



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
Gaithersburg, Maryland 20899-0001

Austin Evers
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

Dear Mr. Evers:

This letter serves as the final response to your November 19, 2021 Freedom of Information Act (FOIA) request (FOIA Log #DOC-NIST-2021-000326) to the National Institute of Standards and Technology (NIST) for:

“American Oversight requests that NIST produce the following records within twenty business days:

- 1. The resume provided by Jason Richwine to NIST in connection with determining the appropriate salary, or, if that is not available, a recent resume contained within the agency’s records. We have no objection to the redaction of contact information (addresses, telephone numbers, e-mail addresses) for the employee or references, or to the redaction of past salary information. Employment, education, and professional association information.**
- 2. Copies of any SF-50 forms for Jason Richwine reflecting any change in position or title, including when the employee enters or leaves a position. We have no objection to the redaction of home addresses, telephone numbers, or social security numbers from the SF-50s.**
- 3. All email communications (including emails, email attachments, complete email chains, and calendar invitations) sent by NIST Director & Under Secretary of Commerce for Standards and Technology Walter Copan containing any of the following words or phrases:**
 - a. Richwine**
 - b. “Stephen Miller”**
 - c. “S. Miller”**
 - d. “Steve Miller”**
 - e. stephen.miller@who.eop.gov**
 - f. “The WH”**
 - g. POTUS**
 - h. SWR**

In an effort to accommodate NIST and reduce the number of potentially responsive records to be processed and produced, American Oversight has

NIST

limited its request to emails sent by Mr. Copan. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both Mr. Copan's response to an email containing one of the specified phrases and the initial received message are responsive to this request and should be produced. This request includes all prior messages (whether incoming or outgoing) reflected in the responsive correspondence and any attachments thereto.

Please provide all responsive records from October 26, 2020, through November 13, 2020."

NIST has completed the actual search for responsive records and enclosed is one (1) document of one (1) page that is being released with redactions pursuant to Exemption (b)(6) of the FOIA (5 U.S.C. Section 552(b)(6)) which exempts from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

It was previously determined that you were in the "all other" requester category for which chargeable services include search and duplication of responsive documents excluding the cost of the first 2 hours of search and the first 100 pages of duplication. The actual search and duplication costs were under the chargeable threshold; thus, the document is being provided at no cost.

If you have questions or concerns or would like to discuss any aspect of your request, you may contact either the analyst who processed your request, Elizabeth Reinhart, Management Analyst at 301-975-8707, or me, the FOIA Public Liaison/Freedom of Information Act Officer, at 301-975-4074. We may also be reached at foia@nist.gov.

Please refer to your FOIA request tracking number, DOC-NIST-2021-000326, when contacting us.

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
e-mail at ogis@nara.gov
telephone at 202-741-5770; toll free at 1-877-684-6448; facsimile at 202-741-5769.

You have the right to appeal this response to your FOIA request. An appeal must be received within 90 calendar days of the date of this response letter. Address your appeal to the following office:

Assistant General Counsel for Employment, Litigation, and Information
U.S. Department of Commerce
Office of the General Counsel, Room 5896
1401 Constitution Avenue N.W.
Washington, D.C. 20230

An appeal may also be sent by e-mail to FOIAAppeals@doc.gov or by FOIAonline, if you have an account in FOIAonline, at <https://foiaonline.regulations.gov/foia/action/public/home#>. The appeal should include a copy of the original request and initial denial, if any. All appeals should include a statement of the reasons why the records requested should be made available and why the adverse determination was in error.

The appeal letter, the envelope, and the e-mail subject line should be clearly marked “Freedom of Information Act Appeal.” The e-mail, FOIAonline and office mail are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box, FOIAonline, or office after normal business hours will be deemed received on the next normal business day. If the 90th calendar day for submitting an appeal falls on a Saturday, Sunday or legal public holiday, an appeal received by 5:00 p.m., Eastern Standard Time, the next business day will be deemed timely.

Sincerely,

CATHERINE
FLETCHER

 Digitally signed by CATHERINE FLETCHER
Date: 2021.07.26 13:33:13 -04'00'

Catherine S. Fletcher
Freedom of Information Act Officer

Attached:
One electronic document / one page
FOIA exemptions sheet

LIST OF FOIA EXEMPTIONS

Enacted in 1966, the Freedom of Information Act (FOIA) established for the first time an effective statutory right of access to government information.

The Freedom of Information Act (FOIA) generally provides that any person has a right, enforceable in court, of access to federal agency records, except to the extent that such records (or portions thereof) are protected from disclosure by one of the nine exemptions specified in the law.

Exemptions:

5 U.S.C. 552(b)(1) — (A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order.

5 U.S.C. 552(b)(2) — Related solely to the internal personnel rules and practices of an agency.

5 U.S.C. 552(b)(3) — Specifically exempted from disclosure by statute (other than section 552b of this title), if that statute— (A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.¹

5 U.S.C. 552(b)(4) — Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

5 U.S.C. 552(b)(5) — Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. The three primary, most frequently invoked privileges are: (1) deliberative process privilege, (2) the attorney work-product privilege and (3) the attorney-client privilege.

5 U.S.C. 552(b)(6) — Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

5 U.S.C. 552(b)(7) — Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information...

5 U.S.C. 552(b)(8) — Contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

5 U.S.C. 552(b)(9) — Geological and geophysical information and data, including maps, concerning wells.

¹As amended by the OPEN FOIA Act of 2009

JASON RICHWINE

(b)(6)

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www.jasonrichwine.com

SUMMARY

Nationally-recognized expert in labor and public economics, with long record of influential publications and speaking engagements.

EDUCATION

Ph.D. in Public Policy, **Harvard University**, 2009

B.S. in Mathematics, **American University**, 2004

B.A. in Political Science, **American University**, 2004

EXPERIENCE

Contributing Writer, **National Review**, 2013-present

- Published over 100 articles on a variety of public policy issues

Consulting Economist, **(various clients)**, 2011-present

- Provide a full range of research, writing, and data services to businesses and governments

Senior Policy Analyst, **Heritage Foundation**, 2010-2013

- Research on federal employee compensation cited by CBO and GAO
- Report on teacher compensation sparked national debate over education financing

National Research Initiative Fellow, **American Enterprise Institute**, 2007-2010

- Completed dissertation fellowship under supervision of AEI scholars
- Wrote AEI magazine's third-most viewed article of all time

PUBLICATIONS

- Published in academic venues such as Public Administration Review, Brookings Institution Press, and Education Next
- Shared my research in leading newspapers and magazines, including The Wall Street Journal, The Washington Post, and The New York Times

OTHER SKILLS

- Proficient in STATA and Excel, experience with SPSS and SAS
- Extensive public speaking experience
- Able to "speak the language" of both laypeople and academics