



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

FOIA Service Center

March 4, 2021

Mr. Austin R. Evers
Executive Director
American Oversight
1030 15th Street
Suite B255
Washington, DC 20002

RE: FOIA Request No. 19-01905-F

Dear Austin R. Evers:

This letter is a final response to your request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated July 24, 2019 and received in this office on July 25, 2019. Your request was forwarded to the Office of the Secretary (OS) to search for documents that may be responsive to your request.

You requested the following: All decision memoranda, directives, policy interpretations or guidance, or any other documents identifying recommendations or action items that contain Secretary DeVos's signature. This request includes any document establishing, modifying, clarifying, or rescinding any Department of Education policy, legal or policy interpretation, or practice, whether presented as a memorandum, letter, guidance document, or in any other form.

Please provide all responsive records from February 7, 2017, through the date of the search.

The Office of the Secretary searched the memo database in the Controlled Correspondence System (CCM). CCM was searched for correspondence between February 7, 2017 to October 8, 2020. The signature level field was searched using the term SEC. The search resulted in a spreadsheet of over 750 documents. These documents were reviewed and one memo with comments was identified as being responsive to your request.

Available for Public Access Link (PAL) download are 4 pages of documents responsive to your request. The documents provided are:

➤ 19-01850-F OS

You can access your PAL account or register for a PAL account at this link:

<https://foiaexpress.pal.ed.gov/app/PalLogin.aspx>

However, certain information has been withheld according to FOIA exemptions (b)(5), specified below:

- Records or portions of records relating to certain intra-agency information is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(5) of the FOIA. This exemption permits the withholding of inter- or intra-agency information that could be withheld under civil discovery, including information subject to the deliberative process, attorney-client, or attorney-work product privileges.

Provisions of the FOIA allow us to recover the costs pertaining to your request. The Department has concluded that you fall within the category of “an all other use requester.” However, the Department has granted your request for a fee waiver, therefore, the Department has provided you with this information at no charge.

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 appeals or litigation. They can be contacted by:

Mail	FOIA Public Liaison Office of the Executive Secretariat U.S. Department of Education 400 Maryland Ave., SW, LBJ 7C132 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	301-837-1996; toll free at 1-877-684-6448
Fax	202-401-0920	301-837-0348

You have the right to appeal this decision by writing to the address below, 90 calendar days from the date of this letter. Using the services described above does not affect your right or the deadline to file an appeal. Your appeal must be in writing and must include detailed statement of all legal and factual bases for the appeal; it should be accompanied by this letter, a copy of your initial letter of request, and any documentation that serves as evidence or supports the argument you wish the Department to consider in making an administrative determination on your appeal.

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

E-mail: EDFOIAappeals@ed.gov
Fax: 202-401-0920
Mail: Appeals Office
Office of the Executive Secretariat
U.S. Department of Education
400 Maryland Avenue, SW, LBJ 7W106A
Washington, DC 20202-4536

Sincerely,

Sandra Lewandowski

Sandra Lewandowski
Government Information Specialist
Office of the Executive Secretariat

Enclosure

CONFIDENTIAL AND DELIBERATIVE

PURPOSE: ACTION

DATE: May 4, 2017
TO: The Secretary
FROM: James Manning, Acting Undersecretary
SUBJECT: Action Items on Borrower Defense

SUMMARY:

The previous administration approved approximately 16,000 borrower defense to repayment claims that have not yet been processed, and the Department has received an additional approximately 58,600 claims it has not yet approved. This memo provides some background information and recommendations on how to proceed with the review and processing of these claims.

We established a Review Panel consisting of Joe Conaty, Lynn Mahaffie, Phil Rosenfelt, Justin Riemer, and myself to examine the claims and background information and make recommendations on how to resolve the pending claims and proceed in the future. (b)(5)

(b)(5)

REASON FOR NEEDED ACTION:

In January of 2017, the Department sent approval emails to approximately 16,000 borrower defense claimants informing them their loans should be discharged within either 60 or 90 to 120 days (with 120 days from receipt being approximately mid-May). No further action has been taken to discharge those loans. (b)(5)

(b)(5)

(b)(5)

SUMMARY OF CONCERNS:

(b)(5)

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- (b)(5)

- (b)(5)

- (b)(5)

RECOMMENDATIONS:

(b)(5)

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(b)(5)

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(b)(5)

DECISION:

Recommendation: Proceed with discharge for direct and non-direct loans for all impacted borrowers. Direct OUS and the CFO's Internal Control Unit to set up interim procedures to process claims until new borrower defense regulations are adopted and take effect. Proceed with requesting OIG launch a review of the borrower defense program.

Approve

☒

Signature

[Handwritten Signature]

Disapprove

Signature

Needs more discussion

Signature

Modify

Signature

Other/Comments:

with extreme displeasure

CONTACT:

James Manning, Acting Undersecretary, HQ-LBJ-7E303, (202) 453-6236