



April 17, 2025

VIA ONLINE PORTAL

U.S. Department of Education
Office of the Executive Secretariat
FOIA Service Center
400 Maryland Avenue, SW
LBJ 7W106A
Washington, DC 20202
ATTN: FOIA Public Liaison
Via Online Portal

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer(s):

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, 34 C.F.R. Part 5, American Oversight makes the following request for records.

On April 14, 2025, Harvard University announced that it would not accept demands laid forth by the Trump administration the month prior.¹ In response, the Trump administration announced that it would freeze over \$2.2 billion in grants and contracts at Harvard.² Two days later, *CNN* reported that the Internal Revenue Service (IRS) was making plans to rescind Harvard's tax-exempt status.³ American Oversight seeks records with the potential to shed light on this matter.

Requested Records

American Oversight seeks expedited review of this request for the reasons identified below and requests that the Department of Education produce the following records as soon as practicable, and at least within twenty business days:

1. All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Signal, Slack, GChat, Google Hangouts, Lync, Skype, WhatsApp, Wickr, or Mattermost), telephone call logs, calendar invitations, calendar entries, meeting notices,

¹ See, e.g., Jeff Winter & Taylor Romine, *Trump Administration Announces Freeze in \$2.2 Billion for Harvard After University Rejects Request for Policy Changes*, *CNN* (updated Apr. 14, 2025, 10:58 PM), <https://www.cnn.com/2025/04/14/us/harvard-rejects-policy-changes/index.html>.

² *Id.*

³ Evan Perez et al., *IRS Making Plans to Rescind Harvard's Tax-Exempt Status*, *CNN* (updated Apr. 16, 2025, 6:31 PM), <https://www.cnn.com/2025/04/16/politics/irs-harvard-tax-exempt-status/index.html>.



meeting agendas, informational material, draft legislation, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between (a) any of the officials listed below — and/or anyone communicating on their behalf, such as a chief of staff, secretary, assistant, adviser, or scheduler — and (b) anyone in the White House Office (including email communications with email addresses ending in @who.eop.gov and phone logs reflecting calls with numbers beginning (202) 456-xxxx).

Officials:

- i. Linda McMahon, Secretary of Education
- ii. James Bergeron, Under Secretary
- iii. Rachel Oglesby, Chief of Staff
- iv. Chase Forrester, Deputy Chief of Staff for Operations
- v. Stephen Warzoha, White House Liaison
- vi. Craig Trainor, Acting Assistant Secretary, Office for Civil Rights

For part one of this request, please provide all responsive records from April 14, 2025, through the date the search is conducted.

2. **All email communications** (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) **and text messages** (including complete text message threads or conversations) **or messages on messaging platforms** (such as Signal, Slack, GChat or Google Hangouts, Lync, Skype, X (formerly Twitter) direct messages, Facebook messages, WhatsApp, Telegram, Wickr, Mattermost, or Parler) sent by any of the officials listed above in part one of this request — and/or anyone communicating on their behalf, such as a chief of staff, secretary, assistant, adviser, or scheduler — and containing any of the following key terms.

Key Terms:

- i. Harvard
- ii. tax-exempt
- iii. “tax exempt”
- iv. “tax status”
- v. “exempt status”

In an effort to accommodate your agency and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited part two of this request to emails, text messages, and messages on messaging platforms sent by any of the listed officials, and/or anyone communicating on their behalf, such as an assistant, chief of staff, and/or secretary.

To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means

that both an official's response to an email and the initial received message are responsive to this request and should be produced.

For text messages or messages on other messaging platforms, American Oversight requests that full text message threads/conversations be produced. For example, if an official sent a text message containing any of the key terms listed above, the complete thread/conversation for 24 hours before and after the key term appears should be produced, and not just the message containing the key term.

For part two of this request, please provide all responsive records from March 10, 2025, through the date the search is conducted.

3. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) any of the officials listed above in part one of this request — and/or anyone communicating on their behalf, such as a chief of staff, secretary, assistant, adviser, or scheduler — and (b) anyone communicating from the Internal Revenue Service (including email communications from email addresses ending in @irs.gov).

For part three of this request, please provide all responsive records from April 14, 2025, through the date the search is conducted.

4. All records reflecting guidance — including directives, instructions, memoranda, informal email guidance, and/or any other formal or informal guidance — created by, provided to, or otherwise in your possession regarding Harvard University, including, but not limited to, guidance regarding the investigation of Harvard, freezing of Harvard's federal funding, revocation of Harvard's tax-exempt status, and/or any other action regarding Harvard.

For part four of this request, please provide all responsive records from March 10, 2025, through the date the search is conducted.

5. Records sufficient to identify all alleged violations of civil rights and/or Title VI that the Department of Education identified Harvard University to have committed. American Oversight would accept as responsive to part four of this request a list of the violations in question.

For part five of this request, please provide all responsive records from March 10, 2025, through the date the search is conducted.

6. All records relied upon in the decision to rescind and/or freeze Harvard University's federal funding.

For part six of this request, please provide all responsive records from March 10, 2025, through the date the search is conducted.

7. All records reflecting any investigation into Harvard University conducted by the Department of Education, including the Office of Civil Rights, since January 20, 2025.

For part seven of this request, please provide all responsive records from January 20, 2025, through the date the search is conducted.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."⁴ The public has a significant interest in actions taken by the federal government against Harvard University.⁵ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including whether, in what manner, and to what extent federal officials communicated about Harvard in the time period surrounding discussions of the university's tax-exempt status. American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request "is not primarily in the commercial interest of the requester."⁶ In fact, as a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose, and the release of the information requested is not in American Oversight's commercial interest. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and X (formerly Twitter).⁷

⁴ 5 U.S.C. § 552(a)(4)(A)(iii).

⁵ See Perez et al. *supra* note 3.

⁶ 5 U.S.C. § 552(a)(4)(A)(iii).

⁷ American Oversight currently has approximately 16,000 followers on Facebook and 95,000 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 16, 2025); American Oversight (@weareoversight), X (formerly Twitter), <https://x.com/weareoversight> (last visited Apr. 16, 2025).

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁸ Examples reflecting this commitment include the posting of records related to the first Trump Administration’s contacts with Ukraine and analyses of those contacts;⁹ posting records and editorial content about the federal government’s response to the COVID-19 pandemic;¹⁰ posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the first Trump administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹¹ the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers;¹² and posting records and analysis of federal officials’ use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹³

Accordingly, American Oversight qualifies for a fee waiver.

Application for Expedited Processing

Pursuant to 5 U.S.C. § 552(a)(6)(E)(1) and 34 C.F.R. Part 5, American Oversight requests that your agency expedite the processing of this request.

⁸ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁹ *Trump Administration’s Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

¹⁰ See generally *The Trump Administration’s Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; see, e.g., *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

¹¹ See generally *Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Audit the Wall: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://americanoversight.org/audit-the-wall-no-plans-funding-or-timeline-and-no-wall/>.

¹² *DOJ Records Relating to Solicitor General Noel Francisco’s Recusal*, American Oversight, <https://www.documentcloud.org/documents/25544090-doj-records-relating-to-solicitor-general-noel-franciscos-recusal-american-oversight>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹³ See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo’s 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

I certify to be true and correct to the best of my knowledge and belief that the information requested is urgently needed in order to inform the public concerning actual or alleged government activity. On April 14, 2025, Harvard University announced that it would not accept demands laid forth by the Trump administration the month prior.¹⁴ In response, the Trump administration announced that it would freeze over \$2.2 billion in grants and contracts at Harvard.¹⁵ Two days later, CNN reported that the IRS was making plans to rescind Harvard's tax-exempt status.¹⁶ Given these unprecedented actions of the Trump administration and their potential widespread implications,¹⁷ the American public is entitled to the swift release of records regarding Harvard University.

These actions surrounding Harvard University come amidst broader action by the Trump administration regarding higher education. On March 7, 2025, the four federal agencies, including the Department of Education (ED), announced the cancellation of approximately \$400 million in federal grants and contracts to Columbia University after review of the school's compliance with federal anti-discrimination laws.¹⁸ On March 19, 2025, the Trump administration announced the pausing of approximately \$175 million in federal funding to the University of Pennsylvania, including funding from the Department of Health and Human Services (HHS).¹⁹ The American public has a substantial and urgent interest in understanding the recent actions of the Trump administration regarding Harvard, especially amidst heightened reporting over the administration's actions regarding higher education funding at large.²⁰

¹⁴ See Winter & Romine *supra* note 1.

¹⁵ *Id.*

¹⁶ See Perez et al. *supra* note 3.

¹⁷ See, e.g., Danielle Douglas-Gabriel et al., *What Harvard Could Lose in Its Battle with the Trump Administration*, Wash. Post, updated Apr. 15, 2025, <https://www.washingtonpost.com/education/2025/04/15/harvard-federal-funding-trump-administration/>; see also Jim Puzzanghera, *Before Trump vs. Harvard, This Is What a University Had to Do to Lose Its Tax-Exempt Status*, Boston Globe, updated Apr. 17, 2025, <https://www.bostonglobe.com/2025/04/17/nation/harvard-tax-exemption-trump-bob-jones-university/>.

¹⁸ Liz Essley Whyte, et al., *Trump Administration Cancels \$400 Million in Grants and Contracts to Columbia*, Wall St. J. (Mar. 7, 2025, 1:02 PM), <https://www.wsj.com/us-news/education/columbia-trump-antisemitism-funding-1146c086>.

¹⁹ Zeke Miller & Annie Ma, *Trump Administration Suspends \$175 Million in Federal Funding for Penn Over Transgender Swimmer*, Assoc. Press (Mar. 19, 2025, 3:46 PM), <https://apnews.com/article/penn-transgender-swimmer-trump-federal-funding-2416de5d0abee40163a25294e8a72442>.

²⁰ See, e.g., Susan Svrluga & Carolyn Johnson, *Through Email and Social Media, Colleges Find Federal Funds Are Frozen*, Wash. Post, updated Apr. 11, 2025, <https://www.washingtonpost.com/education/2025/04/11/elite-colleges-trump-federal-funding-freeze-email/>; Susan Svrluga & Danielle Douglas-Gabriel, *Trump Administration Targets Billions in Funding to Harvard*, Wash. Post, updated Mar. 31, 2025, <https://www.washingtonpost.com/education/2025/03/31/harvard-federal-funding-trump-administration/>.

Moreover, I certify to be true and correct to the best of my knowledge and belief that there is an urgent need to inform the public about the Trump administration's actions regarding Harvard University. There is an urgent need to obtain the requested records to inform the public about the federal government's response to Harvard University while the issue is at the forefront of the public's attention.²¹ The public urgently requires the requested information in order to engage with their elected officials who may be able to investigate the matter now, while the issue is at the forefront of the public's attention.

I further certify that American Oversight is primarily engaged in disseminating information to the public. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. Similar to other organizations that have been found to satisfy the criteria necessary to qualify for expedition,²² American Oversight "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience."²³ American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, and other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.com.²⁴ As discussed previously, American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content.²⁵

²¹ See, e.g., Alan Blinder et al., *Why Harvard Decided to Fight Trump*, N.Y. Times, Apr. 15, 2025, <https://www.nytimes.com/2025/04/15/us/why-harvard-resisted-trumps-demands.html>.

²² See *ACLU v. U.S. Dep't of Justice*, 321 F. Supp. 2d 24, 30–31 (D.D.C. 2004); *EPIC v. Dep't of Defense*, 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

²³ *ACLU*, 321 F. Supp. 2d at 29 n.5 (quoting *EPIC*, 241 F. Supp. 2d at 11).

²⁴ American Oversight currently has approximately 16,000 followers on Facebook and 95,000 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 16, 2025); American Oversight (@weareoversight), X (formerly Twitter), <https://x.com/weareoversight> (last visited Apr. 16, 2025).

²⁵ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; see, e.g., *Emails and Resume of Trump's Pick to Head Government Personnel Office*, American Oversight, <https://www.americanoversight.org/emails-and-resume-of-trumps-pick-to-head-government-personnel-office>; *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>; *State Department Releases Ukraine Documents to American Oversight*, American Oversight, <https://www.americanoversight.org/state-department-releases-ukraine-documents-to-american-oversight>; *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>; *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts>.

Accordingly, American Oversight's request satisfies the criteria for expedition.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks “communications,” please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or X (formerly Twitter) direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- 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.²⁶ 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; American Oversight has a right to records contained in those files even if material has not yet been moved to official

[to-sell-nuclear-technology-to-saudi-arabia](#); *Sessions' Letter Shows DOJ Acted On Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

²⁶ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

systems or if officials have, by intent or through negligence, failed to meet their obligations.²⁷

- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,²⁸ 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; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- In the event 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.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

²⁷ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

²⁸ Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Emma Lewis at foia@americanoversight.org or (202) 919-6303. Also, if American Oversight's request for expedition is not granted or its request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Emma Lewis

Emma Lewis
on behalf of
American Oversight