



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

FOIA Service Center

May 5, 2020

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

RE: FOIA Request No. 19-02214-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 September 9, 2019 and received in this office on September 10, 2019. Your request was forwarded to the appropriate office to search for documents that may be responsive to your request.

You requested the following:

- a. Copies of any SF-50 forms for Kathleen Smith, former Education official in the Office of Postsecondary Education and the Federal Student Aid Office, reflecting any change in position or title, including when the employee entered or left each position. We have no objection to the redaction of home addresses, telephone numbers, or social security numbers from the SF-50s.
 - b. Any Ethics Pledge signed by Kathleen Smith, former Education official in the Office of Postsecondary Education and the Federal Student Aid Office. As this request seeks discrete, readily-identifiable records, American Oversight expects that this request will be assigned to the Simple processing track.
- Please provide all responsive records from January 20, 2017, through the date of the search.

Attached to this e-mail is a 1-page document responsive to your request. The documents provided pertain to:

- Ethics Pledge for Kathleen Smith

In addition, an interim response dated 12/13/19 was provided to you containing 5 pages responsive to your request.

However, certain information has been withheld according to FOIA exemption (b)(6), specified below:

- Records or portions of records relating to personal information is exempt pursuant to 5 U.S.C. §552 (b)(6) of the FOIA. Disclosure of this information would constitute a clearly unwarranted invasion of personal privacy.

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 provided you with this information at no charge. The Department's release of this information at no cost does not constitute the grant of a fee waiver and does not infer or imply that you will be granted a fee waiver for future requests made under FOIA to the Department. Because we were able to locate and process these documents at minimal costs, they are provided to you at no cost.

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,

Tiffany Tucker
Tiffany Tucker
FOIA Analyst
Office of the Executive Secretariat

Enclosure

ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

(b)(6)

Signature

Date

May 8, 2017

Kathleen A. Smith
Print or type your full name (last, first, middle)