



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

January 20, 2021

Adam Honeysett  
Designated Federal Official  
Office of Communications and Outreach  
U.S. Department of Education  
400 Maryland Avenue SW, Room 7W220  
Washington, DC 20202

**Re: FACA Request for Records of 1776 Commission**

Dear Mr. Honeysett:

This is a request for records of the President's Advisory 1776 Commission ("1776 Commission") pursuant to the Federal Advisory Committee Act ("FACA").

Section 10(b) of FACA provides that

the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the office of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.<sup>1</sup>

The D.C. Circuit Court of Appeals has construed this provision as follows:

[U]nder section 10(b) of FACA an agency is generally obligated to make available for public inspection and copying all materials that were made available to or prepared for or by an advisory committee. Except with respect to those materials that the agency reasonably claims to be exempt from disclosure pursuant to FOIA, a member of the public need not request disclosure in order for FACA 10(b) materials to be made available. Thus, whenever practicable, all 10(b) materials must be available for public

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<sup>1</sup> 5 U.S.C. app. § 10(b).

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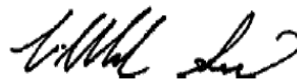
inspection and copying before or on the date of the advisory committee meeting to which they apply.<sup>2</sup>

The 1776 Commission was established by Executive Order dated November 2, 2020, and held open meetings pursuant to FACA on January 5 and 15, 2021.<sup>3</sup> Other than a report issued on January 18, 2021, it does not appear that the 1776 Commission has publicly released any of its records.

Pursuant to section 10(b) of FACA, we hereby request all “records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda[s] or other documents which were made available to or prepared for or by” the 1776 Commission—including by any of its members, ex-officio members, or contributors—in connection with the Commission’s January 5 and 15, 2021 meetings and its January 18, 2021 report. Please send the records to me at [nsus@citizensforethics.org](mailto:nsus@citizensforethics.org).

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikhel Sus".

Nikhel Sus  
Senior Counsel

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<sup>2</sup> *Food Chem. News v. HHS*, 980 F.2d 1468, 1469 (D.C. Cir. 1992).

<sup>3</sup> See 85 Fed. Reg. 84,323 (Dec. 28, 2020); 86 Fed. Reg. 2,402 (Jan. 12, 2021).