal Government activity.

Enclosed with this letter is a general informational sheet for Expedited Processing. Should you still wish to claim that your request should be granted expedited processing, you must provide more specific and detailed evidence to support your claims under each statutory requirement described in our FOIA regulations available on the internet at: <https://www2.ed.gov/policy/gen/leg/foia/foiatoc.html> and outlined in the attachment to this letter.

You have the right to seek assistance and/or dispute resolution services from the Department's FOIA Public Liaison or the Office of Government Information Services (OGIS). The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes. OGIS, which is outside the Department of Education, offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

They can be contacted by:

Mail	FOIA Public Liaison Office of the Secretary U.S. Department of Education 400 Maryland Ave., SW LBJ 7W104 Washington, DC 20202-4500	Office of Government Information Services National Archives and Records Administration 8601 Adelphi Road, Room 2510 College Park, MD 20740-6001
E-mail	robert.wehausen@ed.gov	OGIS@nara.gov
Phone	202-205-0733	202-741-5770; toll free at 1-877-684-6448
Fax	202-401-0920	202-741-5769

Page 2 – IanPrior
FOIA Request 23-00913-F

Lastly, you have the right to appeal this determination. You must submit any appeal within 90 calendar days after the date of this letter. Using the services described above does not affect your right, or the deadline, to pursue an appeal. An appeal must be in writing and must include a detailed statement of all legal and factual bases for the appeal; it should be accompanied by a copy of this letter, the initial letter of request, and any documentation that serves as evidence or supports the argument you wish the Department to consider in resolving your appeal.

Appeals may be submitted using the on-line form available at www.ed.gov/policy/gen/leg/foia/foia-appeal-form.pdf.

Appeals can also be submitted by:

E-mail: EDFOIAappeals@ed.gov
Fax: 202-401-0920
Mail: Appeals Office
Office of the Secretary
U.S. Department of Education
400 Maryland Avenue, SW, LBJ 7W104
Washington, DC 20202-4500

If you have any questions, please contact the FOIA Requester Service Center at (202) 401-8365 or via e-mail at EDFOIAManager@ed.gov (please include the case number).

Sincerely,

Elise Cook
Government Information Specialist

Enclosure

Freedom of Information Act
EXPEDITED PROCESSING CRITERIA
(Department of Justice General Information)

Compelling Need

Expedited processing is provided if the requester demonstrates a compelling need. A requester can show compelling need in one of two ways: by establishing that his or her failure to obtain the records quickly could reasonable be expected to pose an imminent threat to the life or physical safety of an individual; or, if the requester is a person primarily engaged in disseminating information, by demonstrating that an urgency to inform the public concerning actual or alleged Federal Government activity exists.

Loss of Substantial Due Process Rights

As a general rule, a request also should be expedited if it is shown that substantial due process rights of the requester would be impaired by the failure to process immediately and that the information sought is not otherwise available. It is not sufficient, however, for a requester merely to allege that requested records are needed in connection with some judicial or administrative proceeding; rather, the immediate use of the FOIA must be shown to be critical to the preservation of a substantial right.

Other Considerations

Beyond these two categories, it is unclear to what extent agencies have the discretion to grant requests for expedition under any other circumstances. Moreover, agencies should not forget the interests of all requesters in having their requests treated equitably, as well as the public interest in the integrity of FOIA processing. Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

FOIA Service Center

February 9, 2023

Ian Prior
Senior Advisor
America First Legal

FOIA Request No. 23-00913-F

Dear Ian Prior:

This letter is in response to your request dated February 1, 2023, requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was received in this office on February 2, 2023. Your request was assigned to the appropriate office(s) within the Department to search for documents that may be responsive to your request.

You have asked for a waiver of all fees, including duplication fees, associated with processing your request based on your requester category as Commercial requester. Based on the information you submitted for a fee waiver, that request is granted.


You have the right to seek further assistance from the Department's FOIA Public Liaison, Robert Wehausen. The Department's FOIA Public Liaison can be reached by:

Mail: FOIA Public Liaison
Office of the Secretary
U.S. Department of Education
400 Maryland Ave., SW, LBJ 7W104
Washington, DC 20202-4500
E-mail: Robert.Wehausen@ed.gov
Phone: 202-205-0733
Fax: 202-401-0920

If you have any questions, or would like the original signed copy of this letter, please contact the FOIA Requester Service Center at (202) 401-8365 or via e-mail at EDFOIAManager@ed.gov.

Sincerely,

Elise Cook
Government Information Specialist

 Tyonie.Purce@ed.gov <Tyonie.Purce@ed.gov>
8/4/2023 1:00 PM



August 4, 2023

RE: FOIA Request No. 23-00913-F

Dear Ian Prior:

This letter is in response to your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated February 1, 2023 and received in this office on February 2, 2023.

You requested the following: The timeframe for each of the following items is February 2, 2022, to the date each item is processed. A. All records regarding or relating to RIN: 1875-AA13 and its subject matter as published in the Unified Agenda at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=1875-AA13>. B. All calendar items containing the terms "Protection of Pupil Rights Amendment" or "PPRA." C. All emails regarding, referring, or relating to PPRA and/or the PPRA regulations, including but not limited to emails to or from persons with email addresses containing "nea.org," "aft.org," "nsba.org," and "eop.gov." D. All records containing the terms "America First Legal" or "AFL" or "NEA" or "AFT" and "Protection of Pupil Rights Amendment," "PPRA," or any of the PPRA regulations. E. All records containing the terms "NPRM" or "Notice of Proposed Rulemaking" or "proposed rule" and "Protection of Pupil Rights Amendment" or "PPRA." F. All records containing the terms "Cedar Grove" or "Clear Creek" and "Protection of Pupil Rights Amendment," "PPRA," or "AFL"..

We are unable to process your request at this time, because your request does not reasonably describe the records that you have sought under the FOIA 5 U.S.C. § 552(a)(3)(A).

In order to process your request, we need clarification of the information that you requested. The information needed is as follows:

Although our office have responsive documents with the words "America First Legal" and "AFL", these are mostly protected documents. Would you still be interested in these responsive documents or would you be interested in something else?

Once we receive the information, we will assign your request to the appropriate office(s) to search for documents responsive to your request. If you haven't responded to this letter by **August 16, 2023**, your request will be administratively closed.

If you have any questions, please contact the FOIA Service Center (FSC) at [202-401-8365](tel:202-401-8365) or EDFOIAManager@ed.gov.

Sincerely,

Tyonie Purce
FOIA Service Center
Office of the Secretary
U.S. Department of Education
[\(202\) 401-8365](tel:202-401-8365) FOIA Hotline



Ian Prior <[REDACTED]>

8/4/2023 4:59 PM



To: Tyonie.Purce@ed.gov

Is there a good time to discuss over a phone call next week?

Thank you

Ian Prior

Sent from [Mail](#) for Windows

From: Tyonie.Purce@ed.gov

Sent: Friday, August 4, 2023 1:00 PM

To: ian.prior@aflegal.org

Subject: FOIA Request 23-00913-F

August 4, 2023

RE: FOIA Request No. 23-00913-F:

Dear Ian Prior:

FW: FOIA Request 23-00913-F



Ian Prior <[REDACTED]>

11/2/2023 1:04 PM



To: Cook, Elise

Could you please tell me the status of this request?

Thank you

Ian D. Prior
Senior Advisor
America First Legal

Sent from [Mail](#) for Windows



November 15, 2023

Via E-mail: EDFOIAappeals@ed.gov

Appeals Office

Office of the Secretary

U.S. Department of Education

400 Maryland Avenue, SW, LBJ 7W104

Washington, DC 20202-4536

Freedom of Information Act Appeal: Denial of 23-00913-F

Dear Appeals Office:

This appeals the Department of Education’s denial of America First Legal Foundation’s (“AFL”) FOIA Request regarding the Protection of Pupil Rights Amendment and related Notice of Proposed Rulemaking, which the Department of Education assigned tracking code FOIA Request No. 23-00913-F (Exhibit 1). In the Department’s response, it provided a canned justification for denial, stating that AFL’s FOIA request for records regarding the Protection of Pupil Rights Amendment and related Notice of Proposed Rulemaking “does not reasonably describe the records that [AFL] has sought under FOIA 5. U.S.C. § 552(a)(3)(A). To the contrary, and pursuant to 34 C.F.R. § 5.20(b), the records were reasonably described as to subject, timeframe, and custodians. Further, AFL tried numerous times via email to discuss the request with the Department’s FOIA officer, but the Department has made no further attempt to work in “the spirit of cooperation” by responding to AFL’s outreach.

I. Standard of review

FOIA is meant “to pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny.” *U.S. Dep’t of State v. Ray*, 502 U.S. 164, 173 (1991) (quoting *Dep’t of Air Force v. Rose*, 425 U.S. 352, 361 (1976)). FOIA “directs that ‘each agency, upon any request for records ... shall make the records promptly available to any person’ unless the requested records fall within one of the statute’s nine exemptions.” *Loving v. Dep’t of Def.*, 550 F.3d 32, 37 (D.C. Cir. 2008).

Also, the Department is required to disclose records freely and promptly, to liberally construe AFL’s requests, and to “make ‘a good faith effort to search for requested records, using methods which can be reasonably expected to produce the

information requested.” *Nation Magazine v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995) (quoting *Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57, 68). See also *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978); *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 151 (1989).

At all times, FOIA must be construed to carry out Congress’s open government mandate according to the ordinary public meaning of its terms at the time of its enactment. See *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1738 (2020). Moreover, “once an agency becomes reasonably clear as to the materials desired, FOIA’s text and legislative history make plain the agency’s obligation to bring them forth.” *Public Employees for Environmental Responsibility v. U.S. Environmental Protection Agency*, 314 F.Supp.3d 68, 74 (quoting *Truitt v. U.S. Dep’t of State*, 897 F.2d 540, 544 (D.C. Cir. 1990) (internal quotations omitted).

II. The Department’s blanket denial lacks legal foundation

On February 1, 2023, AFL filed a FOIA request with the Department. (Exhibit 1). The request made it explicitly clear that AFL was seeking records and documents related to the Department’s Notice of Proposed Rulemaking, filed with the Office of Management and Budget in the Fall of 2022, which explained that the Department proposed “to amend the Protection of Pupil Rights Amendment (PPRA) regulations.” The request also sought communications about the PPRA or the proposed rulemaking between the listed custodians and specific organizations, and it further asked for communications with certain keywords. The timeframe of the request was from February 2, 2022, to the date the FOIA was processed.

On August 4, 2023, the Department denied AFL’s FOIA request and provided the following justification:

“This letter is in response to your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated February 1, 2023 and received in this office on February 2, 2023.

You requested the following:

The timeframe for each of the following items is February 2, 2022, to the date each item is processed. A. All records regarding or relating to RIN: 1875-AA13 and its subject matter as published in the Unified Agenda at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=1875-AA13>. B. All calendar items containing the terms “Protection of Pupil Rights Amendment” or “PPRA.” C. All emails regarding, referring, or relating to PPRA and/or the PPRA regulations, including but not limited to emails to or from persons with email addresses

containing “nea.org,” “aft.org,” “nsba.org,” and “eop.gov.” D. All records containing the terms “America First Legal” or “AFL” or “NEA” or “AFT” and “Protection of Pupil Rights Amendment,” “PPRA,” or any of the PPRA regulations. E. All records containing the terms “NPRM” or “Notice of Proposed Rulemaking” or “proposed rule” and “Protection of Pupil Rights Amendment” or “PPRA.” F. All records containing the terms “Cedar Grove” or “Clear Creek” and “Protection of Pupil Rights Amendment,” “PPRA,” or “AFL.”

We are unable to process your request at this time, because your request does not reasonably describe the records that you have sought under the FOIA 5 U.S.C. § 552(a)(3)(A).

In order to process your request, we need clarification of the information that you requested. The information needed is as follows:

Although our office have responsive documents with the words “America First Legal” and “AFL”, these are mostly protected documents. Would you still be interested in these responsive documents or would you be interested in something else?

Once we receive the information, we will assign your request to the appropriate office(s) to search for documents responsive to your request. If you haven’t responded to this letter by August 16, 2023, your request will be administratively closed.

If you have any questions, please contact the FOIA Service Center (FSC) at 202-401-8365 or EDFOIAManager@ed.gov.

(Exhibit 2).

Upon receipt of the denial, on August 4, 2023, AFL emailed the Department’s FOIA officer to ask for a time to discuss the Department’s denial and clarification request for one portion of the request. The Department did not respond. (Exhibit 3).

On November 3, 2023, AFL called the FOIA Service Center and left a message asking to be contacted about the status of the request. AFL followed up that phone call with an email, asking the same. (Exhibit 4).

As of the date of this appeal, the Department has not responded to any of AFL’s communications seeking to discuss and potentially clarify its request, as invited by the Department in its August 4, 2023, notification.

In this case, the Department is claiming that, for requests A, B, C, and E, AFL did not reasonably describe the requested records. This is simply not the case—AFL included specific custodians, identified emails to be searched with specific terms and to/from specific email domains, and explicitly described the subject matter of the documents requested. The Department’s attempt to claim that AFL did not “reasonably describe” the records sought is the kind of improper denial “where courts have felt called upon to chide the government for attempting to use the identification requirements as an excuse for withholding documents.” *Truitt v. Department of State*, 897 F.2d 540, 544 (D.C. Cir. 1990).

Furthermore, with respect to requests D and F, which include the terms “AFL” and “AFL Legal,” the Department offered AFL the opportunity to clarify, yet failed to respond when AFL attempted to do so. Under 34 C.F.R. § 5.20(c), the Department may either deny a request that does not reasonably describe the agency record sought and administratively close the request, or “provide[] the requestor an opportunity to modify the FOIA request to meet the requirements of this section.” While the opportunity for clarification is not mandatory, once the Department provides that option it should have worked with AFL in a “spirit of cooperation” to “remove barriers to access,” as opposed to merely sending out a request for clarification and ignoring AFL’s attempts to try and do so. *See Freedom of Information Act Guidelines*, Att’y Gen. Mem. at 1, 3 (Mar. 15, 2022).

While AFL does not concede that any portion of its request did not comport with the requirements of 34 C.F.R. § 5.20(b), AFL remains willing to work with the Department in good faith to address its concerns. But the Department’s denial of AFL’s FOIA request and the subsequent administrative closing of this request after AFL attempted to work in a spirit of cooperation with the Department, is contrary to law and should not stand.

Sincerely yours,

/s/ Ian D. Prior

Ian D. Prior

America First Legal Foundation

----- Forwarded message -----

From: Caliguiran, Arthur <Arthur.Caliguiran@ed.gov>

Date: Thu, Nov 16, 2023 at 7:16 AM

Subject: RE: FOIA Appeal

To: AFL FOIA <[REDACTED]>

Good morning,

There I checked our system and your request has not been closed. It is currently in process and it is pending an administrative search. As a result, I will not be entering your appeal. Please let me know if you have any additional questions.

Art C. Caliguiran, FAC COR-II, FAC PM-IT

Director of Privacy and Appeals

FOIA Service Center

Office of the Secretary

U.S. Department of Education

400 Maryland Ave. SW

Washington, DC 20202-4510

FOIA Hotline (202) 401-8365

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

I. (a) PLAINTIFFS AMERICA FIRST LEGAL FOUNDATION (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS UNITED STATES DEPARTMENT OF EDUCATION COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>11001</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) Jacob Meckler (202) 964-3721 America First Legal Foundation 611 Pennsylvania Avenue, S.E. #231	ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input type="radio"/> E. General Civil (Other)		OR	<input type="radio"/> F. Pro Se General Civil	
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Suit to enforce the FOIA, 5 U.S.C. 552.

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 02/15/2024	SIGNATURE OF ATTORNEY OF RECORD: /s/ Jacob Meckler
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

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

CLEAR FORM

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

UNITED STATES DEPARTMENT OF EDUCATION

Defendant

Civil Action No. **24-448**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* The Honorable Merrick Garland
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jacob Meckler
America First Legal Foundation
611 Pennsylvania Ave. SE #231
Washington, D.C. 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 24-448

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

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

CLEAR FORM

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

UNITED STATES DEPARTMENT OF EDUCATION

Defendant

Civil Action No. **24-448**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* General Counsel
Department of Education
400 Maryland Avenue SW.,
Washington, DC 20202

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jacob Meckler
America First Legal Foundation
611 Pennsylvania Ave. SE #231
Washington, D.C. 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 24-448

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

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

CLEAR FORM

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

UNITED STATES DEPARTMENT OF EDUCATION

Defendant

Civil Action No. **24-448**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* U.S. Department of Justice
U.S. Attorney's Office for the District of Columbia
Civil Process clerk
601 D. St. NW
Washington, D.C. 20530
Email Service to: USADC.servicecivil@usdoj.gov

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jacob Meckler
America First Legal Foundation
611 Pennsylvania Ave. SE #231
Washington, D.C. 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 24-448

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset