

Exhibit 1

MARIA POMARES
mapojava@gmail.com

P.O. Box 2532
Rancho Santa Fe, CA 92067

Via Electronic Mail to vacofoiaservice@va.gov and First-Class Mail

November 9, 2020

John Buck
Director
FOIA SERVICE
Department of Veterans Affairs
810 Vermont Avenue, NW
(005R1C) VACO
Washington, DC 20420

William Hudson
General Counsel and Principal Deputy Counsel
Office of the General Counsel
Department of Veterans Affairs
810 Vermont Avenue, NW
(026H) VACO
Washington, DC 20420

Paul R. Lawrence, PhD
Under Secretary for Benefits
Veterans Benefits Administration
810 Vermont Avenue, NW
(20M33) VACO
Washington, DC 20420

James P. Gfrerer
Assistant Secretary for IT
and Chief Information Officer
Office of Information Technology
Department of Veterans Affairs
FOIA Service Team Lead (005R1C)
810 Vermont Avenue, NW
Washington, DC 20420

Re: Freedom of Information Act Request

Dear Messrs. Buck, Hudson, Lawrence and Gfrerer:

In accordance with the applicable provisions of the Freedom of Information Act, I hereby request access to and copies of the records specified below.

The records are believed to be in the possession, custody or control of the United States Department of Veterans Affairs (“VA”), the VA’s Office of Information and Technology (“OIT”), the Veterans Benefits Administration (“VBA”), the VA’s Office of the Inspector General (“OIG”), the VA Office of Public and Intergovernmental Affairs (“OPIA”), and the VA’s Office of General Counsel (“OGC”).

The records are also contained in the computers and other electronic devices used to send or receive emails on agency business by:

1. VA Secretary Robert Leon Wilkie,
2. VA Acting Deputy Secretary Pamela Powers,
3. VA Chief of Staff Andrea Lee,
4. VA Deputy Chief of Staff Christopher Syrek,
5. VA Inspector General Michael Missal,
6. VA Assistant Secretary of Office of Accountability and Whistleblower Protection Tamara Bonzanto,
7. VBA Principal Deputy Under Secretary for Benefits Margarita Devlin,
8. VBA Executive Director, Education Service Charmain Bogue,
9. VBA Deputy Chief of Staff Brandye Terrell,
10. VA OGC Acting General Counsel and Principal Deputy Counsel William Hudson,
11. VA OGC Deputy General Counsel for Legal Policy Richard Hipolit,
12. VA Press Secretary Christina Noel, and
13. VA OGC General Attorney David Barrans.

These 13 individuals are collectively referred to below as “Designated VA Persons.”

I have drafted the requests below so the persons conducting the searches may locate the requested records (emails) with electronic searches (rather than manual searches) using the search terms, email addresses, and domain names specified below. I therefore request the VA “to make reasonable efforts to search for the records in electronic form or format,” as required by 5 USCS § 552(a)(3)(C).¹

I am also requesting the VA to release the records (emails) to me in a PST file, as required by 5 USCS § 552(a)(3)(B)² and, if that is not reasonably possible, in PDF format.

With this letter, I seek the following VA records:

¹ 5 USCS § 552(a)(3)(C), which requires: “In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency’s automated information system.”

² 5 USCS § 552(a)(3)(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

- 1) All emails sent by any of the Designated VA Persons to one or more of the following email addresses between December 15, 2019, and March 15, 2020:
 - a. Any email address ending with this domain: @eangus.org;
 - b. Any email address ending with this domain: @evocatillc.com;
 - c. Any email address ending with this domain: @paaresearch.com;
 - d. Any email address ending with this domain: @republicreport.org;
 - e. Any email address ending with this domain: @stripes.com;
 - f. Any email address ending with this domain: @tcf.org;
 - g. Any email address ending with this domain: @veteranseducationsuccess.org;
 - h. Any email address ending with this domain: @vetsedsuccess.org; and
 - i. Any email address ending with this domain: @washpost.com.

- 2) All emails received by any of the Designated VA Persons from one or more of the following email addresses between December 15, 2019, and March 15, 2020:
 - a. Any email address ending with this domain: @eangus.org;
 - b. Any email address ending with this domain: @evocatillc.com;
 - c. Any email address ending with this domain: @paaresearch.com;
 - d. Any email address ending with this domain: @republicreport.org;
 - e. Any email address ending with this domain: @stripes.com;
 - f. Any email address ending with this domain: @tcf.org;
 - g. Any email address ending with this domain: @veteranseducationsuccess.org;
 - h. Any email address ending with this domain: @vetsedsuccess.org; and
 - i. Any email address ending with this domain: @washpost.com.

- 3) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, **excluding** VA internal emails, that contain any of the following names in the email address:
 - a. Wofford (e.g., wofford in carrie.wofford@veteranseducationsuccess.org would make this email responsive),
 - b. Ang,
 - c. Beynon,
 - d. Bogue,
 - e. Douglas-Gabriel,
 - f. Halperin,
 - g. Saunders,
 - h. Safalow, and
 - i. Shireman.

- 4) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, **excluding** VA internal emails, that contain any of the following names anywhere in the email:
 - a. Carrie Wofford.

- b. Tanya Ang,
 - c. Barrett Bogue,
 - d. David Halperin,
 - e. Robert Norton,
 - f. Michael Saunders,
 - g. Bradley Safalow, and
 - h. Robert Shireman.
- 5) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, **excluding** VA internal emails, that contain any of the following terms anywhere in the email:
- a. University of Phoenix,
 - b. Perdoceo Education,
 - c. PRDO,
 - d. Career Education,
 - e. CECO,
 - f. Bellevue University,
 - g. Temple University,
 - h. Colorado Technical, and
 - i. American InterContinental.
- 6) All emails sent or received by any of the Designated VA Persons between March 8 and March 10, 2020, **including** VA internal emails, that contain any of the following phrases in the subject line:
- a. VA intends to suspend enrollment,
 - b. Any Background/TPs on this available?³
 - c. Talking Points on Suspension Actions,⁴
 - d. Suspension Action for Five GI Bill Approved Schools,⁵ and
 - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.⁶

If you have any questions regarding any of the records requests or the search terms, please call me (202-549-3802) or send me an email (mapojava@gmail.com) with your question.

I will pay the reasonable research and duplication costs, but not to exceed \$1,000 without further authorization, for documents produced pursuant to this FOIA request.

Sincerely,



Maria Pomares

³ I believe this phrase was used as the subject line in internal VA and VBA emails.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Exhibit 2

MARIA POMARES
mapojava@gmail.com

P.O. Box 2532
Rancho Santa Fe, CA 92067

Via Electronic Mail to yacofiaservice@va.gov and First-Class Mail

November 13, 2020

John Buck
Director
FOIA SERVICE
Department of Veterans Affairs
810 Vermont Avenue, NW
(005R1C) VACO
Washington, DC 20420

William Hudson
General Counsel and Principal Deputy Counsel
Office of the General Counsel
Department of Veterans Affairs
810 Vermont Avenue, NW
(026H) VACO
Washington, DC 20420

Paul R. Lawrence, PhD
Under Secretary for Benefits
Veterans Benefits Administration
810 Vermont Avenue, NW
(20M33) VACO
Washington, DC 20420

James P. Gfrerer
Assistant Secretary for IT
and Chief Information Officer
Office of Information Technology
Department of Veterans Affairs
FOIA Service Team Lead (005R1C)
810 Vermont Avenue, NW
Washington, DC 20420

Re: Freedom of Information Act Request

Dear Messrs. Buck, Hudson, Lawrence and Gfrerer:

In accordance with the applicable provisions of the Freedom of Information Act, I hereby request access to and copies of the records specified below.

The records are believed to be in the possession, custody or control of the United States Department of Veterans Affairs (“VA”), the Veterans Benefits Administration, and its other Administrations, Offices, and Centers that maintain their own FOIA processing facilities.

I have drafted the requests below so the persons conducting the searches may locate the requested records (emails) with electronic searches (rather than manual searches) using the search terms, email addresses, and domain names specified below. I therefore request the VA “to make reasonable efforts to search for the records in electronic form or format,” as required by 5 USCS § 552(a)(3)(C).¹

I am also requesting the VA to release the records to me as a PST file, to the extent they are comprised of emails and all other records in PDF format in compliance with 5 USCS § 552(a)(3)(B)².

I am also requesting the VA and its Administrations, Offices, and Centers to release all records requested below pursuant to 552(a)(2)(D)(i).³

With this letter, I seek the following VA records:

- 1) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue.
- 2) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain any of the following terms:
 - a) University of Phoenix,
 - b) Perdoceo,
 - c) Bellevue University,
 - d) Temple University,
 - e) Colorado Technical,
 - f) American InterContinental, and
 - g) Career Education.

¹ 5 USCS § 552(a)(3)(C), which requires: “In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency’s automated information system.”

² 5 USCS § 552(a)(3)(B): “In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.”

³ 5 USCS § 552(a)(2)(D)(i): “Each agency, in accordance with published rules, shall make available for public inspection in an electronic format—copies of all records, regardless of form or format—

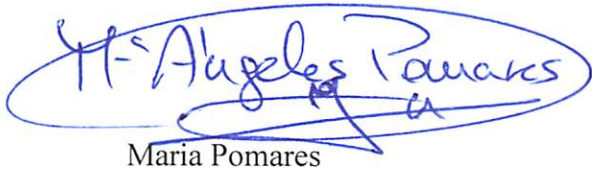
(i) that have been released to any person under paragraph (3).”

- 3) All records released in electronic format in response to any of the FOIA requests identified in response to requests 1 and 2 above pursuant to 5 USCS § 552(a)(2)(D)(i).

Please direct all communications regarding these FOIA requests to my attorney, Gary J. Aguirre, who is available by phone at 202-549-3802 and by email at gary@aguirrelawapc.com.

I will pay the reasonable research and duplication costs, but not to exceed \$250 without further authorization, for documents produced pursuant to this FOIA request.

Sincerely,



Maria Pomares

Exhibit 3



U.S. Department
of Veterans Affairs

810 Vermont Ave NW
Washington DC 20420
www.va.gov

Via Email: mapojava@gmail.com

Ms. Maria Pomares
P. O. Box 2532
Rancho Santa Fe, CA 92067

RE: Freedom of Information Act Tracking Numbers: **21-00916-F; 21-00930-F; 21-00931-F; 21-00932-F; 21-00933-F**

Dear Ms. Pomares,

This is to acknowledge receipt of your Freedom of Information Act (FOIA) requests to the Department of Veterans Affairs (VA) dated November 9, 2020, in which you are seeking:

- 1) All emails sent by any of the Designated VA Persons to one or more of the following email addresses between December 15, 2019, and March 15, 2020:
- 2) All emails received by any of the Designated VA Persons from one or more of the following email addresses between December 15, 2019, and March 15, 2020:
 - a. Any email address ending with this domain: @eangus.org;
 - b. Any email address ending with this domain: @evocatillc.com;
 - c. Any email address ending with this domain: @paaresearch.com;
 - d. Any email address ending with this domain: @republicreport.org;
 - e. Any email address ending with this domain: @stripes.com;
 - f. Any email address ending with this domain: @tcf.org;
 - g. Any email address ending with this domain: @veteranseducationsuccess.org;
 - h. Any email address ending with this domain: @vetsedsuccess.org; and
 - i. Any email address ending with this domain: @washpost.com
- 3) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, excluding VA internal emails, that contain any of the following names in the email address:
- 4) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, excluding VA internal emails, that contain any of the following names anywhere in the email:
 - a. Carrie Wofford (e.g., wofford in carrie.wofford@veteranseducationsuccess.org would make this email responsive),
 - b. Tanya Ang,
 - c. Barrett Bogue,
 - d. David Halperin,
 - e. Robert Norton,
 - f. Michael Saunders,
 - g. Bradley Safalow, and
 - h. Robert Shierman
- 5) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, excluding VA internal emails, that contain any of the following terms anywhere in the email:

21-00916-F; 21-00930-F; 21-00931-F; 21-00932-F; 21-00933-F Pomares
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- a. University of Phoenix,
 - b. Perdoceo Education,
 - c. PRDO,
 - d. Career Education,
 - e. CECO
 - f. Bellevue University,
 - g. Temple University,
 - h. Colorado Technical, and
 - i. American InterContinental.
- 6) All emails sent or received by any of the Designated VA Persons between March 8 and March 10, 2020, including VA internal emails, that contain any of the following phrases in the subject line:
- a. VA intends to suspend enrollment,
 - b. Any Background/TPs on this available?³
 - c. Talking Points on Suspension Actions,⁴
 - d. Suspension Action for Five GI Bill Approved Schools,⁵ and
 - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.

The FOIA Service received your requests on November 6, 2020, and assigned your requests FOIA tracking numbers **21-00916-F; 21-00930-F; 21-00931-F; 21-00932-F** and **21-00933-F**. Please refer to these numbers when communicating with the VA about these requests.

The records you requested, if they exist, would be maintained at the Office of the Secretary (OSVA), Office of Assistant Secretary for Public and Intergovernmental Affairs (OP&IA), Veterans Health Administration (VBA), Office of Accountability and Whistle Blower Protection (OAWP), Office of General Counsel (OGC) and Office of Inspector General (OIG)¹. Therefore, we are redirecting your request to these offices for a file search and a direct response to you. If you wish to know the status of your request, please contact them directly at the following addresses:

Department of Veterans Affairs
OSVA, (002B) VACO
FOIA Officer: Ruthann Parise
810 Vermont Avenue, NW
Washington, DC 20420
Email: osvafoia@va.gov; Phone: (202) 461-4866; Fax: (202) 273-4880

Questions regarding the status of your request, please refer to FOIA number **21-00916-F**, and contact Ms. Parise.

Department of Veterans Affairs
Attention: Anita Major
OP&IA, (002) VACO
810 Vermont Avenue, NW
Washington, DC 20420
Phone: (202) 461-7430; Fax: (202) 495-5228

¹ IG has its own tracking number. You will be notified by them of its FOIA tracking number

21-00916-F; 21-00930-F; 21-00931-F; 21-00932-F; 21-00933-F Pomares
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Questions regarding the status of your request, please refer to FOIA number **21-00930-F**, and contact Ms. Major.

Department of Veterans Affairs
Attention: Angela C. Davis
VBA, (20M33) VACO
810 Vermont Avenue, NW
Washington, DC 20420
Email: foia.vbaco@va.gov; Phone: (202) 461-9516; Fax: (202) 632-8925

Questions regarding the status of your request, please refer to FOIA number **21-00931-F**, and contact Ms. Davis.

Department of Veterans Affairs
OAWP, (70A) VACO
FOIA Officer: Tanya A. Quimont
810 Vermont Ave, NW
Washington, DC 20420
Email: oawpfoiarequests@va.gov; Phone: (202) 416-4214

Questions regarding the status of your request, please refer to FOIA number **21-00932-F**, and contact Ms. Quimont.

Department of Veterans Affairs
Attention: Michelle Jackson
OGC, (026H) VACO
810 Vermont Avenue, NW
Washington, DC 20420
Email: ogcfoiarequests@va.gov; Phone: (202) 461-7860; Fax: (202) 273-9299

Questions regarding the status of your request, please refer to FOIA number **21-00933-F**, and contact Ms. Jackson.

This concludes the FOIA Service's response to your request.

Please know that due to COVID 19, there may be a delay in responding to your request.

We appreciate your interest in the VA. If you have any questions concerning this letter, you may contact me.

Sincerely,

Jacqueline M. Short
For

Ms. Doloras Johnson
Director, VACO FOIA Service
Quality, Performance, and Risk (QPR)
Office of Information and Technology (OIT)

Exhibit 4

From: [Gary Aguirre](#)
To: Angela.Davis5@va.gov
Cc: foia.vbaco@va.gov
Subject: FOIA Request No. 21-00931-F
Date: Wednesday, November 11, 2020 9:58:00 AM

Dear Ms. Davis:

I will be representing Ms. Pomares in connection with the above-referenced FOIA request.

I would like to speak with you at your earliest convenience regarding this FOIA request to confirm it is drafted to facilitate and simplify its processing by the VA in several ways.

First, the request was drafted so the searches could be conducted electronically. I would estimate the electronic searches could be conducted in an hour or less. That will give you the number of hits.

Second, the requests seek emails with various organizations which are unlikely to be subject to exemptions. In particular, they seek communications with the media and non-governmental organizations.

Third, I would like to discuss any problems you see that could delay the early release of the records sought.

May we set a mutually convenient time next week to discuss this matter? I will make myself available at your convenience.

Sincerely,

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Tel: 619-400-4960
Fax: 619-501-7072

www.aguirrelawapc.com

This E-Mail is intended only for the use of the individuals to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. If you have received this communication in error, please do not distribute it and notify us immediately by email to maria@aguirrelawapc.com.

Exhibit 5

From: [Parise, Ruthann](#)
To: [Gary Aguirre](#)
Subject: RE: FOIA Request No. 21-00916-F
Date: Friday, November 13, 2020 9:13:15 AM

Good Morning Mr. Aguirre,

Please know, I have received Ms. Pomares' Freedom of Information Act (FOIA) request under tracking number 21-00916-F, your below email, and Ms. Pomares' November 13, 2020 letter to the Director, Department of Veterans Affairs (VA) FOIA Service requesting that communications regarding her FOIA request be made through you, as her attorney.

I have not sent an official acknowledgment letter as there appeared to be multiple communications regarding this request as noted above. Because this request has been assigned to multiple VA FOIA directorates, I am taking the lead on this request. By this I mean, if any of the other FOIA Officers, those processing this request under 21-00930-F, 21-00931-F, 21-00932-F, 21-00933-F, need clarification to the request, they will submit their request to me. I have requested they provide me a response by close of business on Monday, November 16, 2020 so that I may send you one request for clarification for the group on Tuesday, November 17, 2020.

Once your response is received I will provide that information to the other FOIA Officers. Please know that each FOIA Officer will process the portion of the request pertaining to their directorate and will provide a response directly to you. For example, I am responsible for processing records falling under the VA Office of the Secretary (OSVA); as such, I will be processing the portion of the request specific to the following individuals as identified in Ms. Pomares' FOIA request:

- “1. VA Secretary Robert Leon Wilkie;
2. VA Acting Deputy Secretary Pamela Powers;
4. VA Deputy Chief of Staff Christopher Syrek,”

Should you have any questions, please contact me directly.

Respectfully,

Ruthann Parise
OSVA FOIA/Privacy Officer
Office of the Executive Secretary
Office of the Secretary, U.S. Dept. of Veterans Affairs (OSVA)
ruthann.parise@va.gov
Phone: (202) 461-4866
iPhone: (202) 306-3112

This message and attachments, if any, are For Official Use Only, not to be shared outside intended parties, and may be exempt from disclosure pursuant to 5 U.S.C. § 552. If you received this message and attachments, if any, in error, you must inform the FOIA Officer and destroy them immediately.

From: Gary Aguirre <gary@aguirrelawapc.com>
Sent: Wednesday, November 11, 2020 12:55 PM
To: Parise, Ruthann <Ruthann.Parise@va.gov>
Cc: VACO 001B FOIA Inbox <OSVAFOIA@va.gov>
Subject: [EXTERNAL] FOIA Request No. 21-00916-F

Dear Ms. Parise:

I will be representing Ms. Pomares in connection with the above-referenced FOIA request.

I would like to speak with you at your earliest convenience regarding this FOIA request to confirm it is drafted to facilitate and simplify its processing by the VA in several ways.

First, the request was drafted so the searches could be conducted electronically. I would estimate the electronic searches could be conducted in an hour or less. That will give you the number of hits.

Second, the requests seek emails with various organizations which are unlikely to be subject to exemptions. In particular, they seek communications with the media and non-governmental organizations.

Third, I would like to discuss any problems you see that could delay the early release of the records sought.

May we set a mutually convenient time next week to discuss this matter? I will make myself available at your convenience.

Sincerely,

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Tel: 619-400-4960
Fax: 619-501-7072

www.aguirrelawapc.com

This E-Mail is intended only for the use of the individuals to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. If you have received this communication in error, please do not distribute it and notify us immediately by email to maria@aguirrelawapc.com.

Exhibit 6

From: [Parise, Ruthann](#)
To: [Gary Aguirre](#)
Subject: RE: FOIA 21-00916-F Request for Clarification
Date: Tuesday, November 17, 2020 1:19:59 PM

Good Afternoon Mr. Aguirre,

Thank you for your response. I have forwarded your email and in particular the portion of the request where you agree to linking requests 3(a) through 3(i) to the names I identified and the information pertaining to 3(c) Steve Beynon to the other FOIA officers processing the request under 21-00930-F, 21-00931-F, 21-00932-F, and 21-00933-F. Additionally, please know there was an additional FOIA number that was assigned which is 21-00956-F and is being processed by another VBA FOIA officer. As such, VBA is processing the request under FOIA tracking numbers 21-00931-F and 21-00956-F. I have also sent this information to the VA OIG FOIA Officer, because OIG is a stand-alone office I do not have access to their tracking number; however, I wanted to make sure they had the same information as all offices processing this request.

I have asked that when the FOIA Officers provide their acknowledgment and/or agency decision letter that they advise you as to which of the 13 Designated Officials (as identified in the FOIA request) they are responsible for processing.

Regarding the FOIA Offices and OIT Offices, the request was assigned to OSVA, OGC, OP&IA, OAWP, OIG, and VBA. Of those offices OSVA, OGC, OAWP, and OP&IA are considered VA Central Office (VACO); as such the same OIT office conducts the emails searches for any requests we receive for emails. The VBA is not considered VACO (even though they are in DC) so they have a separate OIT office that conducts their emails searches. I am not sure if OIG is considered VACO (even though they are located in DC) and my VACO OIT POC could not answer my inquiry; as such, the OIG FOIA Officer would need to answer that for you.

That said, OGC FOIA Officer will submit a request to VACO OIT to conduct a search for the Designated Official that they are responsible for processing, OP&IA FOIA Officer will submit a request to VACO OIT to conduct a search for the Designated Official that they are responsible for processing, OAWP FOIA Officer will submit a request to VACO OIT to conduct a search for the Designated Official that they are responsible for processing, and as mentioned in our phone call I will conduct the search of Wilkie, Powers, and Syrek's mailboxes as I already have their mailboxes on hand from prior FOIA requests. The VBA FOIA Officer will submit a request to the OIT office responsible for conducting their searches and the OIG FOIA will submit a request to the OIT office responsible for conducting their searches.

Let me know if you have any further questions or if I missed anything.

Respectfully,

Ruthann Parise
OSVA FOIA/Privacy Officer
Office of the Executive Secretary

Office of the Secretary, U.S. Dept. of Veterans Affairs (OSVA)

ruthann.parise@va.gov

Phone: (202) 461-4866

iPhone: (202) 306-3112

This message and attachments, if any, are For Official Use Only, not to be shared outside intended parties, and may be exempt from disclosure pursuant to 5 U.S.C. § 552. If you received this message and attachments, if any, in error, you must inform the FOIA Officer and destroy them immediately.

From: Gary Aguirre <gary@aguirrelawapc.com>

Sent: Tuesday, November 17, 2020 2:08 PM

To: Parise, Ruthann <Ruthann.Parise@va.gov>

Subject: [EXTERNAL] RE: FOIA 21-00916-F Request for Clarification

Good afternoon Ms. Parise:

Thanks for your email earlier today. I have a couple of questions of my own, but first I will answer your request for clarification.

I agree it makes sense to link requests 3(a) through 3(i) to the names you have identified in your email to avoid complicating the process with hits to documents that are not sought. The request sought by 3(c) would be communications with Steve Beynon.

I do not believe it is necessary to confirm all the matters discussed yesterday during our call. However, I do have two follow-up questions.

First, I understand there is more than one OIT among the VA administrations, offices and centers. I see the VBA maintains its own FOIA office. Does it also maintain its own OIT separate and apart of the VA's OIT?

On the same point, all of the requests that you are processing (21-00916-F, 21-00930-F, 21-00931-F, 21-00932-F, and 21-00933-F) obtain the emails from the VA's OIT or will one or more of them also maintain their separate OIT?

Again, your cooperation and assistance are appreciated.

Best,

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Tel: 619-400-4960
Fax: 619-501-7072

www.aguirrelawapc.com

This E-Mail is intended only for the use of the individuals to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. If you have received this communication in error, please do not distribute it and notify us immediately by email to maria@aguirrelawapc.com.

From: Parise, Ruthann <Ruthann.Parise@va.gov>
Sent: Tuesday, November 17, 2020 5:28 AM
To: Gary Aguirre <gary@aguirrelawapc.com>
Subject: FOIA 21-00916-F Request for Clarification

Good Morning Mr. Aguirre,

On November 13, 2020, I advised that I would be submitting a request for clarification to your client's, Ms. Pomares, November 9, 2020 Freedom of Information Act (FOIA) request (attached) currently being processed under FOIA tracking numbers 21-00916-F, 21-00930-F, 21-00931-F, 21-00932-F, and 21-00933-F. Additionally, per your November 16, 2020 email, I am keeping this in email format to keep it informal. Please consider this a joint request for clarification:

Please clarify the following:

"3) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, **excluding** VA internal emails, that contain any of the following names in the email address:

- a. Wofford (e.g., Wofford in carrie.wofford@veteranseducationsuccess.org would make this email responsive),
- b. Ang,
- c. Beynon,
- d. Bogue,
- e. Douglas-Gabriel,
- f. Halperin,
- g. Saunders,
- h. Safalow, and
- i. Shireman."

Please confirm that when you refer to the last names only you are referring to the following: Carrie Wofford; Tanya Ang; Barrett Bogue; David Halperin; Michael Saunders; Bradley Safalow; and Robert Shireman. If this is incorrect, please provide the first name of each individual as listed in item 3. Additionally, please advise as to the name of the individual listed in item 3.c., Beynon. While I understand from our phone conversation yesterday as to why you listed item 3 by last names only, please know that w/o having a first name or email address associated with the name the search may result in records that truly are not responsive to the request. For example, the name Saunders alone may result in thousands of hits when not associated with another identifier (first name, email, key term, etc).

Please know this is the only area in which clarification is being sought.

A copy of this email and your response will be provided to all FOIA Officers handling this request. Additionally, the cases will be placed on hold until your response is received. Please respond directly to me.

Respectfully,

Ruthann Parise
OSVA FOIA/Privacy Officer
Office of the Executive Secretary
Office of the Secretary, U.S. Dept. of Veterans Affairs (OSVA)
ruthann.parise@va.gov
Phone: (202) 461-4866
iPhone: (202) 306-3112

This message and attachments, if any, are For Official Use Only, not to be shared outside intended parties, and may be exempt from disclosure pursuant to 5 U.S.C. § 552. If you received this message and attachments, if any, in error, you must inform the FOIA Officer and destroy them immediately.

Exhibit 7



November 17, 2020

VIA EMAIL: mapojava@gmail.com

Ms. Maria Pomares
P.O. Box 2532
Rancho Santa Fe, CA 92067

Re: Freedom of Information Act Tracking Number **21-00931-F**

Dear Ms. Pomares:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request originally sent to the Department of Veterans Affairs (VA) and subsequently referred to the Department of Veterans Benefits Administration (VBA) on November 12, 2020. You requested the following information:

- 1) All emails sent by any of the Designated VA Persons¹ to one or more of the following email addresses between December 15, 2019, and March 15, 2020:
- 2) All emails received by any of the Designated VA Persons from one or more of the following email addresses between December 15, 2019, and March 15, 2020:
 - a. Any email address ending with this domain: @eangus.org;
 - b. Any email address ending with this domain: @evocatillc.com;
 - c. Any email address ending with this domain: @paaresearch.com;
 - d. Any email address ending with this domain: @republicreport.org;
 - e. Any email address ending with this domain: @stripes.com;
 - f. Any email address ending with this domain: @tcf.org;
 - g. Any email address ending with this domain: @veteranseducationsuccess.org;
 - h. Any email address ending with this domain: @vetsedsuccess.org; and
 - i. Any email address ending with this domain: @washpost.com.
- 3) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, excluding VA internal emails, that contain any of the following names in the email address:
- 4) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, excluding VA internal emails, that contain any of the following names anywhere in the email:

¹ The VBA designated person is Ms. Charmain Bogue, Executive Director of Education Service.

- a. Carrie Wofford (e.g., wofford in carrie.wofford@veteranseducationsuccess.org would make this email responsive),
 - b. Tanya Ang,
 - c. Barrett Bogue,
 - d. David Halperin,
 - e. Robert Norton,
 - f. Michael Saunders,
 - g. Bradley Safalow, and
 - h. Robert Shierman.
- 5) All emails sent or received by any of the Designated VA Persons between December 15, 2019, and March 15, 2020, excluding VA internal emails, that contain any of the following terms anywhere in the email:
- a. University of Phoenix,
 - b. Perdoceo Education,
 - c. PRDO,
 - d. Career Education,
 - e. CECO,
 - f. Bellevue University,
 - g. Temple University,
 - h. Colorado Technical, and
 - i. American InterContinental.
- 6) All emails sent or received by any of the Designated VA Persons between March 8 and March 10, 2020, including VA internal emails, that contain any of the following phrases in the subject line:
- a. VA intends to suspend enrollment,
 - b. Any Background/TPs on this available?,
 - c. Talking Points on Suspension Actions,
 - d. Suspension Action for Five GI Bill Approved Schools, and
 - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.

Your request has been assigned tracking number **21-00931-F**. Your request will be assigned to a Program Specialist for processing. Due to COVID-19, there may be a delay in responding to your request.

If you do not receive a response after twenty business days from when the VA initially received your request, you may contact the VBA FOIA Public Liaison's Office at (202) 461-9421 or via email at foia.vbaco@va.gov. Please refer to your tracking number when contacting us about your request. You may also seek dispute resolution services by contacting the Office of Government Information Services (OGIS), OGIS can be reached at 1-877-684-6448 or via email at ogis@nara.gov.

21-00931-F

3

We appreciate your interest in the VA.

Sincerely,

Stephanie Tucker
Program Specialist (FOIA/PA)
VBA Office of FOIA Services

Exhibit 8

From: [Tucker, Stephanie M., VBAVACO](#)
To: [Gary Aguirre](#)
Cc: [VAVBAWAS/CO/EDUCATION SERVICE FOIA](#); [Parise, Ruthann](#)
Subject: RE: Veterans Benefits Administration (VBA) FOIA/PA Office: 21-00931-F
Date: Monday, November 30, 2020 7:22:42 AM

Good morning, Mr. Aguirre:

Firstly, it should be noted that the VBA FOIA/PA office is not in default of Ms. Pomares' request as the original target date, before the extension was invoked, is December 9, 2020. Please rest assured our office is working diligently to respond to Ms. Pomares' request in a statutorily manner. Further, in my email below, I informed you that a search of responsive records would need to be conducted by an outside entity that is separate from our office. Given this unusual circumstance, under the FOIA, I may extend the 20-working days timeframe to 30-working days. See 5 USC § 552(a)(6)(B)(iii) (I). To add further context, I am working with our IT department to locate the records your client requested. Lastly, at the conclusion of my email, I stated the new target date and provided you an opportunity to ask any questions and/or state any concerns regarding the extension. If you would like to modify the request (i.e. narrow the scope) or discuss the extension, please let me know. I look forward to working with you.

Please advise,

Stephanie Tucker

Program Specialist (FOIA/PA)
Office of Mission Support
Veterans Benefits Administration
Department of Veterans Affairs
Stephanie.Tucker2@va.gov

From: Gary Aguirre <gary@aguirrelawapc.com>
Sent: Monday, November 30, 2020 9:54 AM
To: Tucker, Stephanie M., VBAVACO <Stephanie.Tucker2@va.gov>
Cc: VAVBAWAS/CO/EDUCATION SERVICE FOIA <22FOIA.VBACO@va.gov>; Parise, Ruthann <Ruthann.Parise@va.gov>
Subject: [EXTERNAL] RE: Veterans Benefits Administration (VBA) FOIA/PA Office: 21-00931-F

Dear Ms. Tucker:

I believe your notice of extension fails to comply with at least two terms of 5 USC § 552(a)(6) (B).

First, subsection 5 USC § 552(a)(6)(B)(i) specifies the limits may be “which reads as follows: “may be extended by written notice to the person making such request *setting forth the unusual circumstances* for such extension and the date on which a determination is expected to be dispatched (emphasis added).” Your email stated no such circumstances. Rather, you stated a conclusion in the text of the above subsection.

Second, 5 USC § 552(a)(6)(B)(ii) provides: “the agency shall notify the person making the request if the request cannot be processed within the time limit specified in that clause and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request.” Your email did not include this “opportunity.”

For these reasons, I believe the request for an extension is not in compliance with FOIA. Accordingly, the agency is now in default with respect to Ms. Pomares’s request for these records.

Sincerely,

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Tel: 619-400-4960
Fax: 619-501-7072

www.aguirrelawapc.com

This E-Mail is intended only for the use of the individuals to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. If you have received this communication in error, please do not distribute it and notify us immediately by email to maria@aguirrelawapc.com.

From: Tucker, Stephanie M., VBAVACO <Stephanie.Tucker2@va.gov>
Sent: Friday, November 27, 2020 8:54 AM
To: Gary Aguirre <gary@aguirrelawapc.com>
Cc: VAVBAWAS/CO/EDUCATION SERVICE FOIA <22FOIA.VBACO@va.gov>
Subject: Veterans Benefits Administration (VBA) FOIA/PA Office: 21-00931-F

Good morning, Mr. Aguirre:

This email is to inform you of new developments concerning your FOIA request. Under the FOIA, agencies may extend the 20 business days response time when "unusual circumstances" exist. Unusual circumstances exist in one of the following three situations: 1) the component needs to search for and collect responsive records from a field office or other entity separate from the office processing the request; 2) the request involves a "voluminous" amount of records that must be located, compiled, and reviewed; and/or 3) the component needs to consult with another federal agency or two or more Department of Justice components that have a substantial interest in the responsive information. For your request, the VBA’s FOIA office must search for and collect responsive records from an entity separate from our office. Therefore, we have extended the 20 business days response time for an additional 10 business days. The new target date for our office to issue a response is January 6, 2021.

Should you have any questions or concerns related to the 10 business days extension or the method in which VBA FOIA office will be responding to your request, please feel free to contact me at your earliest convenience.

V/r,

Stephanie Tucker

Program Specialist (FOIA/PA)
Office of Mission Support
Veterans Benefits Administration
Veterans Affairs
Stephanie.Tucker2@va.gov

Stephanie Tucker

Program Specialist (FOIA/PA)
Office of Mission Support
Veterans Benefits Administration
Department of Veterans Affairs
Stephanie.Tucker2@va.gov

Exhibit 9

From: [Tucker, Stephanie M., VBAVACO](#)
To: [Gary Aguirre](#)
Cc: [Foxworth, Rochelle, VBAVACO](#)
Subject: RE: FOIA Request No. 21-00931-F
Date: Tuesday, December 15, 2020 12:54:03 PM

Hi Mr. Aguirre:

Your request is currently being reviewed by our Office of General Counsel (OGC). Once I receive feedback from OGC, I'm hopeful that a disclosure will be made this week. Secondly, I have reviewed your questions below concerning IT processes. I have contacted the Chief of VBAVACO Desktop Support Services for question #1. I am awaiting his response. For questions #2 and #3, I believe some of the points I tried to convey may have been misinterpreted and conflated. This request is being reviewed by OGC because the subject matter is of interest of senior leadership and, as such, has been designated as a Substantial Interest (SI) request. Prior to issuing a disclosure determination, OGC must review it before its release. This is an agency policy. IT was only involved to locate records that *may* be responsive to your request. Lastly, although 463 pages were located, some pages were determined to be non-responsive due to the parameters outlined in your request. Again, please rest assured the final disclosure determination will be comprehensive and will detail my findings.

As always, should you have any questions or concerns, please let me know at your earliest convenience.

V/r,

Stephanie Tucker

Program Specialist (FOIA/PA)
Office of Mission Support
Veterans Benefits Administration
Department of Veterans Affairs
Stephanie.Tucker2@va.gov

From: Gary Aguirre <gary@aguirrelawapc.com>
Sent: Tuesday, December 15, 2020 2:54 PM
To: Tucker, Stephanie M., VBAVACO <Stephanie.Tucker2@va.gov>
Subject: [EXTERNAL] FW: FOIA Request No. 21-00931-F

Ms. Tucker:

May I have a response to my email below, please?

Thanks,

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800

San Diego, CA 92101
Tel: 619-400-4960
Fax: 619-501-7072

www.aguirrelawapc.com

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From: Gary Aguirre
Sent: Friday, December 11, 2020 10:42 AM
To: Stephanie.Tucker2@va.gov
Subject: FOIA Request No. 21-00931-F

Dear Ms. Tucker:

I understand from our phone call yesterday that the decision to transfer this request to “tier 3” is because it involves upper or senior management, which will delay the release of these records. As you know, I disagreed with any extension of time for this request, since it involves an electronic search of records that did not appear to be subject to any exemption. I also understand you have nearly completed your review, so there should be little justification for delay, absent the late decision to transfer this matter to Tier 3.

Aside from the statement of my position above, I would like to clarify the situation. I understand from our call yesterday that the senior official involved is Charmain Bogue. She was explicitly identified in the request, which also included even more senior officials whose records have already been released. So, I am puzzled by this late decision, which I understand from you will delay the release of the records.

I am therefore requesting additional information regarding this decision and the procedural status of the request:

1. Is there any internal rule or regulation (CFR) that defines, states, or discusses the different tier? For example, what is the guidance for deciding what is tier 2 versus tier 3?
2. Is there any internal rule or regulation (CFR) that expand the period to respond to a FOIA request when the agency transfers a request to a new tier?
3. What is the definition and rule or regulation applied in determining that Ms. Bogue is at a sufficient high level of management within the VBA that this request should now be transferred to Tier 3?

You mentioned yesterday that although there were 463 pages, many were not responsive. Are you saying that the electronic search got hits which were not responsive to the request? If the search got the hits, I am unclear why the records would not be responsive. Would you kindly clarify?

Thanks,

Gary J. Aguirre
Aguirre Law, APC

www.aguirrelawapc.com

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From: Tucker, Stephanie M., VBAVACO <Stephanie.Tucker2@va.gov>
Sent: Wednesday, December 2, 2020 9:29 AM
To: Gary Aguirre <gary@aguirrelawapc.com>
Cc: Parise, Ruthann <Ruthann.Parise@va.gov>
Subject: RE: FOIA Request No. 21-00931-F

Good afternoon, Mr. Aguirre:

I have been informed by the Chief of VBAVACO Desktop Support Services, Office of Information & Technology, that your request has been transferred to Tier 3. IT Specialists are working on the ticket right now and it should be resolved in a matter of a few days. Please let me know if you may have any further questions or concerns.

V/r,

Stephanie Tucker

Program Specialist (FOIA/PA)
Office of Mission Support
Veterans Benefits Administration
Department of Veterans Affairs
Stephanie.Tucker2@va.gov

From: Gary Aguirre <gary@aguirrelawapc.com>
Sent: Tuesday, December 1, 2020 2:23 PM
To: Tucker, Stephanie M., VBAVACO <Stephanie.Tucker2@va.gov>
Cc: Parise, Ruthann <Ruthann.Parise@va.gov>
Subject: [EXTERNAL] FOIA Request No. 21-00931-F

Good afternoon Ms. Tucker:

From our telephone conversation yesterday, I understand you will provide me with an update tomorrow, December 2, 2020, regarding the status of the search being conducted by VBA's OIT, which is an office separate and apart from VA's OIT.

As I said yesterday, I do not believe the search for these records by OIT should take more than one hour. Also, I do not believe that VBA is entitled to more time because the request was sent to your office, which then made the request to VBA's OIT.

In any case, I am requesting that your update address two points: (1) when OIT will provide the search results to you and (2) how many documents or pages must be reviewed.

Your assistance and cooperation is appreciated.

Sincerely,

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Tel: 619-400-4960
Fax: 619-501-7072

www.aguirrelawapc.com

This E-Mail is intended only for the use of the individuals to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unintended transmission shall not constitute waiver of the attorney-client or any other privilege. If you have received this communication in error, please do not distribute it and notify us immediately by email to maria@aguirrelawapc.com.

Exhibit 10



November 18, 2020

Via Email: gary@aguirrelawapc.com

Ms. Maria Pomares
P.O. Box 2532
Rancho Santa Fe, CA 92067

Re: Freedom of Information Act Tracking Numbers **21-01007-F; 21-01062-F; 21-01065-F;**
21-01069-F

Dear Ms. Pomares,

This is in response to your Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA) dated November 13, 2020, in which you seek:

1. All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue.
2. All FOIA requests received by the VA or any of its Administrations, Officers, and Centers that contain any of the following terms:
 - a. University of Phoenix,
 - b. Perdoceo,
 - c. Bellevue University,
 - d. Temple University,
 - e. Colorado Technical,
 - f. American InterContinental, and
 - g. Career Education.
3. All records released in electronic format in response to any of the FOIA requests identified in response to requests 1 and 2 above pursuant to 5 USCS § 522(a)(2)(D)(i).

The FOIA Service received your request on November 13, 2020, and assigned it FOIA tracking numbers **21-01007-F; 21-01062-F; 21-01065-F; and 21-01069-F**. Please refer to these numbers when communicating with the VA about this request.

The records you requested, if they exist, would be maintained at the Veterans Benefits Administration (VBA); Office of Enterprise Integration (OEI), Office of General Counsel (OGC) and the Office of Information and Technology (OI&T). Therefore, we are redirecting your request to these offices for a file search and a direct response to you. If you wish to know the status of your request, please contact them directly at the following addresses:

Department of Veterans Affairs
Attention: Angela C. Davis
VBA, (20M33) VACO
810 Vermont Avenue, NW
Washington, DC 20420
Email: foia.vbaco@va.gov
Phone: (202) 461-9516
Fax: (202) 632-8925

Questions regarding the status of your request, please refer to FOIA number **21-01062-F**, and contact Ms. Davis.

21-01007-F; 21-01062-F; 21-01065-F; 21-01069-F Ms. Pomares
Page 2

Department of Veterans Affairs
Attention: Jennifer Jessup
OEI, (008) VACO
810 Vermont Avenue, NW
Washington, DC 20420
Phone: (202) 632-5246
Fax: (202) 461-5326

Questions regarding the status of your request, please refer to FOIA number **21-01065-F**, and contact Ms. Jessup.

Department of Veterans Affairs
Attention: Michelle Jackson
OGC, (026H) VACO
810 Vermont Avenue, NW
Washington, DC 20420
Email: ogcfoiarequests@va.gov
Phone: (202) 461-7860
Fax: (202) 273-9299

Questions regarding the status of your request, please refer to FOIA number **21-01069-F**, and contact Ms. Jackson.

You have been placed in the “all other” category, which means the requester is responsible for the fees associated with search and duplication (excluding the cost of the first 2 hours or search and 100 pages. We will charge the hourly rate of the individual who conducts the search and review, 16% overhead to cover expenses, plus \$3.00 per CD.

While searching for records responsive to your request, under the Office of Information Technology’s FOIA Tracking number **21-01007-F**, our office located two hundred sixty-one (261) pages pertaining to your request at no cost to you. The documents are being released in full as processed by another office. You can download your documents at URL: https://www.va.gov/FOIA/Document_Retrieval.asp using password: s5B4KWh2Mpj.

This concludes the FOIA Service’s response to your request.

We appreciate your interest in the VA. If you have any questions concerning this letter, you may contact me.

Sincerely,

Doloras Johnson

Ms. Doloras Johnson
Director, VACO FOIA Service
Quality, Performance, and Risk (QPR)
Office of Information and Technology (OIT)

Exhibit 11



**Department of Veterans Affairs
Office of Inspector General
Washington, DC 20420**

December 8, 2020

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Delivered via email to: gary@aguirrelawapc.com

Dear Mr. Aguirre:

This is in response to your Freedom of Information Act (FOIA) request dated November 23, 2020 in which you asked for a copy of the following:

- 1) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue; and
- 2) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain any of the following terms:
 - a) University of Phoenix,
 - b) Perdoceo,
 - c) Bellevue University,
 - d) Temple University,
 - e) Colorado Technical,
 - t) American InterContinental, and
 - g) Career Education.

Your request was received in this office on November 23, 2020 and we assigned it FOIA Tracking Number 21-00078-FOIA to your request. Please refer to this number whenever communicating with VA OIG about your request.

We searched VA OIG records and found no records responsive to your request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our

requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may appeal the determination made in this response to: Department of Veterans Affairs, Office of Inspector General, Office of Counselor (50C), 810 Vermont Avenue NW, Washington, DC 20420, or by email to: VAOIGFOIA-Appeals@va.gov, or by fax to: (202) 495-5867. If you should choose to make an appeal, your appeal must be sent no later than ninety (90) calendar days after the date of this letter. Your appeal must include the assigned FOIA Tracking Number and any reason(s) why you believe the response was in error. If you choose to appeal only a portion of the determination, you must specify which part of the determination you are appealing. The appeal should include a copy of the request and VA's response. The appeal should be marked, or subject-titled, "Freedom of Information Act Appeal."

Sincerely,



Ruthlee G. Bellamy
Supervisory Government Information Specialist
VA OIG Release of Information Office

Exhibit 12

AGUIRRE LAW, APC



501 W BROADWAY, SUITE 800 · SAN DIEGO CA 92101 · PHONE: 619-400-4960 · GARY@AGUIRRELAWAPC.COM

By Electronic Mail to vaoigfoia-pa@va.gov and VAOIGFOIA-Appeals@va.gov
and First-Class Mail

December 10, 2020

Department of Veterans Affairs
Office of Inspector General
Office of Counselor (50C)
810 Vermont Avenue
NW, Washington, DC 20420

Ruthlee G. Bellamy
Supervisory Government Information Specialist
VA OIG Release of Information Office
810 Vermont Avenue, NW
Washington, DC 20420

Re: Appeal of Decision in FOIA Request No. 21-00078-FOIA

Dear Madam or Sir and Ms. Bellamy:

By this letter, as attorney for Maria Pomares, I serve notice that Ms. Pomares is appealing the decision of the VA OIG Release of Information Office, in its letter of December 8, 2020, (Attachment 1 hereto) in relation to FOIA Request No. 21-00078-FOIA, Attachment 2 hereto.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Aguirre'.

Gary J. Aguirre

Enclosures

Attachment 1



**Department of Veterans Affairs
Office of Inspector General
Washington, DC 20420**

December 8, 2020

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Delivered via email to: gary@aguirrelawapc.com

Dear Mr. Aguirre:

This is in response to your Freedom of Information Act (FOIA) request dated November 23, 2020 in which you asked for a copy of the following:

- 1) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue; and
- 2) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain any of the following terms:
 - a) University of Phoenix,
 - b) Perdoceo,
 - c) Bellevue University,
 - d) Temple University,
 - e) Colorado Technical,
 - t) American InterContinental, and
 - g) Career Education.

Your request was received in this office on November 23, 2020 and we assigned it FOIA Tracking Number 21-00078-FOIA to your request. Please refer to this number whenever communicating with VA OIG about your request.

We searched VA OIG records and found no records responsive to your request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our

requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may appeal the determination made in this response to: Department of Veterans Affairs, Office of Inspector General, Office of Counselor (50C), 810 Vermont Avenue NW, Washington, DC 20420, or by email to: VAOIGFOIA-Appeals@va.gov, or by fax to: (202) 495-5867. If you should choose to make an appeal, your appeal must be sent no later than ninety (90) calendar days after the date of this letter. Your appeal must include the assigned FOIA Tracking Number and any reason(s) why you believe the response was in error. If you choose to appeal only a portion of the determination, you must specify which part of the determination you are appealing. The appeal should include a copy of the request and VA's response. The appeal should be marked, or subject-titled, "Freedom of Information Act Appeal."

Sincerely,



Ruthlee G. Bellamy
Supervisory Government Information Specialist
VA OIG Release of Information Office

Attachment 2

MARIA POMARES
mapojava@gmail.com

P.O. Box 2532
Rancho Santa Fe, CA 92067

Via Electronic Mail to yacofiaservice@va.gov and First-Class Mail

November 13, 2020

John Buck
Director
FOIA SERVICE
Department of Veterans Affairs
810 Vermont Avenue, NW
(005R1C) VACO
Washington, DC 20420

William Hudson
General Counsel and Principal Deputy Counsel
Office of the General Counsel
Department of Veterans Affairs
810 Vermont Avenue, NW
(026H) VACO
Washington, DC 20420

Paul R. Lawrence, PhD
Under Secretary for Benefits
Veterans Benefits Administration
810 Vermont Avenue, NW
(20M33) VACO
Washington, DC 20420

James P. Gfrerer
Assistant Secretary for IT
and Chief Information Officer
Office of Information Technology
Department of Veterans Affairs
FOIA Service Team Lead (005R1C)
810 Vermont Avenue, NW
Washington, DC 20420

Re: Freedom of Information Act Request

Dear Messrs. Buck, Hudson, Lawrence and Gferer:

In accordance with the applicable provisions of the Freedom of Information Act, I hereby request access to and copies of the records specified below.

The records are believed to be in the possession, custody or control of the United States Department of Veterans Affairs (“VA”), the Veterans Benefits Administration, and its other Administrations, Offices, and Centers that maintain their own FOIA processing facilities.

I have drafted the requests below so the persons conducting the searches may locate the requested records (emails) with electronic searches (rather than manual searches) using the search terms, email addresses, and domain names specified below. I therefore request the VA “to make reasonable efforts to search for the records in electronic form or format,” as required by 5 USCS § 552(a)(3)(C).¹

I am also requesting the VA to release the records to me as a PST file, to the extent they are comprised of emails and all other records in PDF format in compliance with 5 USCS § 552(a)(3)(B).²

I am also requesting the VA and its Administrations, Offices, and Centers to release all records requested below pursuant to 552(a)(2)(D)(i).³

With this letter, I seek the following VA records:

- 1) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue.
- 2) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain any of the following terms:
 - a) University of Phoenix,
 - b) Perdoceo,
 - c) Bellevue University,
 - d) Temple University,
 - e) Colorado Technical,
 - f) American InterContinental, and
 - g) Career Education.

¹ 5 USCS § 552(a)(3)(C), which requires: “In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency’s automated information system.”

² 5 USCS § 552(a)(3)(B): “In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.”

³ 5 USCS § 552(a)(2)(D)(i): “Each agency, in accordance with published rules, shall make available for public inspection in an electronic format—copies of all records, regardless of form or format—

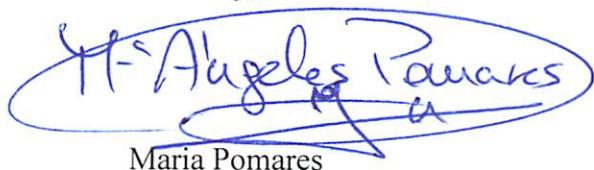
(i) that have been released to any person under paragraph (3).”

- 3) All records released in electronic format in response to any of the FOIA requests identified in response to requests 1 and 2 above pursuant to 5 USCS § 552(a)(2)(D)(i).

Please direct all communications regarding these FOIA requests to my attorney, Gary J. Aguirre, who is available by phone at 202-549-3802 and by email at gary@aguirrelawapc.com.

I will pay the reasonable research and duplication costs, but not to exceed \$250 without further authorization, for documents produced pursuant to this FOIA request.

Sincerely,

A handwritten signature in blue ink that reads "Maria Pomares". The signature is enclosed within a blue oval. Below the signature, the name "Maria Pomares" is printed in a standard black font.

Maria Pomares

Exhibit 13



**Department of Veterans Affairs
Office of Inspector General
Washington, DC 20420**

December 17, 2020

Gary J. Aguirre, Attorney
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
[Sent via: gary@aguirrelawapc.com]

Ref: FOIA Appeal # 21-00004-APP for FOIA # 21-00078-FOIA

Mr. Aguirre:

This letter responds to your FOIA appeal, on behalf of your client Maria Pomares, received on December 14, 2020, of the referenced Department of Veterans Affairs Office of the Inspector General (VA OIG) FOIA response. As background, your Freedom of Information Act (FOIA) request dated November 13, 2020, requested a copy of any FOIA requests that included specific terms and the request was addressed to the VA Central Office FOIA Service (VACO FOIA) and others. The request provided no time frame for the search. On November 17, 2020, the request was forwarded by VACO FOIA to VA OIG to search for any responsive records in VA OIG systems. The VA OIG FOIA Office responded on December 8, 2020, as follows: "We searched VA OIG records and found no records responsive to your request." As further explained below, I find the VA OIG FOIA Office did not conduct an adequate search and I am remanding the FOIA file to that office to conduct a new search.

Your appeal of this "no records" response challenges the adequacy of the search conducted by the FOIA staff. The courts have set two standards relevant to this issue, one standard for the sufficiency of the request and another for the adequacy of the search. The courts have held that a description of a requested record is sufficient if it enables a professional agency employee familiar with the subject area to locate the record with a reasonable amount of effort. *See, e.g., Truitt v. Dep't of State*, 897 F.2d 540, 544-45 (D.C. Cir. 1990). Consistent with this precedent, the regulation that establishes the requirements for a valid FOIA request for VA records, 38 C.F.R. §1.554, provides that requests that lack specificity may be considered "not reasonably described". The courts have found record searches to be adequate when, among other things, they are based on a reasonable interpretation of the scope of the subject matter of the request. *See, e.g., Larson v. Dep't of State*, 565 F.3d 857, 869 (D.C. Cir. 2009) (affirming adequacy of

search based on agency's reasonable determination regarding records being requested and searched accordingly).

The system that is relevant to the request is the VA OIG version of the same FOIA request tracking and management software used by VACO FOIA, but the two systems do not interface.¹ The records are maintained locally, consistent with the relevant System of Records Notice, 119VA005R1C, FOIA Records – VA, 80 FR 215 (Nov. 5, 2015) and kept for six years, consistent with General Records Schedule 4.2, Disposition Authority DAA-GRS2016-0002-0001. For most requests, the FOIA staff can search this system by certain identifiers including, for example, by case number, or by requester, or by terms and phrases in the Description field. Based on some of the terms in the request, for the purposes of this appeal, I conducted a sample search, which produced some results from requests that were several years old. I then queried the FOIA Supervisor, who explained the staff searched only from one year prior, in order to interpret an insufficiently described request reasonably. Balancing the standards for a sufficient request with the standards for an adequate search, I considered that the staff could have communicated with the requester to interpret the scope of the request, and that a search of the existing universe of records was not unreasonably burdensome, given that it was limited by the record schedule to six years, which was not unreasonably burdensome under the circumstances. Under these facts, I conclude that the staff did not conduct an adequate search.

Therefore, I find that the FOIA staff did not conduct an adequate search, and I am remanding the FOIA file back to the VA OIG FOIA Office and directing they conduct a new search and provide a new final response. If you remain unsatisfied following their response, you can appeal again via VAOIGFOIA-Appeals@va.gov.

Respectfully,

Christopher Connor

Christopher Connor
Chief, Information Release Office (50CI)

Copy to: VA OIG FOIA Office

¹ The VA OIG maintains a FOIA tracking system that is separate from the one maintained by the main Department of Veterans Affairs, in order to preserve the VA OIG's independence under the Inspector General Act of 1978, as amended.

Exhibit 14



**Department of Veterans Affairs
Office of Inspector General
Washington, DC 20420**

December 23, 2020

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Sent via email to: gary@aguirrelawapc.com

Dear Mr. Aguirre:

This is in response to your Freedom of Information Act (FOIA) Appeal no. 21-00004-APP and FOIA Request no. 21-00078-FOIA. Your FOIA request and Appeal has been remanded to have an additional search conducted for the following:

- 1) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue.
- 2) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain any of the following terms:
 - a) University of Phoenix,
 - b) Perdoceo,
 - c) Bellevue University,
 - d) Temple University,
 - e) Colorado Technical,
 - t) American InterContinental, and
 - g) Career Education.

We have conducted another search extending the search period from FY 2014 to present. We have enclosed a redacted copy of the requested records consisting of nine (9) pages. However, we are withholding all information which, if disclosed, would constitute a clearly unwarranted invasion of an individual's personal privacy under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6). Specifically, names, email addresses and other information which could reveal the identity of individuals mentioned in the records have been withheld. We do not find any public interest that outweighs the privacy interests of the individuals.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c)

(2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may appeal the determination made in this response to: Department of Veterans Affairs, Office of Inspector General, Office of Counselor (50C), 810 Vermont Avenue NW, Washington, DC 20420, or by email to: VAOIGFOIA-Appeals@va.gov, or by fax to: (202) 495-5867. If you should choose to make an appeal, your appeal must be sent no later than ninety (90) calendar days after the date of this letter. Your appeal must include the assigned FOIA Tracking Number and any reason(s) why you believe the response was in error. If you choose to appeal only a portion of the determination, you must specify which part of the determination you are appealing. The appeal should include a copy of the request and VA's response. The appeal should be marked, or subject-titled, "Freedom of Information Act Appeal."

Sincerely,



Ruthlee G. Bellamy
Supervisory Government Information Specialist
VA OIG Release of Information Office

Enclosures

Exhibit 15

AGUIRRE LAW, APC



501 W BROADWAY, SUITE 800 · SAN DIEGO CA 92101 · PHONE: 619-400-4960 · GARY@AGUIRRELAWAPC.COM

By Electronic Mail to VAOIGFOIA-Appeals@va.gov

December 24, 2020

Department of Veterans Affairs
Office of Inspector General
Office of Counselor (50C)
810 Vermont Avenue NW
Washington, DC 20420

Re: Appeal of Decision in FOIA Appeal no. 21-00004-APP
and FOIA Request no. 21-00078-FOIA

Dear Madam or Sir:

By this letter, as attorney for Maria Pomares, I serve notice that Ms. Pomares is appealing the decision of the VA OIG, in its letter of December 23, 2020, (Attachment 1 hereto) in relation to FOIA Appeal no. 21-00004-APP and FOIA Request no. 21-00078-FOIA, Attachment 2 hereto.

This appeal is based on two grounds. First, there was an inadequate search for records. Second, Exemption 6 was improperly asserted.

Sincerely,

A handwritten signature in blue ink, appearing to read 'G. Aguirre'.

Gary J. Aguirre

Enclosures

Attachment 1



**Department of Veterans Affairs
Office of Inspector General
Washington, DC 20420**

December 23, 2020

Gary J. Aguirre
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
Sent via email to: gary@aguirrelawapc.com

Dear Mr. Aguirre:

This is in response to your Freedom of Information Act (FOIA) Appeal no. 21-00004-APP and FOIA Request no. 21-00078-FOIA. Your FOIA request and Appeal has been remanded to have an additional search conducted for the following:

- 1) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue.
- 2) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain any of the following terms:
 - a) University of Phoenix,
 - b) Perdoceo,
 - c) Bellevue University,
 - d) Temple University,
 - e) Colorado Technical,
 - t) American InterContinental, and
 - g) Career Education.

We have conducted another search extending the search period from FY 2014 to present. We have enclosed a redacted copy of the requested records consisting of nine (9) pages. However, we are withholding all information which, if disclosed, would constitute a clearly unwarranted invasion of an individual's personal privacy under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6). Specifically, names, email addresses and other information which could reveal the identity of individuals mentioned in the records have been withheld. We do not find any public interest that outweighs the privacy interests of the individuals.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c)

(2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may appeal the determination made in this response to: Department of Veterans Affairs, Office of Inspector General, Office of Counselor (50C), 810 Vermont Avenue NW, Washington, DC 20420, or by email to: VAOIGFOIA-Appeals@va.gov, or by fax to: (202) 495-5867. If you should choose to make an appeal, your appeal must be sent no later than ninety (90) calendar days after the date of this letter. Your appeal must include the assigned FOIA Tracking Number and any reason(s) why you believe the response was in error. If you choose to appeal only a portion of the determination, you must specify which part of the determination you are appealing. The appeal should include a copy of the request and VA's response. The appeal should be marked, or subject-titled, "Freedom of Information Act Appeal."

Sincerely,



Ruthlee G. Bellamy
Supervisory Government Information Specialist
VA OIG Release of Information Office

Enclosures

Attachment 2

MARIA POMARES
mapojava@gmail.com

P.O. Box 2532
Rancho Santa Fe, CA 92067

Via Electronic Mail to yacofiaservice@va.gov and First-Class Mail

November 13, 2020

John Buck
Director
FOIA SERVICE
Department of Veterans Affairs
810 Vermont Avenue, NW
(005R1C) VACO
Washington, DC 20420

William Hudson
General Counsel and Principal Deputy Counsel
Office of the General Counsel
Department of Veterans Affairs
810 Vermont Avenue, NW
(026H) VACO
Washington, DC 20420

Paul R. Lawrence, PhD
Under Secretary for Benefits
Veterans Benefits Administration
810 Vermont Avenue, NW
(20M33) VACO
Washington, DC 20420

James P. Gfrerer
Assistant Secretary for IT
and Chief Information Officer
Office of Information Technology
Department of Veterans Affairs
FOIA Service Team Lead (005R1C)
810 Vermont Avenue, NW
Washington, DC 20420

Re: Freedom of Information Act Request

Dear Messrs. Buck, Hudson, Lawrence and Gferer:

In accordance with the applicable provisions of the Freedom of Information Act, I hereby request access to and copies of the records specified below.

The records are believed to be in the possession, custody or control of the United States Department of Veterans Affairs (“VA”), the Veterans Benefits Administration, and its other Administrations, Offices, and Centers that maintain their own FOIA processing facilities.

I have drafted the requests below so the persons conducting the searches may locate the requested records (emails) with electronic searches (rather than manual searches) using the search terms, email addresses, and domain names specified below. I therefore request the VA “to make reasonable efforts to search for the records in electronic form or format,” as required by 5 USCS § 552(a)(3)(C).¹

I am also requesting the VA to release the records to me as a PST file, to the extent they are comprised of emails and all other records in PDF format in compliance with 5 USCS § 552(a)(3)(B)².

I am also requesting the VA and its Administrations, Offices, and Centers to release all records requested below pursuant to 552(a)(2)(D)(i).³

With this letter, I seek the following VA records:

- 1) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain the following name: Charmain Bogue.
- 2) All FOIA requests received by the VA or any of its Administrations, Offices, and Centers that contain any of the following terms:
 - a) University of Phoenix,
 - b) Perdoceo,
 - c) Bellevue University,
 - d) Temple University,
 - e) Colorado Technical,
 - f) American InterContinental, and
 - g) Career Education.

¹ 5 USCS § 552(a)(3)(C), which requires: “In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency’s automated information system.”

² 5 USCS § 552(a)(3)(B): “In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.”

³ 5 USCS § 552(a)(2)(D)(i): “Each agency, in accordance with published rules, shall make available for public inspection in an electronic format—copies of all records, regardless of form or format—

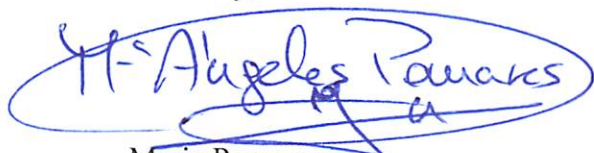
(i) that have been released to any person under paragraph (3).”

- 3) All records released in electronic format in response to any of the FOIA requests identified in response to requests 1 and 2 above pursuant to 5 USCS § 552(a)(2)(D)(i).

Please direct all communications regarding these FOIA requests to my attorney, Gary J. Aguirre, who is available by phone at 202-549-3802 and by email at gary@aguirrelawapc.com.

I will pay the reasonable research and duplication costs, but not to exceed \$250 without further authorization, for documents produced pursuant to this FOIA request.

Sincerely,



Maria Pomares

Exhibit 16



**Department of Veterans Affairs
Office of Inspector General
Washington, DC 20420**

December 28, 2020

Gary J. Aguirre, Attorney
Aguirre Law, APC
501 W. Broadway, Suite 800
San Diego, CA 92101
[Sent via: gary@aguirrelawapc.com]

Ref: FOIA Appeal # 21-00006-APP for FOIA # 21-00078-FOIA

Mr. Aguirre:

This letter responds to your FOIA appeal, on behalf of your client, Maria Pomares, received on December 24, 2020, of the referenced Department of Veterans Affairs Office of the Inspector General (VA OIG) FOIA response. As background, your client's November 13, 2020, request to the VA Central Office FOIA Service (VACO FOIA) for FOIA requests containing specific terms was forwarded by VACO FOIA to VA OIG for a direct response pertaining to those records under VA OIG control. On December 23, the VA OIG FOIA Office partially granted the request with redactions for information protected by FOIA Exemptions 6, 5 U.S.C. § 552 (b)(6), to protect individual privacy. In your letter, you assert two bases for the appeal: "First, there was an inadequate search for records. Second, Exemption 6 was improperly asserted." I will respond to each asserted error separately.

First, the appeal challenges the adequacy and reasonableness of the search conducted by the FOIA staff. The courts have found record searches to be adequate when, among other things, they are based on a reasonable interpretation of the scope of the subject matter of the request. *See, e.g., Larson v. Dep't of State*, 565 F.3d 857, 869 (D.C. Cir. 2009) (affirming adequacy of search based on agency's reasonable determination regarding records being requested and searched accordingly). After a review of the FOIA file, including the request, and the relevant VA OIG record system, I find the search by the FOIA staff was adequate and reasonable.

Second, the appeal asserts the FOIA staff improperly applied FOIA Exemption 6. The courts have interpreted FOIA Exemption 6 to require agencies to protect any substantial privacy interests from unwarranted invasions; and the term "unwarranted" requires agencies to balance individual privacy interests against the public interest in the disclosure of facts relating to the administration of government operations. *See,*

Washington Post Co. v. Dep't of Health & Human Services, 690 F.2d 252 (D.C. Cir. 1982). Further, the courts have held that the public interest in the administration of government operations, not an interest specific to the requester, must be balanced against any substantial privacy interests. *Dep't of Justice v. Reporters Comm.*, 489 U.S. 749, at 771 (1989); see also, *National Archives and Records Administration v. Favish*, 541 U.S. 157, at 170-72 (2004). After a review of the FOIA file, I find the FOIA staff reasonably found no public interest to outweigh the substantial privacy interests in the portions withheld under FOIA Exemption 6.

Therefore, after a review of the appeal, the relevant record system, and the FOIA file, I find the FOIA response was proper and the appeal is denied. This is the final decision of the Department of Veterans Affairs on your appeal. The FOIA requires that I advise that, if you believe the Department erred in this decision, you have the right to file a complaint with the appropriate United States District Court. The FOIA also requires I advise that FOIA requesters 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 as non-exclusive alternatives to litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Please note that OGIS does not have the authority to mediate Privacy Act requests.

Respectfully,

Christopher Connor

Christopher Connor
Chief, Office of Information Release (50CI)

Copy to: VA OIG FOIA Office