

# Exhibit H



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May 10, 2018

**VIA ELECTRONIC MAIL**

Freedom of Information Officer  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 729H  
200 Independence Avenue, SW  
Washington, D.C. 20201  
FOIARequest@hhs.gov

Re: **Clarification Regarding Freedom of Information Act Request,  
Case No. 2018-00936-FOIA-OS**

Dear Freedom of Information Officer:

This letter is in response to the clarification letter from Michael S. Marquis, Director of the FOI/Privacy Acts Division at the Department of Health and Human Services (“HHS”), dated May 10, 2018. Specifically, the letter requests clarification of the records sought by Lambda Legal Defense and Education Fund, Inc. (“Lambda Legal”) through its Freedom of Information Act (“FOIA”) request, Case No. 2018-00936-FOIA-OS.

In its May 10, 2018 letter, HHS objected to the original request as “overly broad” because “any of the 79,000+ employees in the Department of Health and Human Services may have possession of responsive records” and “the organizations listed in ‘table A’ lack email domains.” In order to address HHS’s concerns, please be advised that Lambda Legal’s FOIA Request (Case No. 2018-00936-FOIA-OS) is clarified as follows:

**Clarification of Requested Records**

Lambda Legal requests that HHS produce the following within twenty business days of this request:

All records reflecting communications (including emails, email attachments, text messages, telephone call logs, calendar invitations/entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any responsive communications, summaries of any responsive communications, or other materials reflecting communications) between (a) any **political appointee** at HHS, including its component agencies, and (b) individuals at any of the organizations listed in Table A below.

<b>TABLE A</b>	
<b>Organization</b>	<b>Email Domain</b>
American Center for Law and Justice	@aclj.org
American Civil Rights Union	@theacru.org
American College of Pediatricians	@acpeds.org
Alliance Defending Freedom	@adflegal.org
American Family Association	@afa.net
Americans United for Life	@aul.org
American Values	@amvalue.org
Becket Fund for Religious Liberty	@becketlaw.org
Center for Constitutional Jurisprudence	@claremont.org
Claremont Institute	@claremont.org
Eagle Forum Education and Legal Defense Fund	@eagleforum.org
Family Research Council	@frc.org
Federalist Society	@fedsoc.org
First Liberty	@firstliberty.org
Freedom of Conscience Defense Fund	@fcdfllegal.org
Heritage Foundation	@heritage.org
Liberty Counsel	@lc.org
Liberty, Life, and Law Foundation	debcpalaw@earthlink.net
National Legal Foundation	@nlf.net
National Organization for Marriage	@nationformarriage.org
National Right to Life	@nrlc.org
Pacific Legal Foundation	@pacificlegal.org
The Rutherford Institute	@rutherford.org
Thomas More Society	@thomasmoresociety.org
United States Conference of Catholic Bishops	@usccb.org

“Political appointee” should be understood as any person who is a Presidential Appointee with Senate Confirmation (PAS), a Presidential Appointee (PA), a non-career SES, any Schedule C employees, or any persons hired under Temporary non-career SES Appointments, Limited Term SES Appointments, or Temporary Transitional Schedule C Appointments.

We request that you produce responsive materials from January 20, 2017, through the date your search is conducted.

Lambda Legal Clarification of FOIA Request  
Case No. 2018-00936-FOIA-OS  
May 10, 2018

We understand that the aforementioned limitation of custodians and provision of email domains should address the concerns expressed in your May 10, 2018 clarification letter. Specifically, the specification of political appointees as custodians to be searched addresses HHS's concern that the request left "too much open to interpretation as to which employee's email accounts should be searched for records responsive to your request." Similarly, the provision of email domains for the organizations listed in Table A addresses HHS's concern that the office of Information Technology Infrastructure Operations (ITIO) would be "unable to perform an adequate search lacking the email domains of the external entities named in table A of your request."

### **Conclusion**

In light of the clarification herein, we expect that HHS will no longer consider our FOIA Request (Case No. 2018-00936-FOIA-OS) to be "tolled" and that HHS will begin to process our FOIA Request promptly.

We look forward to working with HHS on this request. If you do not understand any part of the request, have any further questions, or foresee any problems in fully releasing the requested records as clarified herein, please contact Omar Gonzalez-Pagan at [ogonzalez-pagan@lambdalegal.org](mailto:ogonzalez-pagan@lambdalegal.org) or Erin Kelley at [ekelley@lambdalegal.org](mailto:ekelley@lambdalegal.org).

Thank you for your prompt response to this request. We look forward to your determination of this request within twenty business days.<sup>1</sup>

Sincerely,

LAMBDA LEGAL DEFENSE  
AND EDUCATION FUND, INC.

/s/ Omar Gonzalez-Pagan  
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<sup>1</sup> 5 U.S.C. § 552(a)(6)(A).