



July 12, 2024

Via FOIA Portal

Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

Freedom of Information Act Request: Correspondence Related to HHS Involvement in the Investigation of Dr. Eithan Haim

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 the 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 X page has over 247,000 followers, and the X page of our Founder and President has over 654,000 followers.

I. Background

The Biden Administration and its U.S. Department of Health and Human Services (HHS) have consistently promoted the practice and normalizing of medically transitioning children who claim to identify as a different sex.¹

¹ See, e.g., Joshua Q. Nelson, *Dr. Rachel Levine Says Changing Kids' Genders Will Soon be Fully Embraced: 'Wheels Will Turn On This'*, FOX NEWS (Mar. 16, 2023), <https://bit.ly/3W1c47A>; Lee Brown, *Hormone Therapy for Trans Kids Supported at 'Highest Levels' of Biden Admin: HHS*, NEW YORK POST (Mar. 17, 2023), <https://bit.ly/3xIBOMn>.

611 Pennsylvania Ave SE #231
Washington, DC 20003

320 South Madison Avenue
Monroe, Georgia 30655

On February 18, 2022, the Texas Office of the Attorney General determined that many “treatments” often described as “gender-affirming care,” when provided to children, constitute actionable child abuse under the Texas Family Code.² Four days later, the Governor of Texas directed the Texas Department of Family and Protective Services to “conduct a prompt and thorough investigation of any reported instances of these abusive procedures in the State of Texas.”³ Shortly afterward, Texas Children’s Hospital announced that it would stop prescribing “gender-affirming” therapies.⁴ However, in 2023, Christopher Rufo published leaked documents allegedly showing that Texas Children’s Hospital had not ceased providing these therapies, as it had claimed.⁵ The leaked documents (which had been redacted to hide information that would allow identification of any patient) allegedly show evidence that Texas Children’s Hospital was breaking Texas law.⁶

However, even as Texas (and many other states) have been adopting laws or policies that protect children and severely limit or ban this life-altering practice,⁷ HHS has worked to support physicians and hospitals who continue these surgeries on minors in other ways.

II. Requested Records

AFL requests the following records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a):

- A. All records of communications, including e-mail and Microsoft Teams messages, to or from the Office of the Assistant Secretary for Health containing the following terms: “Texas Children’s Hospital,” OR “Eithan Haim,” AND “gender-affirming care,” “transgender clinic(s),” “puberty blockers,” “Texas state law,” “investigate,” “disclos(e),” “HIPAA violation,”

² See Letter from Ken Paxton, Attorney General of Texas, to Representative Matt Krouse, Chair of the Texas House Committee on General Investigating, (February 18, 2022), <https://bit.ly/3xSpvx7>.

³ See Letter from Greg Abbott, Governor of the State of Texas, to the Honorable Jaime Masters, Commissioner of the Texas Department of Family and Protective Services, (Feb. 22, 2022), <https://bit.ly/3xxjs13>.

⁴ See Anne Branigin, *In Texas, the Nation’s Largest Children’s Hospital is Halting Gender-Affirming Care for Trans Youths*, THE WASHINGTON POST (Mar. 8, 2022), <https://bit.ly/3xSqkWJ> (accessed via the Internet Archive).

⁵ Christopher F. Rufo, *Sex-Change Procedures at Texas Children’s Hospital*, CITY JOURNAL (May 16, 2023), <https://bit.ly/4eQKYr9>.

⁶ *Id.*

⁷ Stacy Weiner, *States are Banning Gender-Affirming Care for Minors. What Does that Mean for Patients and Providers?*, AAMC (Feb. 20, 2024), <https://bit.ly/4bhLtat>.

“prosecute,” and/or “DOJ.” The timeframe for this item is October 19, 2021, to the date this item is fully processed.

- B. All records of communications, including e-mail and Microsoft Teams messages, to or from the Office of Inspector General containing the following terms: “Texas Children’s Hospital,” OR “Eithan Haim,” AND “gender-affirming care,” “transgender clinic(s),” “puberty blockers,” “Texas state law,” “investigate,” “disclos(e),” “HIPAA violation,” “prosecute,” and/or “OCR,” “OASH,” and/or “DOJ.” The timeframe for this item is October 19, 2021, to the date this item is fully processed.
- C. All records of communications, including e-mail and Microsoft Teams messages, to or from the Office of Civil Rights containing the following terms: “Texas Children’s Hospital,” OR “Eithan Haim,” AND “gender-affirming care,” “transgender clinic(s),” “puberty blockers,” “Texas state law,” “investigate,” “disclos(e),” “HIPAA violation,” “prosecute,” and/or “OASH,” “OIG,” and/or “DOJ.” The timeframe for this item is October 19, 2021, to the date this item is fully processed.
- D. All records of communications, including e-mail and Microsoft Teams messages, that reference HHS, OCR, or OIG investigations in Texas that contain the following terms: “Abbott,” “Paxton,” “gender-affirming care,” and/or “Texas Children’s Hospital”. The timeframe for this item is October 19, 2021, to the date this item is fully processed.
- E. All records of communications, including e-mail and Microsoft Teams messages, that reference Dr. Catherine Gordon of the National Institute of Health that contain the following terms: “gender-affirming care” and “Texas Children’s Hospital.” The timeframe for this item is October 19, 2021, to the date this item is fully processed.
- F. All records of communications, including e-mail and Microsoft Teams messages, regarding or referring to the U.S. Attorney’s Office for the Southern District of Texas’s press release announcing Dr. Eithan Haim’s indictment.

III. Custodians

- A. Rachel Levine, Assistant Secretary for Health

- B. All political appointees and career employees with a grade of GS-15 or its equivalent and above in the Office of the Assistant Secretary for Health
- C. All political appointees and career employees with a grade of GS-15 or its equivalent and above in the Office of Inspector General
- D. All political appointees and career employees with a grade of GS-15 or its equivalent and above in the Office of Civil Rights

IV. Fee Waiver Request

Per 5 U.S.C. § 552(4)(A)(iii), AFL requests a waiver of all search and supplication fees associated with this request. Furthermore, AFL has a demonstrated ability and intention to effectively convey the information broadly to the public. AFL's status as a representative of the news media has been recognized by other agencies for granting fee waivers by the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security. Finally, as a non-profit organization, AFL has no commercial interest, and the request is made entirely to serve the public interest. We are, of course, available to provide additional information in writing or offline in support of this request. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

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.⁸ 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.

Thank you in advance for your cooperation.

Sincerely,

/s/ Rachel L. Jag
America First Legal Foundation

⁸ U.S. Dep't of Just. (Mar. 15, 2022), <https://bit.ly/3zvpxb6>.