



May 28, 2021

U.S. Department of Education
Office of Management
Office of the Chief Privacy Officer
400 Maryland Ave., S.W.
LBJ 2W218-32
Washington, D.C. 20202-4536

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Education regulations. Specifically, CREW requests:

1. All communications from March 22, 2021 to the date this request is processed regarding bill S.879, the Civics Secures Democracy Act, between the Department of Education and any non-governmental organization, nonprofit, think tank, campaign, or other outside organization.
2. All records reflecting any meeting notes, summaries, agendas, minutes, calendar entries, or other records reflecting meetings or calls from March 22, 2021 to the date this request is processed regarding bill S.879, the Civics Secures Democracy Act.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

The Civics Secures Democracy Act was introduced on March 22, 2021.¹ Aiming to promote civics instruction in American K-12 classrooms, the bipartisan, bicameral bill provides funding for, and increases access to, civics and history education.² The proposed legislation creates a grant program for “eligible entities” such as local states, nonprofit organizations, civics educators, and higher education institutions in order to improve access to, and the quality of curricular resources for, K-12 civics and history courses.³ It also strengthens existing fellowship foundations and authorizes a new fellowship called the Prince Hall Civics Fellowship program, which is intended to diversify, and provide training for, the history and civics workforce.⁴

Since the bill was introduced, it has faced open opposition from a number of outside organizations, including the newly formed Civics Alliance, a coalition of the National Association of Scholars (NAS).⁵ Signatories of letters produced by the Civics Alliance include members of various non-governmental organizations, nonprofits, think tanks, and other organizations. On March 22, 2021, the Civics Alliance released an “Open Letter and Curricular Statement” opposing the proposed legislation.⁶ In it, the drafters of the letter asked for a “ban on political activism,” stating that civics curricular content “should ban any form of political activism, with no credit for and no encouragement of service learning, civic engagement, action civics, or any cognate activity.”⁷ Of note, the initial signatories of this letter include

¹ Congress. *Civics Secures Democracy Act*. March 22, 2021. *available at* <https://www.congress.gov/bill/117th-congress/senate-bill/879/text?module=bill&controller=bill&format=txt>.

² Congress. *Civics Secures Democracy Act*. March 22, 2021. *available at* <https://www.congress.gov/bill/117th-congress/senate-bill/879/text?module=bill&controller=bill&format=txt>.

³ Coons.senate.gov. “Sens. Coons, Cornyn and Reps DeLauro, Cole, Blumenauer introduce bipartisan, bicameral bill to expand access to and strengthen civics education.” March 11, 2021. *available at* <https://www.coons.senate.gov/news/press-releases/sens-coons-cornyn-and-reps-delauro-cole-blumenauer-introduce-bipartisan-bicameral-bill-to-expand-access-to-and-strengthen-civics-education>.

⁴ Coons.senate.gov. “Sens. Coons, Cornyn and Reps DeLauro, Cole, Blumenauer introduce bipartisan, bicameral bill to expand access to and strengthen civics education.” March 11, 2021. *available at* <https://www.coons.senate.gov/news/press-releases/sens-coons-cornyn-and-reps-delauro-cole-blumenauer-introduce-bipartisan-bicameral-bill-to-expand-access-to-and-strengthen-civics-education>.

⁵ Wood, Peter. *National Association of Scholars*. “Why We Need a Civics Alliance.” March 22, 2021. *available at* <https://www.nas.org/blogs/article/nas-announces-the-civics-alliance>.

⁶ *National Association of Scholars*. “The Civics Alliance: Open Letter and Curriculum Statement.” March 22, 2021. *available at* <https://www.nas.org/blogs/article/the-civics-alliance-open-letter-and-curriculum-statement>.

⁷ *National Association of Scholars*. “The Civics Alliance: Open Letter and Curriculum Statement.” March 22, 2021. *available at* <https://www.nas.org/blogs/article/the-civics-alliance-open-letter-and-curriculum-statement>.

representatives from groups who fanned lies of a stolen election⁸ and worked to restrict voting access on the basis of these lies.⁹ Following the aforementioned open letter, the Civics Alliance issued on May 3, 2021, an “Appeal to Senator John Cornyn and Congressmen Tom Cole,” the two Republican co-sponsors of the bill, urging them to withdraw their support of the Civics Secures Democracy Act.¹⁰ This open letter states that the funds the proposed legislation authorizes would “subsidize ideologically partisan political activism.”¹¹

The requested records would likely contribute to public understanding of who is seeking to challenge or influence the bill and why. The public deserves to know what role, if any, external organizations may be playing in impeding progress of the proposed legislation and in what ways the Department of Education may be responding to such efforts.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

⁸ See, e.g., *The American Mind* “The Fight is Now” November 5, 2020. *available at* <https://americanmind.org/salvo/the-fight-is-now/>

⁹ Berman, Ari and Nick Surgey. *Mother Jones* “Leaked Video: Dark Money Group Brags About Writing GOP Voter Suppression Bills Across the Country.” May 13, 2021. *available at* <https://www.motherjones.com/politics/2021/05/heritage-foundation-dark-money-voter-suppression-laws/>.

¹⁰ *National Association of Scholars*. “An Appeal to Senator John Cornyn and Congressman Tom Cole.” May 3, 2021. *available at* <https://www.nas.org/blogs/article/an-appeal-to-senator-john-cornyn-and-congressman-tom-cole>.

¹¹ *National Association of Scholars*. “An Appeal to Senator John Cornyn and Congressman Tom Cole.” May 3, 2021. *available at* <https://www.nas.org/blogs/article/an-appeal-to-senator-john-cornyn-and-congressman-tom-cole>.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or foia@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to either the email listed above or Lauren White, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

Lauren White
Press Associate