

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN OVERSIGHT, 1030 15th Street NW, B255 Washington, DC 20005)	
)	
)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Case No. 18-2582
)	
U.S. DEPARTMENT OF EDUCATION, 400 Maryland Avenue SW Washington, DC 20202)	
)	
)	
<i>Defendant.</i>)	

COMPLAINT

1. Plaintiff American Oversight brings this action against the U.S. Department of Education under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking declaratory and injunctive relief to compel compliance with the requirements of FOIA.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201, and 2202.

3. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

4. Because Defendant has failed to comply with the applicable time-limit provisions of the FOIA, American Oversight is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and is now entitled to judicial action enjoining Defendant

from continuing to withhold agency records and ordering the production of agency records improperly withheld.

PARTIES

5. Plaintiff American Oversight is a nonpartisan, non-profit section 501(c)(3) organization primarily engaged in disseminating information to the public. American Oversight is committed to the promotion of transparency in government, the education of the public about government activities, and ensuring the accountability of government officials. Through research and FOIA requests, American Oversight uses the information it gathers, and its analysis of it, to educate the public about the activities and operations of the federal government through reports, published analyses, press releases, and other media. The organization is incorporated under the laws of the District of Columbia.

6. Defendant U.S. Department of Education (Education) is a department of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). Education has possession, custody, and control of the records that American Oversight seeks.

STATEMENT OF FACTS

Decision Memoranda Request

7. On April 27, 2018, American Oversight submitted a FOIA request to Education, seeking the following records:

All decision memoranda, directives, policy interpretations, or policy guidance related to the borrower defense rule signed, approved, or otherwise adopted by any of the following:

- Secretary DeVos
- The Deputy Secretary
- The Under Secretary
- The Assistant Secretary for Postsecondary Education

- The Deputy Assistant Secretary for Higher Education Programs
- The Deputy Assistant Secretary for Policy, Planning, and Innovation
- The Assistant Secretary for Career, Technical, and Adult Education
- The General Counsel
- The Deputy General Counsel for Postsecondary Service
- Any other political appointee, SES employee, or person holding an administratively determined position in the Office of the Secretary, the Office of the Deputy Secretary, the Office of the Under Secretary, the Office of the Assistant Secretary for Postsecondary Education, the Office of Higher Education Programs, the Office of Policy, Planning, and Innovation, the Office of Career, Technical, and Adult Education, or the Office of the General Counsel.

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

8. Education assigned the request tracking number 18-01727-F.
9. American Oversight has received no further communication from Education

regarding the processing of its FOIA request.

Presidential Communications Request

10. On April 27, 2018, American Oversight submitted a FOIA request to Education, seeking the following records:

- 1) All communications regarding the borrower defense rule between any of the individuals listed below and anyone in the Executive Office of the President (including anyone using an eop.gov email address)
 - Secretary DeVos
 - The Deputy Secretary
 - The Under Secretary
 - The Assistant Secretary for Postsecondary Education
 - The Deputy Assistant Secretary for Higher Education Programs

- The Deputy Assistant Secretary for Policy, Planning, and Innovation
 - The Assistant Secretary for Career, Technical, and Adult Education
 - The General Counsel
 - The Deputy General Counsel for Postsecondary Service
 - Any other political appointee, SES employee, or person holding an administratively determined position in the Office of the Secretary, the Office of the Deputy Secretary, the Office of the Under Secretary, the Office of the Assistant Secretary for Postsecondary Education, the Office of Higher Education Programs, the Office of Policy, Planning, and Innovation, the Office of Career, Technical, and Adult Education, or the Office of the General Counsel
 - Anyone acting on behalf of any of the individuals listed above, such as administrative assistants or chiefs of staff
- 2) All calendar entries for the individuals listed below that relate to the borrower defense rule and include any individual from the Executive Office of the President (including anyone using an eop.gov email address) as an invitee or participant.

- Secretary DeVos
- The Deputy Secretary
- The Under Secretary
- The Assistant Secretary for Postsecondary Education
- The Deputy Assistant Secretary for Higher Education Programs
- The Deputy Assistant Secretary for Policy, Planning, and Innovation
- The Assistant Secretary for Career, Technical, and Adult Education
- The General Counsel
- The Deputy General Counsel for Postsecondary Service
- Any other political appointee, SES employee, or person holding an administratively determined position in the Office of the Secretary, the Office of the Deputy Secretary, the Office of the Under Secretary, the Office of the Assistant Secretary for Postsecondary Education, the Office of Higher Education Programs, the Office of Policy, Planning, and Innovation, the Office of Career, Technical, and Adult Education, or the Office of the General Counsel

- Anyone acting on behalf of any of the individuals listed above, such as administrative assistants or chiefs of staff

For calendar entries created in Outlook or similar programs, the documents should be produced in “memo” form to include all invitees, any notes, and all attachments. Please do not limit your search to Outlook calendars—we request the production of any calendar—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

11. Education assigned the request tracking number 18-01730-F.
12. American Oversight has received no further communication from Education

regarding the processing of its FOIA request.

Congressional Communications Request

13. On April 27, 2018, American Oversight submitted a FOIA request to Education, seeking the following records:

- 1) All communications regarding the borrower defense rule between any of the individuals listed below and any member of Congress or members of congressional staff (including anyone using an email address ending in senate.gov or mail.house.gov)
 - Secretary DeVos
 - The Deputy Secretary
 - The Under Secretary
 - The Assistant Secretary for Postsecondary Education
 - The Deputy Assistant Secretary for Higher Education Programs
 - The Deputy Assistant Secretary for Policy, Planning, and Innovation
 - The Assistant Secretary for Career, Technical, and Adult Education
 - The General Counsel
 - The Deputy General Counsel for Postsecondary Service
 - Any other political appointee, SES employee, or person holding an administratively determined position in the Office of the Secretary, the Office of the Deputy Secretary, the Office of the Under Secretary, the Office of the Assistant Secretary for Postsecondary Education, the Office of Higher Education Programs, the Office of Policy, Planning,

and Innovation, the Office of Career, Technical, and Adult Education, or the Office of the General Counsel

- Anyone acting on behalf of any of the individuals listed above, such as administrative assistants or chiefs of staff
- 2) All calendar entries for the individuals listed below that relate to the borrower defense rule and include any member of Congress or congressional staff (including anyone using an email address ending in senate.gov or mail.house.gov) as an invitee or participant.
- Secretary DeVos
 - The Deputy Secretary
 - The Under Secretary
 - The Assistant Secretary for Postsecondary Education
 - The Deputy Assistant Secretary for Higher Education Programs
 - The Deputy Assistant Secretary for Policy, Planning, and Innovation
 - The Assistant Secretary for Career, Technical, and Adult Education
 - The General Counsel
 - The Deputy General Counsel for Postsecondary Service
 - Any other political appointee, SES employee, or person holding an administratively determined position in the Office of the Secretary, the Deputy Secretary, the Under Secretary, the Office of the Assistant Secretary for Postsecondary Education, the Office of Higher Education Programs, the Office of Policy, Planning, and Innovation, the Office of Career, Technical, and Adult Education, or the Office of the General Counsel
 - Anyone acting on behalf of any of the individuals listed above, such as administrative assistants or chiefs of staff

For calendar entries created in Outlook or similar programs, the documents should be produced in “memo” form to include all invitees, any notes, and all attachments. Please do not limit your search to Outlook calendars—we request the production of any calendar—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

14. Education assigned the request tracking number 18-01732-F.
15. On November 2, 2018, Education notified American Oversight that this request had been forwarded “to the appropriate offices to search for documents that may be responsive to [the] request: Office of the Under Secretary (OUS), Office of the Secretary (OS), Office of

Postsecondary Education (OPE), Office of the General Counsel (OGC), Office of the Deputy Secretary (ODS), and Office of Career, Technical & Adult Education (OCTAE).”

16. In the same letter, Education stated that the “Staff in ODS and OCTAE informed the FOIA Services Center that after a thorough search of their files, they were unable to locate any documents that were responsive to [the] request.”

17. American Oversight has received no other communication from Education regarding the processing of its FOIA request.

School Communications Request

18. On April 27, 2018, American Oversight submitted a FOIA request to Education, seeking the following records:

- 1) All communications related to the borrower defense rule between any of the individuals listed in Category A below and any individual or representative of an entity listed in Category B below.
- 2) All calendar entries related to the borrower defense rule for any of the individuals listed in Category A below, if they also include any individual or representative of an entity listed in Category B below as an invitee or attendee:

Category A – Agency Officials	Category B – Outside Entities
<ul style="list-style-type: none"> • Secretary DeVos • The Deputy Secretary • The Under Secretary • The Assistant Secretary for Postsecondary Education • The Deputy Assistant Secretary for Higher Education Programs • The Deputy Assistant Secretary for Policy, Planning, and Innovation • The Assistant Secretary for Career, Technical, and Adult Education • The General Counsel • The Deputy General Counsel for Postsecondary Service • any other political appointee or SES employee in the Office of the 	<ul style="list-style-type: none"> • Adtalem Global Education (adlatem.com) <ul style="list-style-type: none"> ○ Lisa Wardell ○ Eric Dirst ○ Robert Paul ○ Liza Sodeika ○ Christopher Begley ○ DeVry University (devry.edu) ○ Keller Graduate School of Management (Keller.edu) ○ Ross University (rossu.edu) ○ Carrington College (carrington.edu)

Category A – Agency Officials	Category B – Outside Entities
<p>Secretary, the Deputy Secretary, the Under Secretary, the Office of the Assistant Secretary for Postsecondary Education, the Office of Higher Education Programs, the Office of Policy, Planning, and Innovation, the Office of Career, Technical, and Adult Education, or the Office of the General Counsel</p> <ul style="list-style-type: none"> • Anyone acting on behalf of any of the individuals listed above, such as administrative assistants or chiefs of staff 	<ul style="list-style-type: none"> ○ Chamberlain University (chamberlain.edu) • American Public Education (americanpubliceducation.org) <ul style="list-style-type: none"> ○ Wallace Boston ○ Richard Sunderland ○ Karan Powell ○ Barbara Fast ○ American Military University (amu.apus.edu) ○ American Public University (apu.apus.edu) • Apollo Education Group (apollo.edu) <ul style="list-style-type: none"> ○ Anthony Miller ○ Gregory Cappelli ○ Mark Brenner ○ Jeff Langenbach ○ Peter Cohen ○ Joan Blackwood ○ Byron Jones ○ Raghu Krishnaiah ○ University of Phoenix (phoenix.edu) • Bridgepoint Education (bridgepointeducation.com) <ul style="list-style-type: none"> ○ Andrew Clark ○ Kevin Royal ○ Tom McCarty ○ Vickie Schray ○ Ashford University (ashford.edu) ○ University of the Rockies (rockies.edu) • Capella Education (capellaeducation.com) <ul style="list-style-type: none"> ○ J. Kevin Gilligan ○ Steven Polacek ○ Ricahrd Senese ○ Andrew Watt ○ David Smith ○ Capella University (capella.edu)

Category A – Agency Officials	Category B – Outside Entities
	<ul style="list-style-type: none"> • Career Education Corporation (careered.com) <ul style="list-style-type: none"> ○ Todd Nelson ○ Andrew Cederoth ○ Andrew Hurst ○ John Kline ○ Colorado Technical University (coloradotech.edu) ○ American InterContinental University (aiuniv.edu) ○ Sanford-Brown (sanfordbrown.org) • Education Affiliates (edaff.com) <ul style="list-style-type: none"> ○ Duncan Anderson ○ Stephen Budosh • Education Corporation of America (ecacolleges.com) <ul style="list-style-type: none"> ○ Stu Reed ○ Christopher Boehm ○ Erin Shea ○ Roger Swartzwelder ○ John Woods ○ John Schuman ○ Dominic Fedele ○ Virginia College (vc.edu) ○ New England College of Business (necb.edu) • Education Management Corporation (edmc.edu) <ul style="list-style-type: none"> ○ Cynthia Baum ○ Frank Jalufka ○ Mark McEachen ○ Art Institutes (artinstitutes.edu) ○ South University (southuniversity.edu) ○ Argosy University (argosy.edu) • Global University Systems (globaluniversitysystems.com) <ul style="list-style-type: none"> ○ Aaron Etingen ○ Maurits Van Rooijen ○ Graeme Simpson

Category A – Agency Officials	Category B – Outside Entities
	<ul style="list-style-type: none"> • Grand Canyon University (gcu.edu) <ul style="list-style-type: none"> ○ Brian Mueller ○ Stan Meyer ○ Dan Bachus ○ Antoinette Farmer-Thompson • Graham Holdings (ghco.com) <ul style="list-style-type: none"> ○ Kaplan, Inc. (kaplan.com) ○ Don Graham ○ Andrew Rosen ○ Matthew Seelye ○ Gregory Marino ○ Kaplan University (kaplanuniversity.edu) • International Education Corporation (iecolleges.com) <ul style="list-style-type: none"> ○ Fardad Fateri ○ Shoukry Tiab ○ Sanjay Sardana ○ Mara Schteinschraber ○ Darcy Dauderis ○ Nader Timsah ○ Doug Min ○ Aaron Mortensen ○ UEI College (uei.edu) ○ Florida Career College (floridacareercollege.edu) ○ U.S. Colleges (uscmed.com) • Laureate Education, Inc. or Laureate International Universities (laureate.net) <ul style="list-style-type: none"> ○ Douglas Becker ○ Eilif Serck-Hanssen ○ Jonathan Kaplan ○ Paul Lussow ○ Ryan Bartelmay ○ Michael Coatrieux ○ Jen Briar ○ Lee McGee ○ Marvin Malecha ○ Vivian Sanchez ○ Leonard Zegarski ○ Christine Guevara

Category A – Agency Officials	Category B – Outside Entities
	<ul style="list-style-type: none"> ○ Susan Fairbairn ○ Bonnie Copeland ○ Eric Riedel ○ Kendall College (kendall.edu) ○ NewSchool of Architecture (newschoolarch.edu) ○ Santa Fe University of Art and Design (santafeuniversity.edu) ○ Walden University (waldenu.edu) ● Lincoln Group of Schools or Lincoln Educational Services Corporation (lincolneducationalservices.com) <ul style="list-style-type: none"> ○ Scott Shaw ○ J. Barry Morrow ○ Brian Meyers ○ Ami Bhandari ○ Peter Tahinos ○ Lincoln Tech (lincolntech.edu) <ul style="list-style-type: none"> ▪ Lincoln Technical Institute ▪ Lincoln College of Technology ▪ Euphoria Institute ○ Lincoln College of New England (lincolncollegene.edu) ● Linden Education Partners or Boutique Universities Consortium (lindeneducationpartners.com) <ul style="list-style-type: none"> ○ Oksana Malysheva ○ Josef Merrill ○ Rosanna DePinto ○ United States University (usuniversity.edu) ○ University of the Potomac (potomac.edu) ○ Brookline College (brooklinecollege.edu)

Category A – Agency Officials	Category B – Outside Entities
	<ul style="list-style-type: none"> • Premier Education Group (premiereducationgroup.com) <ul style="list-style-type: none"> ○ Gary Camp ○ Nick Hastain ○ American College for Medical Careers (acmc.edu) ○ Branford Hall Career Institute (branfordhall.edu) ○ Harris Casel University (harriscasel.com) ○ Harris School of Business (harrisschool.edu) ○ Salter College (saltercollege.com) ○ Salter School (salterschool.com) ○ Salter School of Nursing (salternursing.com) ○ Seacoast Career Schools (seacoastcareerschools.edu) • Quad Partners (quadpartners.com) <ul style="list-style-type: none"> ○ Lincoln Frank ○ Daniel Neuwirth ○ Russell Dritz ○ James Tieng ○ Connor O’Keefe ○ Lauren Klein ○ Linda Diaz ○ Basil Katsamakis ○ Malcolm Youngren ○ William Bernard ○ Beckfield College (beckfield.edu) ○ Blue Cliff College (bluecliffcollege.com) ○ Dorsey (dorsey.edu) ○ Endeavor Schools (endeavorschools.com) • Strayer Education Inc. (strayereducation.com) <ul style="list-style-type: none"> ○ Robert Silberman

Category A – Agency Officials	Category B – Outside Entities
	<ul style="list-style-type: none"> ○ Karl McDonnell ○ Daniel Jackson ○ Strayer University (strayer.edu) ● Universal Technical Institute (uit.edu) <ul style="list-style-type: none"> ○ Kimberly (Kim) Waters ○ Bryce Peterson ○ Chad Freed ○ Sherrell Smith ○ Piper Jameson ○ Rhonda Turner ● Zenith Education Group (zenith.org) <ul style="list-style-type: none"> ○ Peter Taylor ○ Mary Ostrye ○ Todd Allard ○ Jim Gilbertson ○ Karen Turner ○ Altierus (altierus.org) ○ Wyotech (wyotech.edu) ○ Everest (everestonline.edu) ● Vatterott College (vatterott.edu)

For both requests, the search should include individuals and entities in Category B both as keyword search terms and as entries in the to/from/cc/bcc fields of emails or calendar entries/invitations.

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

19. Education assigned the request tracking number 18-01734-F.
20. American Oversight has received no further communication from Education regarding the processing of its FOIA request.

Lobbying Communications Request

21. On April 27, 2018, American Oversight submitted a FOIA request to Education, seeking the following records:

- 1) All communications related to the borrower defense rule between any of the individuals listed in Category A below and any individual or representative of an entity listed in Category B below.
- 2) All calendar entries related to the borrower defense rule for any of the individuals listed in Category A below, if they also include any individual or representative of an entity listed in Category B below as an invitee or attendee:

Category A – Agency Officials	Category B – Outside Groups
<ul style="list-style-type: none"> • Secretary DeVos • The Deputy Secretary • The Under Secretary • The Assistant Secretary for Postsecondary Education • The Deputy Assistant Secretary for Higher Education Programs • The Deputy Assistant Secretary for Policy, Planning, and Innovation • The Assistant Secretary for Career, Technical, and Adult Education • The General Counsel • The Deputy General Counsel for Postsecondary Service • Any other political appointee or SES employee in the Office of the Secretary, the Deputy Secretary, the Under Secretary, the Office of the Assistant Secretary for Postsecondary Education, the Office of Higher Education Programs, the Office of Policy, Planning, and Innovation, the Office of Career, Technical, and Adult Education, or the Office of the General Counsel • Anyone acting on behalf of any of the individuals listed above, such as administrative assistants or chiefs of staff 	<ul style="list-style-type: none"> • Career Education Colleges and Universities (career.org) • Steve Gunderson • Dentons US (dentons.com) • MoeVela LLC (moevela.com) • Thompson Coburn LLP (thompsoncoburn.com) • Brownstein Hyatt Farber Schreck LLP (bhfs.com) • Crossroads Strategies (crshq.com) • Penn Hill Group (pennhillgroup.com) • Subject Matter (teamsubjectmatter.com) • Signal Group (signalgroupdc.com) • Podesta Group (Podesta.com) • Henry Bonilla • Center for Excellence in Higher Education (cehe.org) • Carl Barney • Eric Juhlin • Barnes Thornburg (btlaw.com) • Mercury (mercuryllc.com) • Heritage Foundation (heritage.org) • Heritage Action for America (heritageaction.com) • U.S. Chamber of Commerce (uschamber.org) • American Enterprise Institute (aei.org) • American Action Network (americanactionnetwork.org)

Category A – Agency Officials	Category B – Outside Groups
	<ul style="list-style-type: none"> • Hoover Institution (hoover.org) • Cato Institute (cato.org) • American Legislative Exchange Council (ALEC) (alec.org)

For both requests, the search should include individuals and entities in Category B both as keyword search terms and as entries in the to/from/cc/bcc fields of emails or calendar entries/invitations.

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

22. Education assigned the request tracking number 18-01737-F.
23. American Oversight has received no further communication from Education regarding the processing of its FOIA request.

Financial Responsibility Subcommittee Request

24. On April 27, 2018, American Oversight submitted a FOIA request to Education, seeking the following records:

- 1) All materials prepared for Financial Responsibility Subcommittee meetings, including all documents circulated to subcommittee members in advance of or at subcommittee meetings.
- 2) All records reflecting agendas, attendees, minutes, or notes related to any Financial Responsibility Subcommittee meeting.
- 3) All records reflecting other communications (including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar entries/invitations, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) between John Kolotos or any other employee of the Department of Education and any member of the Financial Responsibility Subcommittee, namely:
 - John Palmucci
 - Jonathan Tarnow
 - Julianne Malveaux
 - Dale Larson
 - Dawnelle Robinson
 - Susan Menditto

- Ronald Salluzzo
 - Jeffrey Mechanick
- 4) All records of nominations received for membership in the Financial Responsibility Subcommittee.
 - 5) All records reflecting communications including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar entries/invitations, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) regarding the nomination of any person for membership on the Financial Responsibility Subcommittee between any official at the Department of Education and any person not using a .gov email address.
 - 6) All records reflecting guidance provided to members of the Financial Responsibility Subcommittee regarding the creation or preservation of federal records.

Please provide all responsive records from August 30, 2017, to the date the search is conducted.

25. Education assigned the request tracking number 18-01739-F.
26. American Oversight has received no further communication from Education regarding the processing of its FOIA request.

Exhaustion of Administrative Remedies

27. As of the date of this Complaint, Defendant has failed to (a) notify American Oversight of a final determination regarding its FOIA requests, including the full scope of any responsive records Defendant intends to produce or withhold and the reasons for any withholdings; or (b) produce the requested records or demonstrate that the requested records are lawfully exempt from production.

28. Through Defendant's failure to respond to American Oversight's FOIA requests within the time period required by law, American Oversight has constructively exhausted its administrative remedies and seeks immediate judicial review.

COUNT I

Violation of FOIA, 5 U.S.C. § 552

Failure to Conduct Adequate Search for Responsive Records

29. American Oversight repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

30. American Oversight properly requested records within the possession, custody, and control of Defendant.

31. Defendant is an agency subject to FOIA and must therefore make reasonable efforts to search for requested records.

32. Defendant has failed to promptly review agency records for the purpose of locating those records that are responsive to American Oversight's requests.

33. Defendant's failure to conduct an adequate search for responsive records violates FOIA.

34. Plaintiff American Oversight is therefore entitled to injunctive and declaratory relief requiring Defendant to promptly make reasonable efforts to search for records responsive to American Oversight's FOIA requests.

COUNT II

Violation of FOIA, 5 U.S.C. § 552

Wrongful Withholding of Non-Exempt Responsive Records

35. American Oversight repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

36. American Oversight properly requested records within the possession, custody, and control of Defendant.

37. Defendant is an agency subject to FOIA and must therefore release in response to FOIA requests any non-exempt records and provide a lawful reason for withholding any materials.

38. Defendant is wrongfully withholding non-exempt agency records requested by American Oversight by failing to produce non-exempt records responsive to its FOIA requests.

39. Defendant is wrongfully withholding non-exempt agency records requested by American Oversight by failing to segregate exempt information in otherwise non-exempt records responsive to American Oversight's FOIA requests.

40. Defendant's failure to provide all non-exempt responsive records violates FOIA.

41. Plaintiff American Oversight is therefore entitled to injunctive and declaratory relief requiring Defendant to promptly produce all non-exempt records responsive to its FOIA requests and provide indexes justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

WHEREFORE, American Oversight respectfully requests the Court to:

- (1) Order Defendant to conduct a search or searches reasonably calculated to uncover all records responsive to American Oversight's FOIA requests;
- (2) Order Defendant to produce, within twenty days of the Court's order, or by such other date as the Court deems appropriate, any and all non-exempt records responsive to American Oversight's FOIA requests and indexes justifying the withholding of any responsive records withheld under claim of exemption;
- (3) Enjoin Defendant from continuing to withhold any and all non-exempt records responsive to American Oversight's FOIA requests;

- (4) Award American Oversight the costs of this proceeding, including reasonable attorneys' fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (5) Grant American Oversight such other relief as the Court deems just and proper.

Dated: November 9, 2018

Respectfully submitted,

/s/ Hart W. Wood

Hart W. Wood

D.C. Bar No. 1034361

Elizabeth France

D.C. Bar No. 999851

John E. Bies

D.C. Bar No. 483730

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