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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

Case No.: 21-cv-00084 H (MSB)

MARIA A. POMARES,  
Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
VETERANS AFFAIRS,  
Defendant.

**FIRST AMENDED COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

1. This action is brought under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, for an order compelling Defendant United States Department of Veterans Affairs (“VA”) to produce, provide access to, and make available certain records specified below that were requested by Plaintiff Maria Pomares.

## JURISDICTION AND VENUE

2. This Court has jurisdiction and venue over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

## PARTIES

3. Plaintiff is a citizen of the United States and a resident of the County of San Diego.

4. Defendant is an agency of the United States Government and has possession and control of the records that are the subject of this action.

## THE RELEASE OF THE RECORDS SOUGHT

**WOULD SERVE THE HIGHEST PUBLIC INTEREST**

5. As alleged below, the VA has asserted Exemption 6 in withholding and redacting numerous records which contain information regarding the decision of its staff to selectively disclose market-moving facts that may have caused over \$800 million in losses to market participants, including individual investors with modest portfolios. Plaintiff is informed and believes that the VA may assert Exemption 7(c) in withholding other information relating to the same subject. In balancing public interest against any privacy rights of those mentioned in the records sought, the facts alleged below demonstrate a compelling and high public interest in the release of the records sought.<sup>1</sup>

6. Plaintiff seeks records from the Department of Veterans Affairs (“VA”) relating to the VA’s selective release of nonpublic information during the period from January through March 2020 that adversely affected the stock price of Career Education

<sup>1</sup> See: *Aguirre v. SEC*, 551 F. Supp. 2d 33, 38 (D.D.C. 2008).

Corporation (“CEC”),<sup>2</sup> a U.S. publicly traded company. During this period, the stock price (ticker symbol: PRDO) fell from \$18.83 to \$7.96, a loss of 58 percent of its price and over \$800 million in market capitalization. By July 2020, the VA had decided it would take no action against CEC,<sup>3</sup> but for many investors who sold during the near panic, their losses had already been realized, and for the professional traders, who may have received those tips, their profits had also been realized.

7. Plaintiff is informed and believes, and thereon alleges, that the agency decisions and the release of this nonpublic information involved a relationship between a high-level agency official and an individual in the private sector that should have required the agency official to recuse herself pursuant to agency regulations, which she failed to do, and that she should have fully disclosed in her Public Financial Disclosure Report, which she also failed to do.

8. The VA took the action at the prompting of a nonprofit organization with prior and current relationships with market participants who may have profited by the price movement of the public company.

9. Plaintiff seeks VA records containing information relating to (i) its decision to make selective releases of nonpublic information, (ii) the identity of those who received the selective releases of the nonpublic information, and (iii) the possible conduits through which this nonpublic information may have flowed to market participants who profited by its use.

10. The high public interest in the release of these records to Plaintiff is confirmed by the decision of the Ranking Member of the United States Senate

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<sup>2</sup> The name of the company was changed from Career Education Corporation to Perdoceo Education Corporation effective January 1, 2020. The company’s former name is used in this complaint, because the records requests and released records primarily use that name.

<sup>3</sup> Danielle Douglas-Gabriel, *VA Backs down from Plan to Suspend University of Phoenix and Other Colleges from Accessing GI Bill Benefits*, WASH. POST, July 2, 2020, <https://www.washingtonpost.com/education/2020/07/02/va-backs-down-plan-suspend-university-phoenix-other-colleges-accessing-gi-bill-benefits/>, last visited Jan. 13, 2021.

1 Committee on the Judiciary, Senator Charles E Grassley, to open an inquiry of the VA  
 2 based in part on the allegations in the original complaint herein and records obtained by  
 3 Plaintiff from the VA pursuant to her FOIA requests, including those attached as exhibits  
 4 hereto.

5 11. On April 6, 2021, Senator Grassley (R-Iowa) issued a press release relating  
 6 to the claims in the original complaint in this case, which included the following:

7 Sen. Chuck Grassley (R-Iowa), Ranking Member of the Senate Judiciary  
 8 Committee, is pushing for information and transparency after whistleblowers  
 9 allege significant ethics lapses and potential leaks of market-sensitive  
 10 information at the Veterans Benefits Administration, a division of the  
 Department of Veterans Affairs.

11 Grassley is seeking information regarding Charmain Bogue's failure to  
 12 disclose her husband's income and employment at a firm that directly did  
 13 business with the VBA. He is also seeking a commitment from the  
 14 Department of Veterans Affairs (VA) to comply with pending and future  
 FOIA requests on this matter in a timely manner.<sup>4</sup>

15 12. On April 2, Senator Grassley also issued two letters to the VA. The press  
 16 release described his letter to the VA as follows:

17 In his letter to the VA, Grassley requests records relating to ethics  
 18 determinations related to current and former senior officials at the VA, the  
 19 steps the VA takes to protect retail investors by safeguarding market-sensitive  
 20 information, any internal investigations of such information leaking, and the  
 21 VA's attempts to block information released through FOIA requests relating  
 to these matters.

22 Senator Grassley's letters to the VA incorporated the original complaint in this case as a  
 23 source of the information that was driving his inquiry. A true and correct copy of Senator  
 24

25  
 26 <sup>4</sup> A true and correct copy of the press release is attached hereto and incorporated herein by  
 27 reference as Exhibit 1. It is also available at <https://www.grassley.senate.gov/news/news-releases/grassley-seeks-sweeping-review-into-allegations-of-whistleblower-reprisal-ethics-violations-at-veterans-benefits-administration>.  
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Grassley's letters to the VA, referencing the original complaint in this action, is attached hereto and incorporated herein by reference as Exhibits 2 and 3.<sup>5</sup>

13. On April 2, 2021, Senator Grassley also inquired of the Securities and Exchange Commission ("SEC") whether the SEC is aware of the allegations and, if so, what steps the SEC was taking to distribute "guidance to federal agencies on the importance and necessity of protecting information that could affect financial markets." A true and correct copy of Senator Grassley's letter to the SEC, referencing the complaint in this action, is attached hereto and incorporated herein by reference as Exhibit 4.<sup>6</sup>

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I hope the rest of your time went well in CA. Also CONGRATULATIONS on making HillVets top 100. If anyone deserves it, it is you!  
Do you have time in the next few weeks to meet with me and [redacted] about few things we are hoping to discuss with you? We can work our schedule around yours. :-)"

The identities of the individual who sent the email and the recipients are unknown, because the VA asserted Exemption 6 in redacting that information. A true and correct copy of said record is attached hereto and incorporated herein by reference as Exhibit 5.

15. Plaintiff has obtained records from the VA which include an email dated January 15, 2020, from Charmain Bogue, Executive Director of the Veterans Benefits Administration ("VBA") Education Service in the VA, responding to the request from VES as follows: "Sure we can get something set up." The identity of the individual receiving the email is unknown, because the VA asserted Exemption 6 in redacting that information. A true and correct copy of said record is attached hereto and incorporated herein by reference as Exhibit 6.

16. Plaintiff has obtained records from the VA which include an email confirming that on January 21, 2020, VES staff likely met with Executive Director

<sup>5</sup> Plaintiff did not include Ex. A to Sen. Grassley's complaint, a copy of the original complaint in this action.

<sup>6</sup> *Id.*

1 Bogue. The email states: "We are here." The identity of the individual who sent the email  
 2 is unknown, because the VA asserted Exemption 6 in redacting that information. A true  
 3 and correct copy of said record is attached hereto and incorporated herein by reference as  
 4 Exhibit 7.

5 17. Plaintiff has obtained records from the VA which include an email dated  
 6 January 22, 2020, from a VES staff member to Executive Director Bogue confirming  
 7 VES's purpose in meeting with Executive Director Bogue on January 21, 2020:

8 Thank you very much for taking the time to meet with us yesterday. Your  
 9 insights and information were extremely helpful, and we greatly appreciate  
 10 your receptiveness to our concerns and issues.

11 During the meeting, we got the impression that some of the complaints that  
 12 our legal fellows inputted into the GI Bill Complaint tool on behalf of veterans  
 13 may have been disregarded because they were inputted in bulk, causing some  
 14 red flags to go off on your end. This is concerning to us because the complaints  
 15 are, in fact, legitimate and should be considered by your office. Is there a way  
 16 to ensure that they were not disregarded?

17 The identities of the sender and all the recipients except Executive Director Bogue are  
 18 unknown, because the VA asserted Exemption 6 in redacting that information. A true and  
 19 correct copy of said record is attached hereto and incorporated herein by reference as  
 20 Exhibit 8.

21 18. Plaintiff has obtained records from the VA which include Executive Director  
 22 Bogue's response to Exhibit 8 stating:

23 When we see a number of complaints coming in with very general statements  
 24 it does not provide us the specifics we need to dig in on this issue. We really  
 25 need enough details (school, specifics on the issue, dates, school staff  
 26 involved, etc.) in order to investigate the compliant [sic] further.

27 *As stated in the meeting would love to partner with your organization and*  
 28 *other VSOs to educate the veteran community on the value of the feedback*  
*system, how to submit a compliant [sic] and how the process works (emphasis*  
*added).*

The identities of the recipients of the email are unknown, because the VA asserted  
 Exemption 6 in redacting that information. See Exhibit 8.

1           19. On January 21, 2020, VES delivered a letter to Executive Director Bogue.<sup>8</sup>  
 2 The letter, which sought severe penalties against several for-profit educational institutions,  
 3 began with this salutation, “Dear Charmain.” From this first-name greeting, VES  
 4 proposed that Director Bogue take action to put four schools and a public company out of  
 5 business in the letter’s first sentence: “We are writing to bring information to your  
 6 attention troubling complaints alleging misleading advertising and enrollment practices by  
 7 schools, *making those schools ineligible for educational benefits under 38 U.S.C. § 3696*  
 8 (emphasis added).”<sup>9</sup>

9           20. VES’s letter sought this extraordinary sanction based on evidence it had  
 10 helped prepare and deliver to the VA: “our staff has gathered evidence that these schools  
 11 aggressively recruit veterans and other GI Bill beneficiaries, making it especially  
 12 important that VA take appropriate action to address their behavior.”<sup>10</sup>

13           21. Based on this evidence, VES’s letter pushed the VA to choke off the  
 14 schools’ income flow by declaring the schools were ineligible for educational benefits  
 15 under 38 U.S.C. § 3696.

16           22. The VES letter also pressed the VA to accept as its own all veterans’ purported  
 17 complaints submitted by VES to the VA regarding for-profit educational institutions and  
 18 forward all VES generated complaints to law enforcement. To these ends, the VES letter  
 19 urged the VA to:

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21       ///

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 23  
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 25 <sup>8</sup> Letter from Aniela Szymanski, VES Sr. Dir. for Legal Affairs & Military Policy to VA  
 26 Exec. Dir. Charmain Bogue, Veterans Benefits Administration (Jan 21, 2020),  
 27 [https://vetsedsuccess.org/letter-to-va-regarding-gi-bill-feedback-tool-and-38-usc-3696-](https://vetsedsuccess.org/letter-to-va-regarding-gi-bill-feedback-tool-and-38-usc-3696-compliance/)  
[compliance/](https://vetsedsuccess.org/letter-to-va-regarding-gi-bill-feedback-tool-and-38-usc-3696-compliance/), last visited Jan. 15, 2021.

28 <sup>9</sup> *Id.*

<sup>10</sup> *Id.*



- A. Modify its tracking system of veterans' complaints, the GI Bill tool, so it would contain all complaints VES had collected from veterans and submitted to the VA;
- B. Modify its GI Bill tool to reflect student disagreement with the school's response to a VA complaint, similar to the way the U.S. Consumer Financial Protection Bureau reports that information;
- C. Upload all complaints delivered by VESS to the VA "into Consumer Sentinel, which law enforcement relies upon"<sup>11</sup> in its investigations of for-profit schools; and
- D. Explain why the VA had not reported all 1,189 complaints VES had submitted to it.

23. On March 9, 2020, at 5:59 p.m., after the stock market had closed, the VA issued a press release announcing it was threatening to do exactly what VES had asked it to do in its January 21, 2020, letter—to choke off the schools' income flow—using similar language to the VES letter and citing the same federal statute.<sup>12</sup>

24. On March 9, the VA "notified the University of Phoenix [and] Career Education Corporation (Colorado Technical University and American InterContinental University) of the agency's intent to disapprove the enrollment of new GI Bill students at these institutions."<sup>13</sup> In particular, the VA took the following actions:

- A. "The U.S. Department of Veterans Affairs (VA), acting within its required approval authority under the law limiting certain advertising, sales, and enrollment practices, notified the University of Phoenix, Career Education Corporation (Colorado Technical University, American InterContinental

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<sup>11</sup> *Id.*

<sup>12</sup> Press Release, VA, VA intends to suspend enrollment of new GI Bill students at University of Phoenix, Career Education Corporation, Bellevue University and Temple University (Mar 9, 2020), <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=5399>, last visited Jan. 15, 2021.

<sup>13</sup> *Id.*



University), Bellevue University and Temple University, March 9, of the agency's intent to disapprove the enrollment of new GI Bill students at these institutions."<sup>14</sup>

B. "After careful review and consideration of findings provided by the Federal Trade Commission and State Attorneys General Offices, VA has concluded there is sufficient evidence to support a finding that these schools have utilized advertising, sales, or enrollment practices that are erroneous, deceptive, or misleading either by actual statement, omission, or intimation against GI Bill beneficiaries, in violation of the law."<sup>15</sup>

25. The VA issued its press release almost two hours after the markets had closed, but the press release was no news to those who sold CEC stock short that day.<sup>16</sup> During trading hours on March 9, 2020, the market traded 1.640 million shares of CEC stock, roughly 370 percent of its daily average volume since the beginning of the year. Traders also sold short 512,000 shares, roughly 350 percent of its average daily short sale volume since the beginning of the year. The price of CEC stock fell from \$18.83 on January 21, 2020, to \$7.96 on March 18, 2020, a fall of 58 percent of its value.

26. The VA gave early notice of its decision to some, including VES. During the trading day at 2:26 p.m. E.T., VES tweeted its own press release before the official VA

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> The Securities and Exchange Commission provides this concise description of a short sale:

A short sale is generally the sale of a stock you do not own (or that you will borrow for delivery). Short sellers believe the price of the stock will fall, or are seeking to hedge against potential price volatility in securities that they own.

If the price of the stock drops, short sellers buy the stock at the lower price and make a profit. If the price of the stock rises, short sellers will incur a loss. Short sales must be done in compliance with SEC Regulation SHO.

<https://www.sec.gov/investor/pubs/regsho.htm>. last visited Jan. 14, 2021.

1 announcement. The VES press release identified CEC and stated the VA had “notified  
2 military and veterans service organizations today” of its impending enforcement action.<sup>17</sup>



17 27. The VA’s selective release of nonpublic information during the trading day  
18 violates its articulated internal policy, which VA officials knew would be applicable to  
19 the March 9 press release. In particular, Plaintiff has obtained records from the VA which  
20 include an email from an unknown VA official providing this guidance to other VA staff:  
21 “Since some of the schools are owned by publicly traded corporations, and because the  
22 actions will potentially impact thousands of GI Bill beneficiaries, we’re keeping the  
23

24 <sup>17</sup> Press Release, VES, Veterans Education Success Praises Decision by the Department  
25 of Veterans Affairs to Suspend New GI Bill Students from Enrolling at the University of  
26 Phoenix, Career Education Corporation Institutions, Bellevue University, and Temple  
27 University (March 9, 2020),  
28 <https://vetsedsuccess.org/press-release-veterans-education-success-praises-decision-by-the-department-of-veterans-affairs-to-suspend-new-gi-bill-students-from-enrolling-at-the-university-of-phoenix-career-education-corporati/>, last visited Jan. 15, 2021.

1 information ‘close hold’ in order to prevent misinformed leaks, general panic, and insider  
 2 trading.” The identities of the sender and the recipients of the email are unknown,  
 3 because the VA asserted Exemption 6 in redacting that information. A true and correct  
 4 copy of said record is attached hereto and incorporated herein by reference as Exhibit 9.  
 5 Senator Grassley’s April 2, 2021, letters to the VA and the SEC included this email as  
 6 Exhibit B and quoted it. See Exhibits 2, 3 and 4.

7 28. Plaintiff has also obtained records from the VA which include an email from  
 8 an unknown individual to Executive Director Bogue regarding “VA plans to suspend GI  
 9 Bill funding for new students at 5 universities” and stating “Sorry for jumping the gun...I  
 10 was just excited. 😊” The identities of the sender and the recipients of the email are  
 11 unknown, because the VA asserted Exemption 6 in redacting that information. A true and  
 12 correct copy of said record is attached hereto and incorporated herein by reference as  
 13 Exhibit 10.

14 29. According to the National Legal and Policy Center, VES has a history of  
 15 prior connections with at least one hedge fund that engaged in short selling the stocks of  
 16 for-profit educational companies.<sup>18</sup>

17 30. The chart below shows the fall of CEC stock from January 21 to March 18,  
 18 2020, is consistent with the VA’s selective release of nonpublic information of the  
 19 impending enforcement proceeding against CEC that found its way to market participants  
 20 during this period. As the chart illustrates, the price fell from \$18.83 to \$7.96:

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27 <sup>18</sup> National Legal and Policy Center, *Are For-Profit College ‘Critics’ Up to Their Old*  
 28 *Tricks?* Nov. 4, 2020, <https://nlpc.org/2020/11/04/are-for-profit-college-critics-up-to-their-old-tricks/>, last visited Jan. 15, 2021.



31. Barrett Bogue, Executive Director Bogue's husband, is VES Senior Communications Advisor.<sup>19</sup> The full extent of his involvement in VES's effort to persuade the VA to implement VES's January 21 letter is unknown and may never be known, given the nature of his relationship with Executive Director Bogue. He clearly supported VES's efforts to get the VA to crackdown on for-profit schools, as he demonstrated on December 18, 2019, when he tweeted an article focused on how the VA was failing to hold for-profit colleges accountable.<sup>20</sup>

32. Executive Director Bogue's Public Financial Disclosure Report does not disclose her husband's financial relationships with VES. On the form, Executive Director Bogue disclosed her husband is self-employed through a consulting firm but did not identify the firm or answer questions about the value of his firm and the amount of his income. She merely disclosed that he is paid a salary and receives an unspecified amount

<sup>19</sup> See: <https://vetsedsuccess.org/who-we-are/barrett-bogue/>, last visited Jan. 15, 2021.

<sup>20</sup> Jasper Craven, *Scrutiny of Colleges that Get Billions in GI Bill Money Remains Mired in Bureaucracy*, THE HECHINGER REPORT, Dec. 11, 2019, <https://hechingerreport.org/scrutiny-of-colleges-that-get-billions-in-gi-bill-money-remains-mired-in-bureaucracy/>, last visited Jan. 15, 2021.

1 in “consulting fees.”<sup>21</sup> The public interest in the release of information and its implications  
 2 are growing, as a recent series of posts by a national ethics watchdog confirms.<sup>22</sup>

3 33. Plaintiff is informed and believes and thereon alleges that Executive Director  
 4 Bogue was obligated to recuse herself under 18 U.S.C. § 208 and 5 C.F.R. 2640.101 but  
 5 failed to do so. Plaintiff is further informed and believes and thereon alleges, that  
 6 Defendant VA is withholding records relating to Executive Director Bogue’s failure to  
 7 enforce 18 U.S.C. § 208 and 5 C.F.R. 2640.101.

8 34. Plaintiff is further informed and believes and thereon alleges, that the VA  
 9 Office of the Inspector General (“OIG”) conducted an investigation of Executive Director  
 10 Bogue’s failure to comply with 18 U.S.C. § 208 and 5 C.F.R. 2640.101 and is wrongfully  
 11 withholding nonexempt agency records relating to that investigation.

12 35. As more specifically alleged below, On January 15, 2021, in response to  
 13 Plaintiff’s FOIA request of December 15, 2021, Defendant VA’s OIG delivered a letter  
 14 to Plaintiff in which it asserted a “Glomar” response and, on that basis, would “neither  
 15 admit nor deny whether any such inquiry or investigative records exist” for the following:

- 16 1. Any OIG inquiry or investigation or audit where Charmain Bogue was  
 17 the subject.
- 18 2. Any OIG inquiry or investigation or audit where Charmain Bogue a  
 19 witness.
- 20 3. Any OIG inquiry or investigation or audit relating to the handling or  
 21 material nonpublic information.

22 36. As more specifically alleged below, Plaintiff submitted FOIA requests on  
 23 November 9 and 13, 2020, to the VA seeking records relating to any inquiry or

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24 <sup>21</sup> National Legal and Policy Center, *VA Official Charmain Bogue Did Not Disclose Links*  
 25 *to Outside Group*, Nov. 12, 2020,  
[https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-](https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/)  
[group/](https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/), last visited Jan. 15, 2021.

26 <sup>22</sup> *Id.*, See also: *supra*, n. 13 and National Legal and Policy Center, *On Tax Return, Group*  
 27 *Did Not Disclose Payments to Husband of VA Official*, Dec. 4, 2020,  
[https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-](https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-v-a-official/)  
 28 [of-v-a-official/](https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-v-a-official/), last visited Jan. 15, 2021.



1 investigation of Executive Director Bogue and therefore sought records the VA is  
 2 withholding under its “Glomar response.” Defendant VA failed to assert a “Glomar  
 3 response” in any of its communications with Plaintiff in relation to the records sought by  
 4 this complaint and therefore waived its “Glomar response.”

### 5 **FACTS COMMON TO CAUSES OF ACTION ONE THROUGH SEVEN**

6 37. On November 9, 2020, pursuant to the applicable provisions of FOIA,  
 7 Plaintiff submitted a letter to the VA requesting access to, and copies of specified  
 8 documents as follows:

- 9 1) All emails sent by any of the Designated VA Persons<sup>23</sup> to one or more of  
 10 the following email addresses between December 15, 2019, and March 15,  
 2020:
  - 11 a. Any email address ending with this domain: @eangus.org;
  - 12 b. Any email address ending with this domain: @evocatillc.com;
  - 13 c. Any email address ending with this domain: [@paaresearch.com](#);
  - 14 d. Any email address ending with this domain: @republicreport.org;
  - 15 e. Any email address ending with this domain: @stripes.com;
  - 16 f. Any email address ending with this domain: @tcf.org;
  - 17 g. Any email address ending with this domain:  
 @veteranseducationsuccess.org;
  - 18 h. Any email address ending with this domain: @vetsedsuccess.org;  
 and
  - 19 i. Any email address ending with this domain: @washpost.com.
- 20 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:
  - 21 a. Any email address ending with this domain: @eangus.org;
  - 22 b. Any email address ending with this domain: @evocatillc.com;
  - 23 c. Any email address ending with this domain: [@paaresearch.com](#);
  - 24 d. Any email address ending with this domain: @republicreport.org;
  - 25 e. Any email address ending with this domain: @stripes.com;
  - 26 f. Any email address ending with this domain: @tcf.org;
  - 27 g. Any email address ending with this domain:  
 @veteranseducationsuccess.org;

28 <sup>23</sup> The term “Designated VA Persons” was defined in the letter to include specific officials and staff with the VA. *Id.*, at 3.

- 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.



- 1 6) All emails sent or received by any of the Designated VA Persons between  
2 March 8 and March 10, 2020, ***including*** VA internal emails, that contain  
3 any of the following phrases in the subject line:  
4 a. VA intends to suspend enrollment,  
5 b. Any Background/TPs on this available?  
6 c. Talking Points on Suspension Actions,  
7 d. Suspension Action for Five GI Bill Approved Schools, and  
8 e. Talking Points on Suspension Action for Five GI Bill Approved  
9 Schools.

7 A true and correct copy of said November 9, 2020, FOIA request is attached hereto and  
8 incorporated herein as Exhibit 11.

9 38. Defendant VA in effect restructured Plaintiff's FOIA request into seven  
10 FOIA requests with separate tracking numbers, separate processing by different offices  
11 and administrations within the VA, separate appeal processes, and separate dates for  
12 exhausting administrative remedies.

13 39. Plaintiff seeks declaratory and injunctive relief regarding the VA's assertion  
14 of exemptions and the reasonableness of its searches for records responsive to Plaintiff's  
15 FOIA requests in the First through the Seventh Causes of Action.

16 40. On November 10, 2020, Plaintiff received a letter from the VA  
17 acknowledging the receipt of her FOIA request. A true and correct copy of the said  
18 acknowledgment letter is attached hereto and incorporated by reference as Exhibit 12.  
19 The VA's November 10 letter assigned five different FOIA Tracking numbers to  
20 Plaintiff's requests.

21 41. On November 11, 2020, Plaintiff's counsel contacted the VA FOIA Office  
22 offering to clarify any issues relating to the November 9 Plaintiff's FOIA request to  
23 facilitate its processing as follows:

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

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

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

3 A true and correct copy of this email is attached hereto and incorporated by reference as  
4 Exhibit 13.

5 42. On November 13, 2020, Plaintiff's counsel was contacted by a different  
6 FOIA specialist who was "taking the lead" on Plaintiff's November 9 FOIA request,  
7 because it had "been assigned to multiple VA FOIA directorates." In this way, the lead  
8 FOIA specialist explained, if any of the FOIA officers processing the requests needed  
9 clarification, they "will submit their request to me. I have requested they provide me a  
10 response by close of business on Monday, November 16, 2020 so that I may send you one  
11 request for clarification for the group on Tuesday, November 17, 2020." The lead FOIA  
12 specialist further explained that "each FOIA Officer will process the portion of the request  
13 pertaining to their directorate and will provide a response directly to you." A true and  
14 correct copy of said email is attached hereto and incorporated by reference as Exhibit 14.

15 43. On November 17, the lead FOIA specialist and Plaintiff's counsel  
16 exchanged emails for the purpose of clarifying Plaintiff's FOIA requests. After the  
17 requests were clarified to the satisfaction of the lead FOIA specialist, she forwarded the  
18 clarifications to the FOIA officers in the different administrations working on Plaintiff's  
19 FOIA request. The email also clarified the Veterans Benefits Administration ("VBA")  
20 was "processing the request under FOIA tracking numbers 21-00931-F and 21-00956-F."  
21 A true and correct copy of this email chain is attached hereto and incorporated herein as  
22 Exhibit 15.

### 23 **FIRST CAUSE OF ACTION**

24 44. On November 17, 2020, Plaintiff received a letter via email from the VBA,  
25 which once again acknowledged receipt of her FOIA request and assigned it tracking  
26 number 21-00931-F. A true and correct copy of said letter is attached hereto and  
27 incorporated by reference as Exhibit 16.

28 ///

1           45. On November 27, 2020, Plaintiff's counsel received an email from the  
2 VBA's FOIA specialist extending the 20 business days response time and setting the date  
3 for the VBA FOIA Office to issue a response as January 6, 2021. A true and correct copy  
4 of said email is attached hereto and incorporated by reference as Exhibit 17 at 74.

5           46. On November 30, 2020, Plaintiff's counsel responded to the VBA's FOIA  
6 specialist November 27 email pointing out the extension failed "to comply with at least  
7 two terms of 5 USC § 552(a)(6)(B)." A true and correct copy of said email is attached  
8 hereto and incorporated by reference as Exhibit 17 at 73-74.

9           47. On the same day, November 30, 2020, the VBA FOIA specialist replied  
10 reiterating Plaintiff would have a response by January 6, 2021, and offering to discuss  
11 with Plaintiff's counsel the extension. A true and correct copy of said email is attached  
12 hereto and incorporated by reference as Exhibit 17 at 73.

13           48. After several email exchanges on November 30, the VBA FOIA specialist  
14 and Plaintiff's counsel held a conference call which Plaintiff's counsel confirmed in his  
15 email of December 1, 2020, as follows: the VBA FOIA specialist agreed to provide an  
16 update on December 2, 2020, regarding (1) when the VBA's Office of Information  
17 Technology ("OIT") would provide the search results to the FOIA specialist and (2) how  
18 many pages had to be reviewed. A true and correct copy of said email is attached hereto  
19 and incorporated by reference as the bottom email in Exhibit 18 at 79-80.

20           49. On December 2, 2020, the VBA FOIA specialist informed Plaintiff's  
21 counsel the OIT was working on the ticket and "it should be resolved in a matter of a few  
22 days." A true and correct copy of said email is attached hereto and incorporated by  
23 reference as the second email from the bottom in Exhibit 18 at 79.

24           50. On December 11, 2020, Plaintiff's counsel confirmed with his email the  
25 conference call he held the day before with the VBA FOIA specialist. During the  
26 conversation, Plaintiff's counsel was informed the FOIA request had been transferred to  
27 "tier 3... because it involves upper or senior management, which will delay the release of  
28 these records." Plaintiff's counsel stated his position as follows:

1 As you know, I disagreed with any extension of time for this request, since it  
 2 involves an electronic search of records that did not appear to be subject to  
 3 any exemption. I also understand you have nearly completed your review, so  
 4 there should be little justification for delay, absent the late decision to transfer  
 this matter to Tier 3.

5 Plaintiff's counsel requested further information. Specifically:

- 6 1. Is there any internal rule or regulation (CFR) that defines, states, or  
 7 discusses the different tier? For example, what is the guidance for deciding  
 8 what is tier 2 versus tier 3?
- 9 2. Is there any internal rule or regulation (CFR) that expand the period to  
 10 respond to a FOIA request when the agency transfers a request to a new  
 11 tier?
- 12 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?

13 A true and correct copy of this email is attached hereto and incorporated by reference as  
 14 Exhibit 18, at 78.

15 51. On December 15, 2020, since the VBA FOIA specialist had not responded,  
 16 Plaintiff's counsel followed up with an email. On the same date, December 15, the VBA  
 17 FOIA specialist informed Plaintiff's counsel the request was being reviewed by the  
 18 Office of General Counsel (OGC). The email continued:

19 Once I receive feedback from OGC, I'm hopeful that a disclosure will be made  
 20 this week. Secondly, I have reviewed your questions below concerning IT  
 21 processes. I have contacted the Chief of VBACO Desktop Support Services  
 22 for question #1.... This request is being reviewed by OGC because the subject  
 23 matter is of interest of senior leadership and, as such, has been designated as  
 24 a Substantial Interest (SI) request. Prior to issuing a disclosure determination,  
 OGC must review it before its release. This is an agency policy.

25 A true and correct copy of this email is attached hereto and incorporated by reference as  
 26 Exhibit 18, at 77.

27 52. Defendant VA's time for responding to restructured FOIA request 21-  
 28 00931-F has expired for each of the following reasons:

1 A. Defendant VA knew the grounds for its designation of this request as a  
 2 Substantial Interest request from the date of its receipt of Plaintiff's November  
 3 9, 2020, request and thus Defendant VA was dilatory in making said  
 4 designation;

5 B. Defendant VA failed to comply with 38 C.F.R. § 1.556 in its processing of this  
 6 request; and

7 C. All conceivable time periods have expired for Defendant VA to comply with  
 8 this request under FOIA and 38 § C.F.R. § 1.556.

### 9 **SECOND CAUSE OF ACTION**

10 53. On November 18, 2021, the VBA acknowledged receipt of Plaintiff's FOIA  
 11 request (Ex. 11) and assigned it tracking number 21-00956-F. A true and correct copy of  
 12 said letter is attached hereto and incorporated herein by reference as Exhibit 19.

13 54. On December 10, the VBA released 154 pages of redacted documents and  
 14 provided its final response to Plaintiff's FOIA request asserting Exemptions 5 and 6. The  
 15 final response also informed Plaintiff of her right to appeal said decision. A true and  
 16 correct copy of the VBA final response is attached hereto and incorporated herein by  
 17 reference as Exhibit 20.

18 55. On the same day, Plaintiff appealed the VBA's decision. A true and correct  
 19 copy of the appeal is attached hereto and incorporated herein by reference as Exhibit 21.

20 56. On December 15, 2020, the VA Office of the General Counsel ("OGC")  
 21 acknowledged receipt of the appeal and assigned it OGC Case No. 152582. A true and  
 22 correct copy of the appeal is attached hereto and incorporated herein by reference as  
 23 Exhibit 22. That was the last communication from the VA regarding FOIA Request No.  
 24 21-00956-F. All time periods have expired for Defendant VA to comply with this request  
 25 under FOIA.

### 26 **THIRD CAUSE OF ACTION**

27 57. On November 12, the VA's Office of Accountability and Whistleblower  
 28 Protection ("OAWP") acknowledged receipt of Plaintiff's FOIA request and assigned it

1 tracking number 21-00932-F. A true and correct copy of the OAWP's acknowledgment  
2 letter is attached hereto and incorporated herein by reference as Exhibit 23.

3 58. On December 4, OAWP provided its "initial" decision that no responsive  
4 records had been located and informed Plaintiff of her right to appeal said decision. A  
5 true and correct copy of said decision is attached hereto and incorporated herein by  
6 reference as Exhibit 24.

7 59. On December 8, Plaintiff's counsel appealed OAWP's decision in Exhibit  
8 24. A true and correct copy of this appeal is attached hereto and incorporated herein by  
9 reference as Exhibit 25.

10 60. On the same day, December 8, the Office of the General Counsel ("OGC")  
11 acknowledged receipt of the appeal and assigned it OGC Case No. 152527. A true and  
12 correct copy of the appeal acknowledgment letter is attached hereto and incorporated  
13 herein by reference as Exhibit 26. The acknowledgment letter stated the OGC was "in the  
14 process of obtaining relevant records and/or information concerning" the appeal. After  
15 receiving the information from the OAW, the OGC would assign a FOIA attorney to it.

16 61. On December 9, Plaintiff's counsel contacted the specialist who signed  
17 Exhibit 26 requesting a telephone conference to provide information and avoid delay in  
18 the processing of the appeal. A true and correct copy of said email is attached hereto and  
19 incorporated herein by reference as Exhibit 27. Plaintiff's counsel received no answer  
20 and there were no more communications regarding this FOIA request. All time periods  
21 have expired for Defendant VA to comply with this request under FOIA.

#### 22 **FOURTH CAUSE OF ACTION**

23 62. On November 19, the VA's Office of the General Counsel ("OGC")  
24 acknowledged receipt of Plaintiff's FOIA request and assigned it tracking number 21-  
25 00933-F. A true and correct copy of said acknowledgment letter is attached hereto and  
26 incorporated herein by reference as Exhibit 28.

27 63. On December 18, the OGC provided its initial decision and released eleven  
28 pages of redacted documents, including three pages completely redacted. The OGC's



1 initial decision summarized the searches conducted, which, according to the OGC had  
2 only yielded the eleven released pages. The initial decision letter asserted Exemptions 5  
3 and 6 and informed Plaintiff of her right to appeal it. A true and correct copy of the  
4 OGC's initial decision is attached hereto and incorporated herein by reference as Exhibit  
5 29.

6 64. On December 22, Plaintiff's counsel appealed the OGC's initial decision. A  
7 true and correct copy of the appeal is attached hereto and incorporated herein by  
8 reference as Exhibit 30.

9 65. On the same day, the OGC acknowledged receipt of the appeal. A true and  
10 correct copy of the acknowledgement letter is attached hereto and incorporated herein by  
11 reference as Exhibit 31. There have been no more communications regarding this FOIA  
12 request. All time periods have expired for Defendant VA to comply with this request  
13 under FOIA.

#### 14 **FIFTH CAUSE OF ACTION**

15 66. Plaintiff's November 9 FOIA request was also assigned to the Office of the  
16 Inspector General ("OIG"). On November 30, Plaintiff's counsel received a letter dated  
17 November 23 acknowledging receipt of Plaintiff's FOIA request and assigning it  
18 Tracking No. 21-00065-F. A true and correct copy of the email and the acknowledgment  
19 letter is attached hereto and incorporated herein by reference as Exhibit 32.

20 67. On January 12, 2021, Plaintiff's counsel received the "Agency Final  
21 Response" to FOIA Request no. 21-00065-FOIA via email. The letter stated a search had  
22 the 28 pages which were produced with redactions. Specifically, Exemptions 5 and 6  
23 were applied. The letter informed Plaintiff of her right to appeal the decisions in it. A true  
24 and correct copy of the final agency response is attached hereto and incorporated herein  
25 by reference as Exhibit 33.

26 68. On January 13, 2021, Plaintiff appealed the decisions in Exhibit 33. A true  
27 and correct copy of the appeal is attached hereto and incorporated herein by reference as  
28 Exhibit 34.



69. On January 14, 2021, the OIG's Office of Information Release acknowledged receipt of the appeal and assigned it Tracking No. 21-00007-APP. A true and correct copy of the acknowledgment is attached hereto and incorporated herein by reference as Exhibit 35.

70. On January 28, 2021, the Office of Information Release informed Plaintiff of its final decision remanding it for additional search. A true and correct copy of the appeal remand is attached hereto and incorporated herein by reference as Exhibit 36.

### **SIXTH CAUSE OF ACTION**

71. The November 10 acknowledgment letter (Ex. 12), assigned tracking number 21-00916-F to the portion of Plaintiff's FOIA request referred to the VA Office of the Secretary ("OSVA").

72. On November 20, 2020, OSVA released its Initial Agency Decision ("IAD"), releasing four pages of records, three of them partially redacted under FOIA Exemption 6.

73. On November 30, OSVA issued a "correction/clarification...how the search for records was conducted." A true and correct copy of the IAD correction / clarification is attached hereto and incorporated herein by reference as Exhibit 37.

74. On December 2, OSVA released its second interim IAD, after conducting an additional search which yielded no responsive records. The second interim IAD informed Plaintiff of her right to appeal this decision. A true and correct copy of the second interim IAD is attached hereto and incorporated herein by reference as Exhibit 38.

75. On December 8, Plaintiff appealed the second interim IAD. A true and correct copy of Plaintiff's appeal is attached hereto and incorporated herein by reference as Exhibit 39.

76. On the same date, December 8, the OGC acknowledged receipt of Plaintiff's appeal and assigned it OGC Case No. 152512. A true and correct copy of the appeal acknowledgment letter is attached hereto and incorporated herein by reference as Exhibit 40.

77. On March 29, 2021, Plaintiff received a letter informing her the FOIA request had been remanded to the OSVA to “conduct another search for responsive records and provide a subsequent decision.” A true and correct copy of the remand letter is attached hereto and incorporated herein by reference as Exhibit 41. All time periods have expired for Defendant VA to comply with this request under FOIA.

### **SEVENTH CAUSE OF ACTION**

78. On November 12, Plaintiff received a letter from the Office of Public and Intergovernmental Affairs (“OPIA”) acknowledging receipt of her FOIA request and assigning it tracking number 21-00930-F. A true and correct copy of the acknowledgment letter is attached hereto and incorporated herein by reference as Exhibit 42.

79. On December 1, OPIA informed Plaintiff her request had “been referred to another area for records search.” A true and correct copy of said letter is attached hereto and incorporated herein by reference as Exhibit 43.

80. On January 26, OPIA informed Plaintiff the search for responsive records had yielded 31 pages, which were released with the letter. A true and correct copy of said letter without attachments is attached hereto and incorporated herein by reference as Exhibit 44.

81. Since the January 26 letter did not state if it was OPIA’s final response, Plaintiff’s counsel inquired with his emails of January 27 and 28 regarding that point. A true and correct copy of said emails is attached hereto and incorporated herein by reference as Exhibit 45. Neither Plaintiff nor her counsel received a response to Exhibit 45. All time periods have expired for Defendant VA to comply with this request under FOIA.

### **FACTS COMMON TO CAUSES OF ACTION EIGHT THROUGH ELEVEN**

82. On November 13, 2020, pursuant to the applicable provisions of FOIA, Plaintiff submitted her FOIA request to Defendant VA’s (1) FOIA Office, (2) Office of the General Counsel, (3) Veterans Benefits Administration and (4) Office of Information

Technology by email and first-class mail. Plaintiff requested access to, and copies of specified documents as follows:

- 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.
- 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).

A true and correct copy of the Plaintiff's FOIA request is attached hereto and incorporated by reference as Exhibit 46.

83. On November 18, the VA FOIA Service acknowledged receipt of Plaintiff's FOIA request. A true and correct copy of the November 18, 2020, letter is attached hereto and incorporated by reference as Exhibit 47. Defendant VA in effect restructured Plaintiff's FOIA request into five FOIA requests with separate tracking numbers, separate processing by different offices and administrations within the VA, separate appeal processes, and separate dates for exhausting administrative remedies. Plaintiff seeks declaratory and injunctive relief regarding the VA's assertion of exemptions and the reasonableness of its searches for records responsive to Plaintiff's FOIA requests in the Eighth through Eleventh Causes of Action, which allege all administrative remedies or time periods have been exhausted.

### **EIGHTH CAUSE OF ACTION**

84. On December 8, 2020, Plaintiff received a letter from the VA's Office of the Inspector General ("OIG") The letter stated the VA OIG had assigned tracking number

21-00078-FOIA to Plaintiff's FOIA request and a search of VA OIG records had yielded no responsive results. The letter also informed Plaintiff of her right to appeal the determination to the OIG's Office of Counselor. A true and correct copy of the VA OIG's letter is attached hereto and incorporated by reference as Exhibit 48.

85. On December 10, 2020, Plaintiff appealed the OIG's determination. A true and correct copy of the Plaintiff's appeal is attached hereto and incorporated by reference as Exhibit 49.

86. On December 17, 2020, the VA OIG responded to Plaintiff's appeal finding "the VA OIG FOIA Office did not conduct an adequate search and" remanded "the FOIA file to that office to conduct a new search" and provide a final response. A true and correct copy of the letter remanding Plaintiff's request to the VA OIG FOIA Office is attached hereto and incorporated by reference as Exhibit 50.

87. On December 23, 2020, the VA OIG informed Plaintiff it had "conducted another search extending the search period from FY 2014 to" the present which had yielded 11 pages of records released with the letter. The released records were redacted under Exemption 6. The letter also informed Plaintiff of her right to appeal the determination to the OIG's Office of Counselor. A true and correct copy of the VA OIG's letter is attached hereto and incorporated by reference as Exhibit 51.

88. On December 24, 2020, Plaintiff, through her counsel, appealed the OIG's determination. A true and correct copy of Plaintiff's appeal is attached hereto and incorporated by reference as Exhibit 52.

89. On December 28, 2020, the VA OIG denied the appeal finding the response was proper. The OIG's letter advised Plaintiff of her right to file a complaint with the U.S. District Court. A true and correct copy of the OIG's appeal denial is attached hereto and incorporated by reference as Exhibit 53.

### **NINTH CAUSE OF ACTION**

90. On November 18, Plaintiff's counsel received a letter assigning tracking number 21-01007-F to the portion of the FOIA request assigned to the Office of

1 Information Technology. The letter further reported 261 pages responsive to this request  
2 had been located and said documents were released with the letter. The documents  
3 produced released were redacted and Exemptions 5, 6, and 7(c) were asserted. A true and  
4 correct copy of the acknowledgment letter is attached hereto and incorporated herein by  
5 reference as Exhibit 54.

6 91. On January 18, 2021, Plaintiff appealed the decision in Exhibit 54. A true  
7 and correct copy of Plaintiff's appeal is attached hereto and incorporated herein by  
8 reference as Exhibit 55.

9 92. On January 19, 2021, the OGC acknowledged receipt of the appeal and  
10 assigned it OGC Case No. 152953. A true and correct copy of the appeal  
11 acknowledgement is attached hereto and incorporated herein by reference as Exhibit 56.  
12 This was the last communication from the VA regarding this FOIA request. All time  
13 periods have expired for Defendant VA to comply with this request under FOIA.

#### 14 **TENTH CAUSE OF ACTION**

15 93. The November 18 letter (Exhibit 54), assigned Tracking No. 21-01062-F to  
16 the portion of the FOIA request assigned to the Veterans Benefits Administration  
17 ("VBA").

18 94. On November 24, Plaintiff received a letter from the VBA Office of FOIA  
19 Services acknowledging receipt of her request and confirming the previously assigned  
20 tracking number (21-01062-F). A true and correct copy of the VBA Office of FOIA  
21 Services acknowledgment letter is attached hereto and incorporated herein by reference  
22 as Exhibit 57.

23 95. On January 27, 2021, the VBA released "the final disclosure determination"  
24 regarding Plaintiff's FOIA request. The VBA had determined to release 4,535 pages with  
25 redactions under Exemptions 5 and 6. Numerous pages were completely redacted. The  
26 letter also informed Plaintiff of her right to appeal the determination in the VBA letter. A  
27 true and correct copy of the VBA's final disclosure determination is attached hereto and  
28 incorporated herein by reference as Exhibit 58.

1           96. On January 28, Plaintiff appealed the VBA's final disclosure determination.  
 2 A true and correct copy of said appeal is attached hereto and incorporated herein by  
 3 reference as Exhibit 59.

4           97. With its letter of January 29, the VBA acknowledged receipt of Plaintiff's  
 5 appeal. A true and correct copy of the VBA's appeal acknowledgment letter is attached  
 6 hereto and incorporated herein by reference as Exhibit 60. As of this date, the VBA has  
 7 communicated no determination regarding Plaintiff's appeal. All time periods have  
 8 expired for Defendant VA to comply with this request under FOIA.

### 9                                   **ELEVENTH CAUSE OF ACTION**

10           98. The November 18 letter (Exhibit 54) assigned tracking number 21-01069-F  
 11 to the portion of Plaintiff's FOIA request assigned to the Office of the General Counsel  
 12 ("OGC").

13           99. On December 17, the OGC provided a partial IAD informing Plaintiff that  
 14 the responsive FOIA requests were still open and pending review. Consequently, no  
 15 records were released. The letter also informed Plaintiff of her right to appeal the  
 16 decisions in the IAD. A true and correct copy of the OGC's IAD is attached hereto and  
 17 incorporated herein by reference as Exhibit 61.

18           100. On December 22, Plaintiff appealed the IAD. A true and correct copy of said  
 19 appeal is attached hereto and incorporated herein by reference as Exhibit 62. All time  
 20 periods have expired for Defendant VA to comply with this request under FOIA.

### 21                                   **TWELFTH CAUSE OF ACTION**

22           101. On December 15, 2020, pursuant to the applicable provisions of FOIA,  
 23 Plaintiff submitted her FOIA request to Defendant VA's OIG by email and first-class  
 24 mail. Plaintiff requested access to, and copies of specified documents as follows:

- 25           1. Any OIG inquiry or investigation or audit where Charmain Bogue was the
- 26           subject.
- 27           2. Any OIG inquiry or investigation or audit where Charmain Bogue a
- 28           witness.

1 3. Any OIG inquiry or investigation or audit relating to the handling of  
2 material nonpublic information.

3 A true and correct copy of Plaintiff's FOIA request is attached hereto and incorporated  
4 herein by reference as Exhibit 63.

5 102. On December 21, the VA OIG acknowledged receipt of Plaintiff's FOIA  
6 request and assigned it Tracking No. 21-00114-FOIA. A true and correct copy of the  
7 acknowledgment letter is attached hereto and incorporated herein by reference as Exhibit  
8 64.

9 103. On January 14, 2021, the OIG provided a "Glomar response" to Plaintiff  
10 neither confirming nor denying the existence of any of the inquiries or investigative  
11 records Plaintiff requested. The letter advised Plaintiff of her right to appeal the OIG  
12 decision. A true and correct copy of the OIG's response is attached hereto and  
13 incorporated herein by reference as Exhibit 65.

14 104. On January 15, Plaintiff appealed the OIG decision in Exhibit 65. A true and  
15 correct copy of the appeal is attached hereto and incorporated herein by reference as  
16 Exhibit 66.

17 105. On the same day, January 15, the OIG acknowledged receipt of Plaintiff's  
18 appeal. A true and correct copy of the appeal acknowledgment letter is attached hereto  
19 and incorporated herein by reference as Exhibit 67.

20 106. On January 28, the OIG denied Plaintiff's appeal and advised Plaintiff of her  
21 right to file a complaint with the U.S. District Court. A true and correct copy of the denial  
22 is attached hereto and incorporated herein by reference as Exhibit 68.

23 **PLAINTIFF'S CLAIMS FOR RELIEF: VIOLATIONS OF FOIA**

24 107. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

25 108. Plaintiff is entitled by law to access the records requested under the FOIA.

26 109. Defendant VA is in violation of the FOIA, 5 U.S.C. § 552, by failing to  
27 fully and lawfully comply with Plaintiff's November 9, November 13, and December 15,  
28 2020, requests for records, Exhibits 11, 46 and 63.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests the Court:

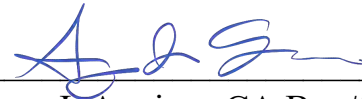
A. Declare that Defendant VA has violated the FOIA by failing to satisfy Plaintiff's November 9, November 13, and December 15, 2020, requests for records as specified in paragraphs 37, 82 and 101 above;

B. Order Defendant VA to immediately search for and release all records responsive to Plaintiff's November 9, November 13, and December 15, 2020, requests for records as specified in paragraphs 37, 82 and 101 above;

C. Award Plaintiff her costs and reasonable attorney's fees and litigation costs in this action; and

D. Grant such other and further relief as the Court may deem just and proper.

DATED: April 20, 2021



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Aguirre Law, A.P.C.  
501 W Broadway, Ste 800  
San Diego, CA 92101  
Telephone: 619-400-4960  
Facsimile: 619-501-7072  
Attorney for Plaintiff Maria A. Pomares

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3	April 2, 2021, letter from Ranking Member Sen. Chuck Grassley to the Secretary of Veterans Affairs (VA)	13
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25	Dec. 8, 2020 appeal FOIA Req. No. 21-00932-F	111
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28	Dec. 11, 2020, acknowledgment letter re FOIA Req.No. 21-00933-F	187
29	Dec. 18, 2020, IAD re FOIA Req.No. 21-00933-F	131
30	Dec. 22, 2020, appeal IAD FOIA Req.No. 21-00933-F	138
31	Dec. 22, 2020, appeal acknowledgment FOIA Req.No. 21-00933-F	152
32	Nov. 30, 2020, acknowledgment letter re FOIA Req.No. 21-00065-FOIA	154
33	Jan. 12, 2021, final response re FOIA Req.No. 21-00065-FOIA	158
34	Jan. 13, 2021, appeal decision re FOIA Req.No. 21-00065-FOIA	161
35	Jan. 13, 2021, acknowledgment appeal re FOIA Req.No. 21-00065-FOIA	171
36	Jan. 12, 2021, remand re FOIA Req.No. 21-00065-FOIA	173
37	Nov. 30, 2020, IAD correction re FOIA Req.No. 21-00916-FOIA	177
38	Dec. 2, 2020, seond interim IAD re FOIA Req.No. 21-00916-FOIA	187
39	Dec. 8, 2020, appeal re FOIA Req.No. 21-00916-FOIA	197
40	Dec. 8, 2020, appeal acknowledgment FOIA Req.No. 21-00916-FOIA	214
41	March 29, 2021, remand FOIA Req.No. 21-00916-FOIA	216
42	Nov. 12, 2020, response re FOIA Req.No. 21-00930-F	221
43	Dec. 1, 2020, acknowledgment clarification Req.re FOIA Req.No. 21-00930-FOIA	223
44	Jan. 26, 2021, document release re FOIA Req.No. 21-00930-FOIA	225
45	Jan. 28, 2021, email	227
46	Nov. 13, 2020, records request under FOIA	229
47	Nov. 18, 2020, acknowledgment FOIA Request	233

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48	Dec. 8, 2020, acknowledgement and final answer re FOIA Req.No. 21-00078-FOIA	236
49	Dec. 10, 2020, appeal re FOIA Req.No. 21-00078-FOIA	239
50	Dec. 17, 2020, remand re FOIA Req.No. 21-00078-FOIA	248
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# Exhibit 1



**News · News Releases**

**04.06.2021**

**Grassley Seeks Sweeping Review Into Allegations Of Whistleblower Reprisal, Ethics Violations At Veterans Benefits Administration**

Following review of whistleblower complaints, documents, Grassley pushes VA, Inspector General, and SEC for Transparency

WASHINGTON – Sen. Chuck Grassley (R-Iowa), Ranking Member of the Senate Judiciary Committee, is pushing for information and transparency after whistleblowers allege significant ethics lapses and potential leaks of market-sensitive information at the Veterans Benefits Administration, a division of the Department of Veterans Affairs.

Grassley is seeking information regarding Charmain Bogue’s failure to disclose her husband’s income and employment at a firm that directly did business with the VBA. He is also seeking a commitment from the Department of Veterans Affairs (VA) to comply with pending and future FOIA requests on this matter in a timely manner.

The whistleblower allegations revolve around an alleged VA Office of General Counsel memorandum that determined Charmain Bogue should recuse herself from any and all VA matters involving her husband’s firms. The whistleblowers further allege that, after internal warnings about the need to protect market-sensitive information, that information may have been leaked, which was then publicly traded on, potentially affecting stock prices and retail investors.

In seeking a broad set of information and transparency, Grassley wrote to Secretary of Veterans Affairs Denis McDonough, Department of Veterans Affairs Inspector General Michael Missal, and Acting Chairwoman Allison Lee of the Securities and Exchange Commission.

In his letter to the VA, Grassley requests records relating to ethics determinations related to current and former senior officials at the VA, the steps the VA takes to protect retail investors by safeguarding market-sensitive information, any internal investigations of such information leaking, and the VA’s attempts to block information released through FOIA requests relating to these matters.

Grassley is seeking a review of these potential ethics violations and disclosures failures from the inspector general, and asking whether the SEC is aware of these allegations and what steps the commissioner takes to distribute guidance to federal agencies on the importance and necessity of protecting sensitive information that could affect financial markets.

Full text of Grassley’s letters follow:

- [Grassley to Secretary McDonough \(VA\)](#)
- [Grassley to Inspector General Missal \(VA OIG\)](#)
- [Grassley to Lee \(SEC\)](#)

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# Exhibit 2

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 THOM TILLIS, NORTH CAROLINA  
 MARSHA BLACKBURN, TENNESSEE

United States Senate  
 COMMITTEE ON THE JUDICIARY  
 WASHINGTON, DC 20510-6275

April 2, 2021

**VIA ELECTRONIC TRANSMISSION**

Michael J. Missal  
 Inspector General  
 U.S. Department of Veterans Affairs  
 Office of Inspector General

Dear Inspector General Missal:

According to multiple whistleblowers and witnesses interviewed by my staff, the U.S. Department of Veterans Affairs (VA) appears to be suffering from numerous conflicts and ethical issues among senior officials at the Veterans Benefits Administration (VBA). These allegations, highlighted in both the media and in recent court filings, raise serious concerns regarding VA activities.<sup>1</sup> It is further my understanding that VA OIG has, in the past, been in receipt of similar allegations from several sources.<sup>2</sup> After reviewing both witness statements and documents provided to my office, I write to you to request VA Office of Inspector General (VA OIG) perform an investigation into these sensitive and very serious allegations.

According to sources, in February of 2018, VA ethics lawyers allegedly determined that a senior Veterans Benefits Administration (VBA) official, Charmain Bogue, should recuse herself from engaging in activity involving her husband's clients and employers. Chairman Bogue serves as Executive Director of VBA's Education Service, and her husband, Barrett Bogue, serves as a Senior Communication Advisor for VES.<sup>3</sup> Although this legal opinion was allegedly provided to Mrs. Bogue, it is unclear whether she ever did recuse herself, and if she did, when.

<sup>1</sup> See NLPC Staff, *Are For-Profit College 'Critics' Up to Their Old Tricks?*, NATIONAL LEGAL AND POLICY CENTER (Nov. 4, 2020), <https://nlpc.org/2020/11/04/are-for-profit-college-critics-up-to-their-old-tricks/>; NLPC Staff, *VA Official Charmain Bogue Did Not Disclose Links to Outside Group*, NATIONAL LEGAL AND POLICY CENTER (Nov. 12, 2020), <https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/>; NLPC Staff, *On Tax Return, Group Did Not Disclose Payments to Husband of VA Official*, NATIONAL LEGAL AND POLICY CENTER (Dec. 4, 2020), <https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-va-official/>; Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>2</sup> See NLPC Staff, *Are For-Profit College 'Critics' Up to Their Old Tricks?*, NATIONAL LEGAL AND POLICY CENTER (Nov. 4, 2020), <https://nlpc.org/2020/11/04/are-for-profit-college-critics-up-to-their-old-tricks/>; NLPC Staff, *VA Official Charmain Bogue Did Not Disclose Links to Outside Group*, NATIONAL LEGAL AND POLICY CENTER (Nov. 12, 2020), <https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/>; NLPC Staff, *On Tax Return, Group Did Not Disclose Payments to Husband of VA Official*, NATIONAL LEGAL AND POLICY CENTER (Dec. 4, 2020), <https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-va-official/>.

<sup>3</sup> Veterans Education Service, *Who We Are*, Barret Bogue, <https://vetsedsuccess.org/who-we-are/barrett-bogue/>.

Inspector General Michael J. Missal  
U.S. Department of Veterans Affairs Office of Inspector General  
April 2, 2021

Mr. Bogue reportedly also runs a consulting firm that has “a contract with VES ... generous enough to allow him to quit his day job and focus on his consulting business full time.”<sup>4</sup> It is further alleged that Mrs. Bogue failed to disclose her husband’s place of work and his income on her mandatory ethics paperwork.<sup>5</sup> Additionally, it appears that VES may have also failed to disclose payments it made to Mr. Bogue for his work.<sup>6</sup>

Whistleblowers further allege that the Bogues are indicative of a broader culture of corruption and cronyism at the VBA, one which is hostile to enforcing basic ethical standards, and punishes those who bring concerns to the forefront. For example, Paul Lawrence, former Undersecretary of Benefits, allegedly recommended three senior officials for suspension who were reported to have improperly, and potentially illegally, accepted gifts from outside stakeholders. However, these suspensions were supposedly overturned by the previous Secretary of the VA. One of the officials, former Principal Undersecretary Jamie Manker, abruptly retired, and another, Tom Murphy, is currently serving as Acting Undersecretary of Benefits.

Of additional concern, according to allegations in a federal Freedom of Information Act (FOIA) lawsuit, is that the VA is currently fighting the release of documents that would further shed light on another controversy surrounding the Bogues.<sup>7</sup> According to the lawsuit, in January 2020, Mr. Bogue’s employer, VES, wrote a letter to Mrs. Bogue, “which sought severe penalties against several for-profit educational institutions, [and] began with this salutation, ‘Dear Charmain.’”<sup>8</sup> Mr. Bogue’s employer proposed that Mrs. Bogue and VBA “put four schools and a public company out of business,” pushing her “to choke off the schools’ income flow” by preventing veterans from using their GI Bill benefits at those institutions.<sup>9</sup>

In a March 3, 2020 email provided to my office, obtained via FOIA, as the VA prepared to publicly announce its intent to grant VES’s request, one individual is seen to have cautioned those on the email chain that the information, and pending actions surrounding various schools, needed to be safeguarded.<sup>10</sup> That official cautioned that the VA’s impending announcement needed to be kept “‘close hold’ in order to prevent misinformed leaks, general panic, and insider trading.”

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<sup>4</sup> NLPC Staff, *Are For-Profit College ‘Critics’ Up to Their Old Tricks?*, NATIONAL LEGAL AND POLICY CENTER (Nov. 4, 2020), <https://nlpc.org/2020/11/04/are-for-profit-college-critics-up-to-their-old-tricks/>.

<sup>5</sup> NLPC Staff, *VA Official Charmain Bogue Did Not Disclose Links to Outside Group*, NATIONAL LEGAL AND POLICY CENTER (Nov. 12, 2020), <https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/>.

<sup>6</sup> NLPC Staff, *On Tax Return, Group Did Not Disclose Payments to Husband of VA Official*, NATIONAL LEGAL AND POLICY CENTER (Dec. 4, 2020), <https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-va-official/>.

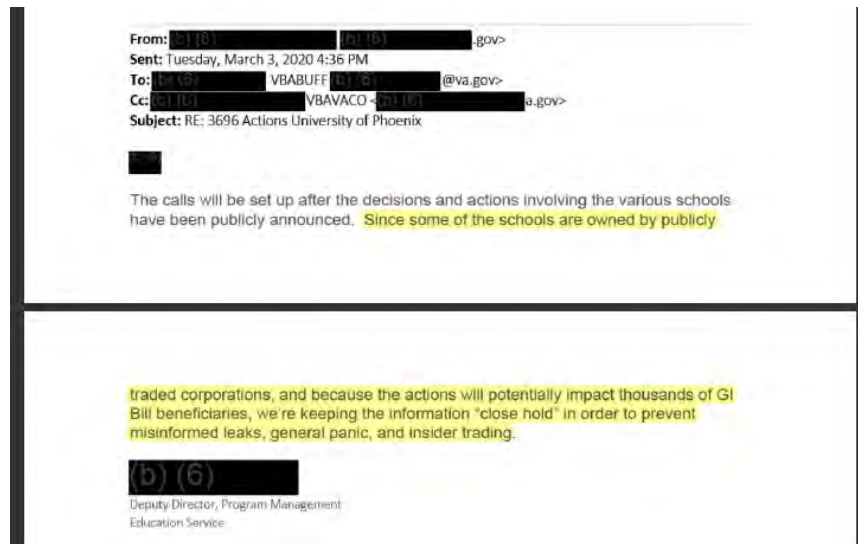
<sup>7</sup> Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 3-4.

<sup>10</sup> Attached as Exhibit B.

Inspector General Michael J. Missal  
U.S. Department of Veterans Affairs Office of Inspector General  
April 2, 2021



Unfortunately, the VA appears to have failed to observe that advice, and as the lawsuit alleges, retail investors, without access to this privileged information, were harmed as a result.

According to the complaint, “[o]n March 9, 2020, at 5:59 p.m., after the stock market had closed, the VA issued a press release announcing it was threatening to do exactly what VES had asked it to do ... to choke off the schools’ income flow...”<sup>11</sup>

However, someone appears to have released market sensitive information about the VA’s impending announcement during the trading day and may have done so in the months between the January letter and the March 9 announcement as well. At least one recipient of the early heads-up was Mr. Bogue’s employer, VES. “The VA gave early notice of its decision to some, including VES. During the trading day at 2:26 p.m. E.T., VES tweeted its own press before the official VA announcement.”<sup>12</sup> For that reason, the lawsuit:

...seeks records ... relating to the VA’s selective release of nonpublic information during the period from January through March 2020 that adversely affected the stock price of ... a U.S. publicly traded company. During this period, the stock price (ticker symbol: PRDO) fell from \$18.83 to \$7.96, a loss of 58 percent of its price and over \$800 million in market capitalization. By July 2020, the VA had decided it would take no action against CEC but for many investors who sold during the near panic, their losses had already been realized, and for the professional traders, who may have received those tips, their profits had already been banked.<sup>13</sup>

<sup>11</sup> Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB, at 5 (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>12</sup> *Id.* at 6-7.

<sup>13</sup> *Id.* at 1-2.

Inspector General Michael J. Missal  
U.S. Department of Veterans Affairs Office of Inspector General  
April 2, 2021

The Senate Judiciary Committee has jurisdiction over FOIA-related matters and an obligation to conduct oversight of FOIA compliance issues. Moreover, the allegations described by whistleblowers and witnesses interviewed by my staff raise broader, serious questions about potential ethics violations and whistleblower reprisal at the VA.

To that end, I request that VA OIG investigate the following issues that have been raised by public reporting as well as communications to my office:

1. Whether there were suspensions of senior-level VA employees for allegedly improperly accepting gifts, and if so, whether those suspensions were purportedly overturned and why.
2. Whether Charmain Bogue engaged in VA business with any of her husband's companies, creating, at the very least, an appearance of a conflict of interest, and at worst, a conflict of interest as described by applicable law and regulation.<sup>14</sup>
3. Whether a purported ethics opinion that recommended Chairman Bogue recuse herself from VA business involving her husband's companies existed and whether it was followed.
4. Whether there was a leak of potential market-sensitive information that could have affected retail investors and stock prices.
5. Whether senior VA employees are adequately complying with financial disclosure statement requirements that could help the VA promptly identify potential conflicts of interest between staff and stakeholder groups.
6. Whether the VA is failing to adequately comply with FOIA requests regarding these important matters of public interest.
7. Whether officials at the VA engaged in whistleblower reprisal once issues concerning the above fact pattern were brought to the attention of senior officials.

Additionally, I respectfully request a briefing from VA OIG regarding the above allegations, whether or not VA OIG has taken actions on these allegations, and if an investigation is in fact underway, when VA OIG expects that investigation to be completed.

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<sup>14</sup> 18 U.S.C. § 208.



Inspector General Michael J. Missal  
U.S. Department of Veterans Affairs Office of Inspector General  
April 2, 2021

Should you have questions, please contact my Committee staff at (202) 224-5225. Thank you for your attention to this important mater.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley

Ranking Member

Committee on the Judiciary

# Exhibit B

**From:** (b) (6) VBABUFF  
**To:** (b) (6)  
**Cc:** (b) (6) Mallia, Donna P.  
**Subject:** RE: 3696 Actions University of Phoenix  
**Date:** Wednesday, March 4, 2020 8:19:39 AM

---

Good Morning (b) (6)

While I understand the sensitivity of the matter, we need to ensure the folks who are to take action, based on this letter, are informed of the process. The letter notes the following:

(b) (5)

Just want to ensure the RPOs are prepared to address the issue appropriately.

Thanks- (b) (6)

---

**From:** (b) (6) (b) (6).gov>  
**Sent:** Tuesday, March 3, 2020 4:36 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Subject:** RE: 3696 Actions University of Phoenix

(b) (6)

The calls will be set up after the decisions and actions involving the various schools have been publicly announced. Since some of the schools are owned by publicly

traded corporations, and because the actions will potentially impact thousands of GI Bill beneficiaries, we're keeping the information "close hold" in order to prevent misinformed leaks, general panic, and insider trading.

(b) (6)

Deputy Director, Program Management  
Education Service

---

**From:** (b) (6) <(b) (6)@va.gov>  
**Sent:** Tuesday, March 3, 2020 9:42 AM  
**To:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Cc:** Bogue, Charmain, VBAVACO (b) (6)@va.gov; Mallia, Donna P. (b) (6)@va.gov  
**Subject:** FW: 3696 Actions University of Phoenix  
**Importance:** High

Good Morning (b) (6) I understand that you are planning on establishing recurring calls with the field on this issue. Any idea when they will begin? We want to make sure we are prepared for school responses.

Thanks!

(b) (6)

---

**From:** Mallia, Donna P. <(b) (6)@va.gov>  
**Sent:** Monday, March 2, 2020 3:48 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov  
**Subject:** 3696 Actions University of Phoenix  
**Importance:** High

FYSA

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**From:** (b) (6) VBAVACO (b) (6)a.gov>  
**Sent:** Monday, February 24, 2020 3:27 PM  
**To:** McClellan, Jason, VBAMUSK (b) (6)a.gov; Marsh, Mitzi A. VBASTL (b) (6)@va.gov; Mallia, Donna P. <(b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>; (b) (6) VBAVACO (b) (6)va.gov>  
**Subject:** 3696 action(s) University of Phoenix  
**Importance:** High

Good Afternoon,

The purpose of this message is to provide attached details regarding University of Phoenix.

Education Service has received evidence in support of allegations of false and misleading advertising or enrollment practices by University of Phoenix, in violation of 38 U.S.C. § 3696. Based on current VA regulations (38 CFR § 21.4210(d)), the Director(s) of the Regional Processing Office(s) of jurisdiction provide formal notification of any decision(s) to suspend payments or disapprove all further enrollments or reenrollments of beneficiaries at schools believed to have employed such practices, and refer the case(s) to the committee(s) on educational allowances.

VR

(b) (6)

Team Chief, Integrity & Protection Branch  
Oversight & Accountability

# Exhibit 3



RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT  
 DIANNE FEINSTEIN, CALIFORNIA  
 SHELDON WHITEHOUSE, RHODE ISLAND  
 AMY KLOBUCHAR, MINNESOTA  
 CHRISTOPHER A. COONS, DELAWARE  
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 TOM COTTON, ARKANSAS  
 JOHN KENNEDY, LOUISIANA  
 THOM TILLIS, NORTH CAROLINA  
 MARSHA BLACKBURN, TENNESSEE

**United States Senate**  
 COMMITTEE ON THE JUDICIARY  
 WASHINGTON, DC 20510-6275

April 2, 2021

**VIA ELECTRONIC TRANSMISSION**

Dennis McDonough  
 Secretary  
 U.S. Department of Veterans Affairs

Dear Secretary McDonough:

According to multiple whistleblowers and witnesses interviewed by my staff, the U.S. Department of Veterans Affairs (VA) appears to be sweeping under the rug a history of conflicts and ethical issues among senior officials at the Veterans Benefits Administration (VBA). These concerns and allegations have been highlighted in both the media as well as in recent court filings, raising numerous challenges as you begin your tenure leading the VA.<sup>1</sup>

After reviewing both witness statements and documents provided to my office, I write to you to express concern over allegations of improper contracting practices, whistleblower reprisal, and VA officials allegedly failing to protect internal deliberative information which may have led to individuals trading on non-public information. I also understand that several whistleblowers have disclosed these concerns to the Office of Special Counsel (OSC), as well as the VA Inspector General (VA OIG). In November 2020, the National Legal and Policy Center (NLPC) reported on some of these very issues.<sup>2</sup> Of specific concern, whistleblowers have alleged that a VBA official has participated in VA business while her husband engaged in employment and consulting arrangements for companies with business before her, including Student Veterans of America (SVA) and Veterans Education Success (VES). In February of 2018, VA ethics lawyers allegedly determined that the VBA senior official, Charmain Bogue, should recuse herself from engaging in

<sup>1</sup> See NLPC Staff, *Are For-Profit College 'Critics' Up to Their Old Tricks?*, NATIONAL LEGAL AND POLICY CENTER (Nov. 4, 2020), <https://nlpc.org/2020/11/04/are-for-profit-college-critics-up-to-their-old-tricks/>; NLPC Staff, *VA Official Charmain Bogue Did Not Disclose Links to Outside Group*, NATIONAL LEGAL AND POLICY CENTER (Nov. 12, 2020), <https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/>; NLPC Staff, *On Tax Return, Group Did Not Disclose Payments to Husband of VA Official*, NATIONAL LEGAL AND POLICY CENTER (Dec. 4, 2020), <https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-va-official/>; Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>2</sup> See NLPC Staff, *Are For-Profit College 'Critics' Up to Their Old Tricks?*, NATIONAL LEGAL AND POLICY CENTER (Nov. 4, 2020), <https://nlpc.org/2020/11/04/are-for-profit-college-critics-up-to-their-old-tricks/>; NLPC Staff, *VA Official Charmain Bogue Did Not Disclose Links to Outside Group*, NATIONAL LEGAL AND POLICY CENTER (Nov. 12, 2020), <https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/>; NLPC Staff, *On Tax Return, Group Did Not Disclose Payments to Husband of VA Official*, NATIONAL LEGAL AND POLICY CENTER (Dec. 4, 2020), <https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-va-official/>.

Secretary McDonough  
U.S. Department of Veterans Affairs  
April 2, 2021

activity involving her husband's clients and employers, VES and SVA. Chairman Bogue serves as Executive Director of VBA's Education Service, and her husband, Barrett Bogue, serves as a Senior Communication Advisor for VES.<sup>3</sup> Although this legal opinion was supposedly provided to Mrs. Bogue, as well as some other VA officials, it is unclear whether she ever did recuse herself, and if she did, when.

Mr. Bogue reportedly runs a consulting firm that has "a contract with VES ... generous enough to allow him to quit his day job and focus on his consulting business full time."<sup>4</sup> It is further alleged that Mrs. Bogue failed to disclose her husband's place of work and his income on her mandatory ethics paperwork.<sup>5</sup> Additionally, it appears that VES may have also failed to disclose payments it made to Mr. Bogue for his work.<sup>6</sup>

Whistleblowers further allege that the Bagues are indicative of a broader culture of corruption and cronyism at the VBA, one which is hostile to enforcing basic ethical standards, and punishes those who bring concerns to the forefront. For example, Paul Lawrence, former Undersecretary of Benefits, allegedly recommended three senior officials for suspension who were reported to have improperly, and potentially illegally, accepted gifts from outside stakeholders. However, these suspensions were supposedly overturned by the previous Secretary of the VA. One of the officials, former Principal Undersecretary Jamie Manker, abruptly retired, and another, Tom Murphy, is currently serving as Acting Undersecretary of Benefits.

Of additional concern, according to allegations in a federal Freedom of Information Act (FOIA) lawsuit, is that the VA is currently fighting the release of documents that would further shed light on another controversy surrounding the Bagues.<sup>7</sup> According to the lawsuit, in January 2020, Mr. Bogue's employer, VES, wrote a letter to Mrs. Bogue, "which sought severe penalties against several for-profit educational institutions, [and] began with this salutation, 'Dear Charmain.'"<sup>8</sup> Mr. Bogue's employer proposed that Mrs. Bogue and VBA "put four schools and a public company out of business," pushing her "to choke off the schools' income flow" by preventing veterans from using their GI Bill benefits at those institutions.<sup>9</sup>

In a March 3, 2020 email provided to my office, obtained via FOIA, as the VA prepared to publicly announce its intent to grant VES's request, one individual is seen to have cautioned those on the email chain that the information, and pending actions surrounding various schools, needed

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<sup>3</sup> Veterans Education Service, Who We Are, Barret Bogue, <https://vetsedsuccess.org/who-we-are/barrett-bogue/>.

<sup>4</sup> NLPC Staff, *Are For-Profit College 'Critics' Up to Their Old Tricks?*, NATIONAL LEGAL AND POLICY CENTER (Nov. 4, 2020), <https://nlpc.org/2020/11/04/are-for-profit-college-critics-up-to-their-old-tricks/>.

<sup>5</sup> NLPC Staff, *VA Official Charmain Bogue Did Not Disclose Links to Outside Group*, NATIONAL LEGAL AND POLICY CENTER (Nov. 12, 2020), <https://nlpc.org/2020/11/12/va-official-charmain-bogue-did-not-disclose-links-to-outside-group/>.

<sup>6</sup> NLPC Staff, *On Tax Return, Group Did Not Disclose Payments to Husband of VA Official*, NATIONAL LEGAL AND POLICY CENTER (Dec. 4, 2020), <https://nlpc.org/2020/12/04/on-tax-return-group-did-not-disclose-payments-to-husband-of-v-a-official/>.

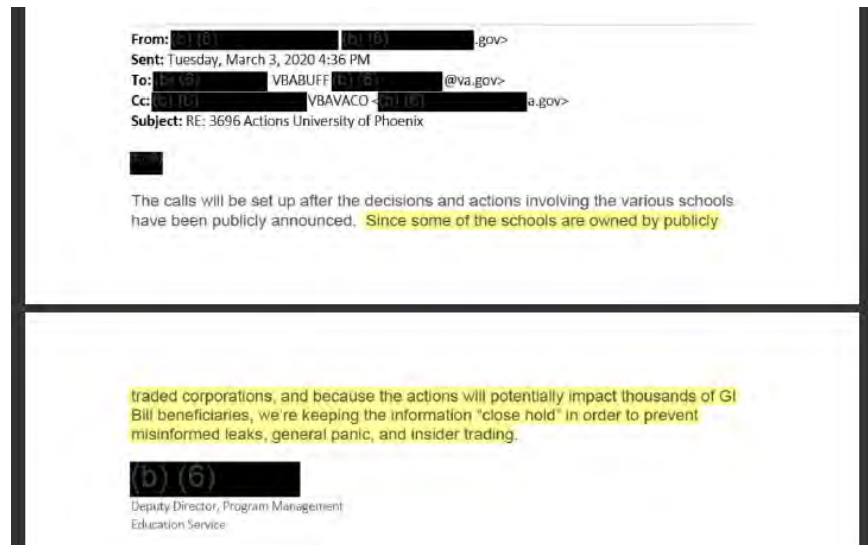
<sup>7</sup> Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.* at 3-4.

Secretary McDonough  
U.S. Department of Veterans Affairs  
April 2, 2021

to be safeguarded.<sup>10</sup> That official cautioned that the VA's impending announcement needed to be kept "close hold" in order to prevent misinformed leaks, general panic, and insider trading."



Unfortunately, the VA appears to have failed to observe that advice, and as the lawsuit alleges, retail investors, without access to this privileged information, were harmed as a result.

According to the complaint, "[o]n March 9, 2020, at 5:59 p.m., after the stock market had closed, the VA issued a press release announcing it was threatening to do exactly what VES had asked it to do ... to choke off the schools' income flow..."<sup>11</sup>

However, someone appears to have released market sensitive information about the VA's impending announcement during the trading day and may have done so in the months between the January letter and the March 9 announcement as well. At least one recipient of the early heads-up was Mr. Bogue's employer, VES. "The VA gave early notice of its decision to some, including VES. During the trading day at 2:26 p.m. E.T., VES tweeted its own press before the official VA announcement."<sup>12</sup> For that reason, the lawsuit:

...seeks records ... relating to the VA's selective release of nonpublic information during the period from January through March 2020 that adversely affected the stock price of ... a U.S. publicly traded company. During this period, the stock price (ticker symbol: PRDO) fell from \$18.83 to \$7.96, a loss of 58 percent of its price and over \$800 million in market capitalization. By July 2020, the VA had decided it would take no action against CEC but for many investors who sold during the near panic, their losses had already been realized, and for the

<sup>10</sup> Attached as Exhibit B.

<sup>11</sup> Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB, at 5 (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>12</sup> *Id.* at 6-7.

Secretary McDonough  
U.S. Department of Veterans Affairs  
April 2, 2021

professional traders, who may have received those tips, their profits had already been banked.<sup>13</sup>

The Senate Judiciary Committee has jurisdiction over FOIA-related matters and an obligation to conduct oversight of FOIA compliance issues. Moreover, the allegations described by whistleblowers and witnesses interviewed by my staff raise broader, serious questions about potential ethics violations and whistleblower reprisal at the VA.

To that end, I respectfully request that you answer the following questions no later than April 16, 2021.

1. Has Acting Undersecretary Tom Murphy ever been recommended for suspension for accepting gifts as prohibited by law?
  - a. If so, was Mr. Murphy ever suspended?
  - b. Was a recommendation for suspension ever overturned? If so, why and by who?
2. Had former Deputy Undersecretary Robert Reynolds ever been recommended for suspension for accepting gifts as prohibited by law?
  - a. If so, was Mr. Reynolds ever suspended?
  - b. Was a recommendation for suspension ever overturned? If so, why and by who?
3. Had former Principal Undersecretary Jamie Manker ever been recommended for suspension for accepting gifts as prohibited by law?
  - a. If so, was Mr. Manker ever suspended?
  - b. Was a recommendation for suspension ever overturned? If so, why and by who?
4. Please provide all records, communications, and memorandums related to the suspensions, or proposed suspensions, of Tom Murphy, Jamie Manker, and Robert Reynolds.
5. What steps does the VA take to protect retail investors by safeguarding market sensitive information regarding potential enforcement announcements related to publicly-traded companies?

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<sup>13</sup> *Id.* at 1-2.

Secretary McDonough  
U.S. Department of Veterans Affairs  
April 2, 2021

- a. Is it possible these steps failed in this instance? If so, what will VA do to prevent this from happening again in the future?
6. If the VA is aware that market sensitive information was potentially leaked, has the VA investigated this leak of information? Please provide the report of investigation.
7. Did the VA Office of General Counsel ever provide a legal opinion with respect to Mrs. Bogue and her involvement with any of her husband's companies?
  - a. Did the legal opinion recommend Mrs. Bogue recuse herself from any involvement with her husband's companies? If not, why not?
8. Please provide all records relating to any written ethics opinion by VA attorneys regarding Mrs. Bogue's recusal, whether and when this recusal occurred, and all communications regarding Mrs. Bogue's recusal obligations with respect to her husband's companies.
9. Did Mrs. Bogue engage in, participate in, or contribute to VA business with her husband's businesses? If so, why did VA allow Mrs. Bogue to participate?
10. Under current law and regulation, is Mrs. Bogue required to report financial information of her spouse via a public financial disclosure report? If so, did Ms. Bogue list her husband?
  - a. If Mrs. Bogue did report her husband on a public financial disclosure form, did she report Mr. Bogue's employer(s)? If not, why not?
  - b. If Mrs. Bogue did report her husband on a public financial disclosure form, did she report Mr. Bogue's salary with respect to his work? If not, why not?
  - c. Please provide Mrs. Bogue's public financial disclosure reports dating back five (5) years.
11. If Mrs. Bogue did not report where Mr. Bogue currently works, and if she participated in VA business related to VES, would that constitute a conflict of interest as described by applicable law or regulation?<sup>14</sup> If not, why not?
12. Why has the VA attempted to block FOIA requests seeking information regarding these matters?
  - a. Does the VA plan to comply with FOIA requests in a timely and reasonable manner in order to afford the public greater transparency?

---

<sup>14</sup> 18 U.S.C. § 208.

Secretary McDonough  
U.S. Department of Veterans Affairs  
April 2, 2021

Should you have questions, please contact my Committee staff at (202) 224-5225. Thank you for your attention to this important mater.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley

Ranking Member

Committee on the Judiciary

# Exhibit B



**From:** (b) (6) VBABUFF  
**To:** (b) (6)  
**Cc:** (b) (6) Mallia, Donna P.  
**Subject:** RE: 3696 Actions University of Phoenix  
**Date:** Wednesday, March 4, 2020 8:19:39 AM

---

Good Morning (b) (6)

While I understand the sensitivity of the matter, we need to ensure the folks who are to take action, based on this letter, are informed of the process. The letter notes the following:

(b) (5)

Just want to ensure the RPOs are prepared to address the issue appropriately.

Thanks- (b) (6)

---

**From:** (b) (6) (b) (6).gov>  
**Sent:** Tuesday, March 3, 2020 4:36 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Subject:** RE: 3696 Actions University of Phoenix

(b) (6)

The calls will be set up after the decisions and actions involving the various schools have been publicly announced. Since some of the schools are owned by publicly

traded corporations, and because the actions will potentially impact thousands of GI Bill beneficiaries, we're keeping the information "close hold" in order to prevent misinformed leaks, general panic, and insider trading.

(b) (6)

Deputy Director, Program Management  
Education Service

---

**From:** (b) (6) <(b) (6)@va.gov>  
**Sent:** Tuesday, March 3, 2020 9:42 AM  
**To:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Cc:** Bogue, Charmain, VBAVACO (b) (6)@va.gov; Mallia, Donna P. (b) (6)@va.gov  
**Subject:** FW: 3696 Actions University of Phoenix  
**Importance:** High

Good Morning (b) (6) I understand that you are planning on establishing recurring calls with the field on this issue. Any idea when they will begin? We want to make sure we are prepared for school responses.

Thanks!

(b) (6)

---

**From:** Mallia, Donna P. <(b) (6)@va.gov>  
**Sent:** Monday, March 2, 2020 3:48 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov  
**Subject:** 3696 Actions University of Phoenix  
**Importance:** High

FYSA

---

**From:** (b) (6) VBAVACO (b) (6)a.gov>  
**Sent:** Monday, February 24, 2020 3:27 PM  
**To:** McClellan, Jason, VBAMUSK (b) (6)a.gov>; Marsh, Mitzi A. VBASTL (b) (6)@va.gov>; Mallia, Donna P. <(b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>; (b) (6) VBAVACO (b) (6)va.gov>  
**Subject:** 3696 action(s) University of Phoenix  
**Importance:** High

Good Afternoon,

The purpose of this message is to provide attached details regarding University of Phoenix.

Education Service has received evidence in support of allegations of false and misleading advertising or enrollment practices by University of Phoenix, in violation of 38 U.S.C. § 3696. Based on current VA regulations (38 CFR § 21.4210(d)), the Director(s) of the Regional Processing Office(s) of jurisdiction provide formal notification of any decision(s) to suspend payments or disapprove all further enrollments or reenrollments of beneficiaries at schools believed to have employed such practices, and refer the case(s) to the committee(s) on educational allowances.

VR

(b) (6)

Team Chief, Integrity & Protection Branch  
Oversight & Accountability

# Exhibit 4

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT  
 DIANNE FEINSTEIN, CALIFORNIA  
 SHELDON WHITEHOUSE, RHODE ISLAND  
 AMY KLOBUCHAR, MINNESOTA  
 CHRISTOPHER A. COONS, DELAWARE  
 RICHARD BLUMENTHAL, CONNECTICUT  
 MAZIE HIRONO, HAWAII  
 CORY A. BOOKER, NEW JERSEY  
 ALEX PADILLA, CALIFORNIA  
 JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA  
 LINDSEY O. GRAHAM, SOUTH CAROLINA  
 JOHN CORNYN, TEXAS  
 MICHAEL S. LEE, UTAH  
 TED CRUZ, TEXAS  
 BEN SASSE, NEBRASKA  
 JOSHUA D. HAWLEY, MISSOURI  
 TOM COTTON, ARKANSAS  
 JOHN KENNEDY, LOUISIANA  
 THOM TILLIS, NORTH CAROLINA  
 MARSHA BLACKBURN, TENNESSEE

**United States Senate**  
 COMMITTEE ON THE JUDICIARY  
 WASHINGTON, DC 20510-6275

April 2, 2021

**VIA ELECTRONIC TRANSMISSION**

Allison Herren Lee  
 Acting Chairwoman  
 U.S. Securities and Exchange Commission

Dear Chairwoman Lee:

According to whistleblowers and witnesses interviewed by my staff, it is alleged that in early 2020, certain individuals at the U.S. Department of Veterans Affairs (VA) may have leaked market-sensitive information, potentially impacting retail investors and stock prices. The Securities and Exchange Commission (SEC) is chartered and equipped to investigate allegations of potential insider trading, and must ensure the integrity of our financial markets, especially with respect to information closely held by government employees that may impact financial markets.

In connection to the allegations raised to my staff, a lawsuit filed in California alleges that, in January 2020 Veterans Education Success (VES) wrote a letter to Charmain Bogue, a Veteran Benefits Administration (VBA) senior employee, “which sought severe penalties against several for-profit educational institutions, [and] began with this salutation, ‘Dear Charmain.’”<sup>1</sup> Barrett Bogue, Mrs. Bogue’s husband, serves as a Senior Communication Advisor for VES.<sup>2</sup> VES’s letter proposed that Mrs. Bogue and VBA “put four schools and a public company out of business,” pushing her “to choke off the schools’ income flow” by preventing veterans from using their GI Bill benefits at those institutions.

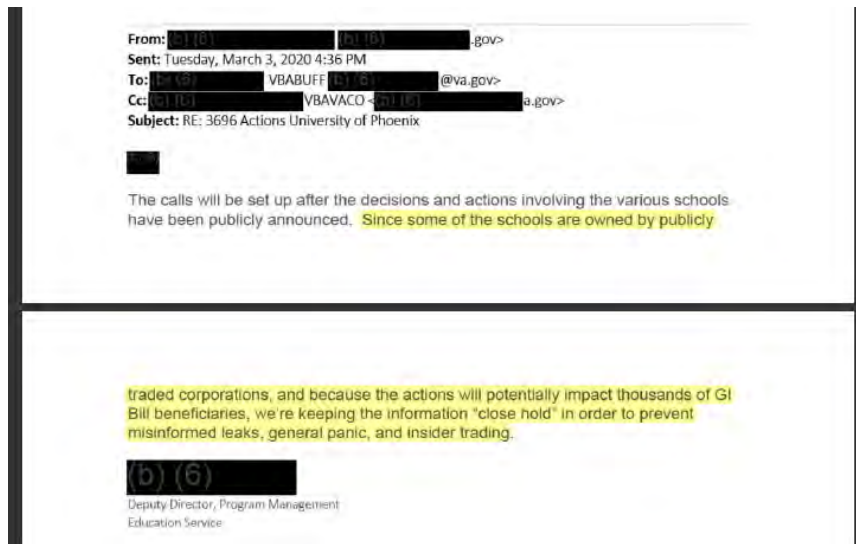
Seemingly as a result of Mr. Bogue’s and VES’s lobbying efforts, in a March 3, 2020, email obtained via a Freedom of Information Act (FOIA) request and provided to my office, as the VA prepared to publicly announce its intent to grant VES’s request, one individual is seen to have cautioned those on the email chain that the information, and pending actions surrounding various schools, needed to be safeguarded.<sup>3</sup> That official cautioned that the VA’s impending announcement needed to be kept “‘close hold’ in order to prevent misinformed leaks, general panic, and insider trading.”

<sup>1</sup> Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB, at 3 (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>2</sup> Veterans Education Service, Who We Are, Barret Bogue, <https://vetsedsuccess.org/who-we-are/barrett-bogue/>.

<sup>3</sup> Attached as Exhibit B.

Acting Chairwoman Lee  
U.S. Securities and Exchange Commission  
April 2, 2021



Unfortunately, the VA appears to have failed to observe that advice, and as the lawsuit alleges, retail investors, without access to this privileged information, were harmed as a result.

Additionally, according to a complaint filed in California, “[o]n March 9, 2020, at 5:59 p.m., after the stock market had closed, the VA issued a press release announcing it was threatening to do exactly what VES had asked it to do ... to choke off the schools’ income flow...”<sup>4</sup>

However, someone appears to have released market sensitive information about the VA’s impending announcement during the trading day and may have done so in the months between the January letter and the March 9 announcement as well. At least one recipient of the early heads-up was Mr. Bogue’s employer, VES. “The VA gave early notice of its decision to some, including VES. During the trading day at 2:26 p.m. E.T., VES tweeted its own press before the official VA announcement.”<sup>5</sup> For that reason, the lawsuit:

...seeks records ... relating to the VA’s selective release of nonpublic information during the period from January through March 2020 that adversely affected the stock price of ... a U.S. publicly traded company. During this period, the stock price (ticker symbol: PRDO) fell from \$18.83 to \$7.96, a loss of 58 percent of its price and over \$800 million in market capitalization. By July 2020, the VA had decided it would take no action against CEC but for many investors who sold during the near panic, their losses had already been realized, and for the professional traders, who may have received those tips, their profits had already been banked.<sup>6</sup>

<sup>4</sup> Complaint, *Pomares v. United States Department of Veterans Affairs*, Case # 21-cv-00084-H-MSB, at 5 (S.D. Cal., Jan 15, 2021) (Attached as Exhibit A).

<sup>5</sup> *Id.* at 6-7.

<sup>6</sup> *Id.* at 1-2.

Acting Chairwoman Lee  
U.S. Securities and Exchange Commission  
April 2, 2021

Government employees must adhere to the strictest of ethics standards. The SEC in turn must ensure that the public maintains faith in financial markets, and that government employees with knowledge and insight into potentially market-moving decisions aren't taking, or able to take, advantage of that insider information by feeding it to corporate fat cats and cronies, or even worse, using that information to financially benefit themselves.<sup>7</sup>

To that end, I respectfully request that you answer the following questions no later than April 16, 2021.

1. Has the SEC received complaints regarding the above fact pattern? Is the SEC otherwise aware of the above fact pattern?
  - a. Has the SEC opened an investigation into the above claims?
  - b. If not, why not? Does the SEC plan to open an investigation into these claims?
2. What policies and procedures does the SEC have in place to identify and investigate potentially improper trading by government employees, and their potential access to information that could shift financial markets?
3. Does the SEC take a proactive stance on briefing and distributing guidance to federal agencies on the importance and necessity of protecting information that could affect financial markets? If so, what does the SEC do with respect to proactive measures?
4. What tools does the SEC employ to educate and inform the federal workforce on the necessity to protect information that may have effects on financial markets? Has the SEC ever briefed the VA on the necessity to protect this type of information?

Should you have questions, please contact my Committee staff at (202) 224-5225. Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley

Ranking Member

Committee on the Judiciary

---

<sup>7</sup> 15 U.S. Code §§ 78j, 78u-1(h); 17 CFR § 240.10b-5.



# Exhibit B

**From:** (b) (6) VBABUFF  
**To:** (b) (6)  
**Cc:** (b) (6) Mallia, Donna P.  
**Subject:** RE: 3696 Actions University of Phoenix  
**Date:** Wednesday, March 4, 2020 8:19:39 AM

---

Good Morning (b) (6)

While I understand the sensitivity of the matter, we need to ensure the folks who are to take action, based on this letter, are informed of the process. The letter notes the following:

(b) (5)

Just want to ensure the RPOs are prepared to address the issue appropriately.

Thanks- (b) (6)

---

**From:** (b) (6) (b) (6).gov>  
**Sent:** Tuesday, March 3, 2020 4:36 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Subject:** RE: 3696 Actions University of Phoenix

(b) (6)

The calls will be set up after the decisions and actions involving the various schools have been publicly announced. Since some of the schools are owned by publicly

traded corporations, and because the actions will potentially impact thousands of GI Bill beneficiaries, we're keeping the information "close hold" in order to prevent misinformed leaks, general panic, and insider trading.

(b) (6)

Deputy Director, Program Management  
Education Service

---

**From:** (b) (6) <(b) (6)@va.gov>  
**Sent:** Tuesday, March 3, 2020 9:42 AM  
**To:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Cc:** Bogue, Charmain, VBAVACO (b) (6)@va.gov; Mallia, Donna P. (b) (6)@va.gov  
**Subject:** FW: 3696 Actions University of Phoenix  
**Importance:** High

Good Morning (b) (6) I understand that you are planning on establishing recurring calls with the field on this issue. Any idea when they will begin? We want to make sure we are prepared for school responses.

Thanks!

(b) (6)

---

**From:** Mallia, Donna P. <(b) (6)@va.gov>  
**Sent:** Monday, March 2, 2020 3:48 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov  
**Subject:** 3696 Actions University of Phoenix  
**Importance:** High

FYSA

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**From:** (b) (6) VBAVACO (b) (6)a.gov>  
**Sent:** Monday, February 24, 2020 3:27 PM  
**To:** McClellan, Jason, VBAMUSK (b) (6)a.gov; Marsh, Mitzi A. VBASTL (b) (6)@va.gov; Mallia, Donna P. <(b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>; (b) (6) VBAVACO (b) (6)va.gov>  
**Subject:** 3696 action(s) University of Phoenix  
**Importance:** High

Good Afternoon,

The purpose of this message is to provide attached details regarding University of Phoenix.

# Exhibit 4

Education Service has received evidence in support of allegations of false and misleading advertising or enrollment practices by University of Phoenix, in violation of 38 U.S.C. § 3696. Based on current VA regulations (38 CFR § 21.4210(d)), the Director(s) of the Regional Processing Office(s) of jurisdiction provide formal notification of any decision(s) to suspend payments or disapprove all further enrollments or reenrollments of beneficiaries at schools believed to have employed such practices, and refer the case(s) to the committee(s) on educational allowances.

VR

(b) (6)

Team Chief, Integrity & Protection Branch  
Oversight & Accountability

# Exhibit 5

**From:** (b)(6)@vetsedsuccess.org>  
**Sent:** Wednesday, January 15, 2020 11:23 AM  
**To:** (b)(6)@va.gov>  
**Cc:** (b)(6)@vetsedsuccess.org>  
**Subject:** [EXTERNAL] Meeting?

Hi (b)(6)

I hope the rest of your time went well in CA. Also CONGRATULATIONS on making HillVets top 100. If anyone deserves it, it is you!

Do you have time in the next few weeks to meet with me and (b)(6) about a few things we are hoping to discuss with you? We can work our schedule around yours. :-)

(b)(6)

--

(b)(6)

Veterans Education Success

(b)(6)@vetsedsuccess.org

(b)(6)

[www.vetsedsuccess.org](http://www.vetsedsuccess.org)

Follow us on Twitter @GIBillRights and  
Facebook [fb.me/GiBillRights](https://fb.me/GiBillRights)

(b)(6)

Veterans Education Success

(b)(6)@vetsedsuccess.org

(b)(6)

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Facebook [fb.me/GiBillRights](https://fb.me/GiBillRights)

--

(b)(6)



# Exhibit 6

**From:** (b)(6)@vetsedsuccess.org>

**Sent:** Wednesday, January 15, 2020 11:56 AM

**To:** Bogue, Charmain (b)(6)@va.gov>

**Cc:** (b)(6)@vetsedsuccess.org> (b)(6) VBAVACO (b)(6)

(b)(6)@va.gov> (b)(6) VBAVACO (b)(6)@va.gov>

**Subject:** Re: [EXTERNAL] Meeting?

Great! Thanks!

Among other things, we did want to discuss some extra questions we had regarding complaints on the Comparison Tool. It might be helpful to have (b)(6) come, if he is able.

On another note, I will not be able to make it to tomorrow's meeting but (b)(6) will be joining on behalf of us. :-)

Have a good day!

(b)(6)

On Wed, Jan 15, 2020 at 11:51 AM Bogue, Charmain (b)(6)@va.gov> wrote:

Hi (b)(6)

Sure we can get something set up.

**Charmain Bogue**

Executive Director

Education Service

Veterans Benefits Administration

(b)(6)@va.gov

**From:** (b)(6)@vetsedsuccess.org>  
**Sent:** Wednesday, January 15, 2020 11:23 AM  
**To:** (b)(6)@va.gov>  
**Cc:** (b)(6)@vetsedsuccess.org>  
**Subject:** [EXTERNAL] Meeting?

Hi (b)(6)

I hope the rest of your time went well in CA. Also CONGRATULATIONS on making HillVets top 100. If anyone deserves it, it is you!

Do you have time in the next few weeks to meet with me and (b)(6) about few things we are hoping to discuss with you? We can work our schedule around yours. :-)

(b)(6)

--

(b)(6)

Veterans Education Success

(b)(6)@vetsedsuccess.org

(b)(6)

[www.vetsedsuccess.org](http://www.vetsedsuccess.org)

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(b)(6)

Veterans Education Success

(b)(6)@vetsedsuccess.org

(b)(6)

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Facebook [fb.me/GiBillRights](https://fb.me/GiBillRights)

--

(b)(6)

# Exhibit 7

**From:** (b)(6)  
**Sent:** Tue, 21 Jan 2020 10:09:29 -0500  
**To:** Bogue, Charmain  
**Subject:** [EXTERNAL] Re: Running a few min late

We are here.

On Tue, Jan 21, 2020 at 9:58 AM (b)(6)@vetsedsuccess.org> wrote:  
Traffic is awful.

--  
(b)(6)

Veterans Education Success

(b)(6)@vetsedsuccess.org

(b)(6)

[www.vetsedsuccess.org](http://www.vetsedsuccess.org)

Follow us on Twitter @GIBillRights and  
Facebook [fb.me/GiBillRights](https://fb.me/GiBillRights)

(b)(6)

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(b)(6)@vetsedsuccess.org

(b)(6)

[www.vetsedsuccess.org](http://www.vetsedsuccess.org)

Follow us on Twitter @GIBillRights and  
Facebook [fb.me/GiBillRights](https://fb.me/GiBillRights)

# Exhibit 8

**Sent:** Wed, 22 Jan 2020 18:55:02 +0000  
**To:** (b)(6)  
**Cc:** (b)(6) VBAVACO  
**Subject:** RE: Jan 21 meeting

Good afternoon,

We appreciate you coming over to discuss how we can partner together to continue the success of the GI Bill program and ways to provide more robust oversight of the program whether that be on the front end via the program approval process or after program approval. I want to provide clarification of this mischaracterization of why we deem a complaint valid or invalid. If there is not enough information to substantiate a complaint, then we are unable to provide the necessary research to validate the complaint. When we see a number of complaints coming in with very general statements it does not provide us the specifics we need to dig in on this issue. We really need enough details (school, specifics on the issue, dates, school staff involved, etc.) in order to investigate the complaint further.

As stated in the meeting would love to partner with your organization and other VSOs to educate the veteran community on the value of the feedback system, how to submit a complaint and how the process works.

Thanks again!

**Charmain Bogue**  
 Executive Director  
 Education Service  
 Veterans Benefits Administration  
 (b)(6)@va.gov

---

**From:** (b)(6)@vetsedsuccess.org>  
**Sent:** Wednesday, January 22, 2020 1:26 PM  
**To:** Bogue, Charmain <(b)(6)@va.gov>; (b)(6) VBAVACO  
 (b)(6)@va.gov> (b)(6) VBAVACO (b)(6)@va.gov> (b)(6)  
 (b)(6)@vetsedsuccess.org>  
**Subject:** [EXTERNAL] Jan 21 meeting

Charmain, (b)(6) and (b)(6)

Thank you very much for taking the time to meet with us yesterday. Your insights and information were extremely helpful, and we greatly appreciate your receptiveness to our concerns and issues.

During the meeting, we got the impression that some of the complaints that our legal fellows inputted into the GI Bill Complaint tool on behalf of veterans may have been disregarded because they were inputted in bulk, causing some red flags to go off on your end. This is concerning to us because the complaints are, in fact, legitimate and should be considered by your office. Is there a way to ensure that they were not disregarded?



As always, we sincerely appreciate the work you do and the chance to partner with you to keep the veteran first in all things.

Look forward to hearing from you!

(b)(6)

(b)(6)

[@vetsedsuccess.org](mailto:info@vetsedsuccess.org)

(b)(6)

Follow us on Twitter [@GiBillRights](https://twitter.com/GiBillRights) and Facebook [fb.me/GiBillRights](https://fb.me/GiBillRights)

# Exhibit 9

**From:** (b) (6) VBABUFF  
**To:** (b) (6)  
**Cc:** (b) (6) Mallia, Donna P.  
**Subject:** RE: 3696 Actions University of Phoenix  
**Date:** Wednesday, March 4, 2020 8:19:39 AM

---

Good Morning (b) (6)

While I understand the sensitivity of the matter, we need to ensure the folks who are to take action, based on this letter, are informed of the process. The letter notes the following:

(b) (5)

Just want to ensure the RPOs are prepared to address the issue appropriately.

Thanks- (b) (6)

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**From:** (b) (6) (b) (6).gov>  
**Sent:** Tuesday, March 3, 2020 4:36 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Subject:** RE: 3696 Actions University of Phoenix

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(b) (6)

Deputy Director, Program Management  
Education Service

---

**From:** (b) (6) <(b) (6)@va.gov>  
**Sent:** Tuesday, March 3, 2020 9:42 AM  
**To:** (b) (6) VBAVACO <(b) (6)a.gov>  
**Cc:** Bogue, Charmain, VBAVACO (b) (6)@va.gov; Mallia, Donna P. (b) (6)@va.gov  
**Subject:** FW: 3696 Actions University of Phoenix  
**Importance:** High

Good Morning (b) (6) I understand that you are planning on establishing recurring calls with the field on this issue. Any idea when they will begin? We want to make sure we are prepared for school responses.

Thanks!

(b) (6)

---

**From:** Mallia, Donna P. <(b) (6)@va.gov>  
**Sent:** Monday, March 2, 2020 3:48 PM  
**To:** (b) (6) VBABUFF (b) (6)@va.gov  
**Subject:** 3696 Actions University of Phoenix  
**Importance:** High

FYSA

---

**From:** (b) (6) VBAVACO (b) (6)a.gov>  
**Sent:** Monday, February 24, 2020 3:27 PM  
**To:** McClellan, Jason, VBAMUSK (b) (6)a.gov; Marsh, Mitzi A. VBASTL (b) (6)@va.gov; Mallia, Donna P. <(b) (6)@va.gov>  
**Cc:** (b) (6) VBAVACO <(b) (6)a.gov>; (b) (6) VBAVACO (b) (6)va.gov>  
**Subject:** 3696 action(s) University of Phoenix  
**Importance:** High

Good Afternoon,

The purpose of this message is to provide attached details regarding University of Phoenix.

Education Service has received evidence in support of allegations of false and misleading advertising or enrollment practices by University of Phoenix, in violation of 38 U.S.C. § 3696. Based on current VA regulations (38 CFR § 21.4210(d)), the Director(s) of the Regional Processing Office(s) of jurisdiction provide formal notification of any decision(s) to suspend payments or disapprove all further enrollments or reenrollments of beneficiaries at schools believed to have employed such practices, and refer the case(s) to the committee(s) on educational allowances.

VR

(b) (6)

Team Chief, Integrity & Protection Branch  
Oversight & Accountability

# Exhibit 10

**From:** (b)(6)  
**Sent:** Tue, 10 Mar 2020 00:55:22 +0000  
**To:** Bogue, Charmain, VBAVACO (b)(6)  
(USA)  
**Cc:** (b)(6)  
VBAVACO (b)(6)  
**Subject:** RE: [EXTERNAL] RE: VA plans to suspend GI Bill funding for new students at 5 universities

Thank you everyone!!

Sorry for jumping the gun... I was just excited. ☺

(b)(6)  
US Department of Education - Federal Student Aid  
Customer Experience Office - Senior Advisor  
(b)(6)

**Federal Student Aid** PROUD SPONSOR of  
AN OFFICE of the U.S. DEPARTMENT of EDUCATION the AMERICAN WIND™

---

**From:** Bogue, Charmain, VBAVACO <(b)(6)@va.gov>  
**Sent:** Monday, March 9, 2020 8:44 PM  
**To:** (b)(6)@ed.gov; (b)(6)@ed.gov; (b)(6)@ed.gov; (b)(6)@mail.mil; Bogue, Charmain, VBAVACO (b)(6)@va.gov  
**Cc:** (b)(6)@ed.gov; (b)(6)@ed.gov; (b)(6)@ed.gov; (b)(6)VBAVACO (b)(6)@va.gov; (b)(6)@va.gov; (b)(6)VBAVACO (b)(6)@va.gov  
**Subject:** RE: [EXTERNAL] RE: VA plans to suspend GI Bill funding for new students at 5 universities

Understood. Let us know if you need anything additional.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** (b)(6)@ed.gov  
**Date:** Monday, Mar 09, 2020, 5:37 PM  
**To:** (b)(6)@ed.gov; (b)(6)@ed.gov; (b)(6)@mail.mil; Bogue, Charmain, VBAVACO (b)(6)@va.gov; (b)(6)@ed.gov; (b)(6)@ed.gov; (b)(6)@ed.gov  
**Subject:** [EXTERNAL] RE: VA plans to suspend GI Bill funding for new students at 5 universities



# Exhibit 11

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofoiaservice@va.gov](mailto: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).<sup>1</sup>

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)<sup>2</sup> and, if that is not reasonably possible, in PDF format.

With this letter, I seek the following VA records:

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<sup>1</sup> 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.”

<sup>2</sup> 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?<sup>3</sup>
  - c. Talking Points on Suspension Actions,<sup>4</sup>
  - d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
  - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

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

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

# Exhibit 12





U.S. Department  
of Veterans Affairs

810 Vermont Ave NW  
Washington DC 20420  
[www.va.gov](http://www.va.gov)

Via Email: [mapojava@gmail.com](mailto: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  
Page 2

- 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?<sup>3</sup>
  - c. Talking Points on Suspension Actions,<sup>4</sup>
  - d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> 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)<sup>1</sup>. 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](mailto: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

---

<sup>1</sup> 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  
Page 3

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](mailto: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](mailto: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](mailto: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 13

**From:** [Gary Aguirre](#)  
**To:** [Angela.Davis5@va.gov](mailto:Angela.Davis5@va.gov)  
**Cc:** [foia.vbaco@va.gov](mailto: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](http://www.aguirrelawapc.com)

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# Exhibit 14

**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](mailto:ruthann.parise@va.gov)  
Phone: (202) 461-4866  
iPhone: (202) 306-3112

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---

**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](http://www.aguirrelawapc.com)

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# Exhibit 15



**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](mailto:ruthann.parise@va.gov)

Phone: (202) 461-4866

iPhone: (202) 306-3112

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---

**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](http://www.aguirrelawapc.com)

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---

**From:** Parise, Ruthann <[Ruthann.Parise@va.gov](mailto:Ruthann.Parise@va.gov)>  
**Sent:** Tuesday, November 17, 2020 5:28 AM  
**To:** Gary Aguirre <[gary@aguirrelawapc.com](mailto: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](mailto: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](mailto: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 16



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 Persons<sup>1</sup> 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:

---

<sup>1</sup> 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](mailto: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](mailto: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 17

**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

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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](mailto: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](http://www.aguirrelawapc.com)

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**From:** Tucker, Stephanie M., VBAVACO <[Stephanie.Tucker2@va.gov](mailto:Stephanie.Tucker2@va.gov)>  
**Sent:** Friday, November 27, 2020 8:54 AM  
**To:** Gary Aguirre <[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)>  
**Cc:** VAVBAWAS/CO/EDUCATION SERVICE FOIA <[22FOIA.VBACO@va.gov](mailto: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](mailto: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](mailto:Stephanie.Tucker2@va.gov)

# Exhibit 18

**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

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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 VBACO 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](mailto: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](http://www.aguirrelawapc.com)

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**From:** Gary Aguirre  
**Sent:** Friday, December 11, 2020 10:42 AM  
**To:** [Stephanie.Tucker2@va.gov](mailto: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](http://www.aguirrelawapc.com)

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**From:** Tucker, Stephanie M., VBAVACO <[Stephanie.Tucker2@va.gov](mailto:Stephanie.Tucker2@va.gov)>  
**Sent:** Wednesday, December 2, 2020 9:29 AM  
**To:** Gary Aguirre <[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)>  
**Cc:** Parise, Ruthann <[Ruthann.Parise@va.gov](mailto: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](mailto:Stephanie.Tucker2@va.gov)

---

**From:** Gary Aguirre <[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)>  
**Sent:** Tuesday, December 1, 2020 2:23 PM  
**To:** Tucker, Stephanie M., VBAVACO <[Stephanie.Tucker2@va.gov](mailto:Stephanie.Tucker2@va.gov)>  
**Cc:** Parise, Ruthann <[Ruthann.Parise@va.gov](mailto: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](http://www.aguirrelawapc.com)

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# Exhibit 19



November 18, 2020

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Re: Request ID: **21-00956-F**

Dear Mr. Aguirre:

This letter acknowledges receipt of the Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA) dated 11/09/2020 and received by our office on 11/12/2020.

- 1) All emails sent and/or received by VBA Chief of Staff Andrea Lee, VBA Principal Deputy Under Secretary for Benefits Margarita Devlin and/or VBA Deputy Chief of Staff Brandye Terrell 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
  - i. Any email address ending with this domain: @washpost.com
- 2) All emails sent or received by VBA Chief of Staff Andrea Lee, VBA Principal Deputy Under Secretary for Benefits Margarita Devlin and/or VBA Deputy Chief of Staff Brandye Terrell between December 15, 2019, and March 15, 2020, **excluding** VA internal emails, that contain any of the following names in the email address:
  - a. Carrie Wofford (e.g., wofford in [carrie.wofford@veteranseducationsuccess.org](mailto:carrie.wofford@veteranseducationsuccess.org) would make this email responsive),
  - b. Tanya Ang
  - c. Steve Beynon
  - d. Barrett Bogue
  - e. David Halperin
  - f. Robert Norton
  - g. Michael Saunders



- h. Bradley Safalow
  - i. Robert Shierman
- 3) All emails sent or received by VBA Chief of Staff Andrea Lee, VBA Principal Deputy Under Secretary for Benefits Margarita Devlin and/or VBA Deputy Chief of Staff Brandye Terrell 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
  - h. Robert Shireman
- 4) All emails sent or received by VBA Chief of Staff Andrea Lee, VBA Principal Deputy Under Secretary for Benefits Margarita Devlin and/or VBA Deputy Chief of Staff Brandye Terrell 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
  - i. American InterContinental
- 5) All emails sent or received by VBA Chief of Staff Andrea Lee, VBA Principal Deputy Under Secretary for Benefits Margarita Devlin and/or VBA Deputy Chief of Staff Brandye Terrell 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
  - e. Talking Points on Suspension Action for Five GI Bill Approved Schools



Your request has been assigned tracking number **21-00956-F**. Your request has been assigned to a Program Specialist for processing and you will be notified of the findings as soon as possible. Please refer to your tracking number when contacting us about your request.

If you do not receive a response after twenty business days from when we 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](mailto:foia.vbaco@va.gov). 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](mailto:ogis@nara.gov).

We appreciate your interest in the VA.

Sincerely,

VBA Office of FOIA Services

# Exhibit 20



December 10, 2020

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Re: Request ID: **21-00956-F**

Dear Mr. Aguirre:

This letter serves as the final response to your 11/09/2020, Freedom of Information Act (FOIA) request that was received by our office on 11/12/2020. You requested a copy of emails specific to the following 13 individuals that are collectively referred to as "Designated VA Persons":

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."

You are specifically requesting the following:

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](mailto: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 email 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?
  - 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.”

On November 18, 2020, you provided VA clarification for acronyms PRDO (Perdoceo) and CECO (Career Education College) that were used in question four (4). You also requested that we modify our search for question three (3) to include Steve Beynon.

Upon receiving your request, the Veterans Benefits Administration (VBA) have determined that Designated VA Persons: Andrea Lee, Margarita Devlin and Brandye Terrell falls under our purview. We conducted a search within the Office of Under Secretary for Benefits (OUSB) and located 155 pages responsive to your request. Of those pages we determined 50 are releasable in their entirety, 104 pages are partially releasable and one (1) page is being withheld in full. Pursuant to Title 5 U.S.C. §§ 552(b)(5), (b)(6), FOIA Exemptions 5, 6.

#### Exemption 5

Protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, we determined that portions of the responsive documents qualify for protection under the following privilege(s):

- Deliberative Process Privilege

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

#### Exemption 6

Exempts from disclosure of personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

If you believe this to be an adverse determination, you may appeal. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision.

**FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016 the following contact information is provided to assist FOIA requesters in resolving disputes:

**VBA Office FOIA Public Liaison**

Name: Angela Davis

Email Address: [FOIA.VBACO@va.gov](mailto:FOIA.VBACO@va.gov)

**Office of Government Information Services (OGIS)**

Email address: [ogis@nara.gov](mailto:ogis@nara.gov)

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

**FOIA Appeal**

Please be advised that should you desire to do so; you may appeal the determination made in this response to:

Office of General Counsel (024)

Department of Veterans Affairs

810 Vermont Avenue, NW

Washington, DC 20420

If you choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis of your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Due to an administrative oversight, the first interim response documents have been reviewed again and amended. We are including them with this response.

Sincerely,

Quanisha Jones

VBA Program Specialist

# Exhibit 21

## AGUIRRE LAW, APC

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



By Electronic Mail to [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)

December 10, 2020

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Re: Appeal of Decision in FOIA Request No. 21-00956-F

Dear Madam or Sir:

By this letter, as attorney for Maria Pomares, I serve notice that Ms. Pomares is appealing the decision of the VBA, in its letter of December 10, 2020, (Attachment 1 hereto) in relation to FOIA Request No. 21-00956-FOIA, Attachment 2 hereto.

This appeal is based on the inadequate search for records and the improper assertion of Exemption 5. The request was designed to seek records for which Exemption 5 would not have been applicable. Further, the agency failed to (1) describe the records it is withholding under Exemption 5 and (2) the specific privilege that is the basis for the assertion of Exception 5.

This appeal is also based on the improper assertion of Exemption 6, which does not protect the identity of the staff or other assertions of the privilege in the released, redacted records. Further, there is a compelling public policy interest in the disclosure of these records, because of improper and potentially unlawful conduct by one or more high level VBA officials.

Sincerely,

Gary J. Aguirre

Enclosures

# Attachment 1



December 10, 2020

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Re: Request ID: **21-00956-F**

Dear Mr. Aguirre:

This letter serves as the final response to your 11/09/2020, Freedom of Information Act (FOIA) request that was received by our office on 11/12/2020. You requested a copy of emails specific to the following 13 individuals that are collectively referred to as "Designated VA Persons":

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."

You are specifically requesting the following:

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](mailto: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 email 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?
  - 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.”

On November 18, 2020, you provided VA clarification for acronyms PRDO (Perdoceo) and CECO (Career Education College) that were used in question four (4). You also requested that we modify our search for question three (3) to include Steve Beynon.

Upon receiving your request, the Veterans Benefits Administration (VBA) have determined that Designated VA Persons: Andrea Lee, Margarita Devlin and Brandye Terrell falls under our purview. We conducted a search within the Office of Under Secretary for Benefits (OUSB) and located 155 pages responsive to your request. Of those pages we determined 50 are releasable in their entirety, 104 pages are partially releasable and one (1) page is being withheld in full. Pursuant to Title 5 U.S.C. §§ 552(b)(5), (b)(6), FOIA Exemptions 5, 6.

#### Exemption 5

Protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, we determined that portions of the responsive documents qualify for protection under the following privilege(s):

- Deliberative Process Privilege

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

#### Exemption 6

Exempts from disclosure of personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.



If you believe this to be an adverse determination, you may appeal. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision.

**FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016 the following contact information is provided to assist FOIA requesters in resolving disputes:

**VBA Office FOIA Public Liaison**

Name: Angela Davis

Email Address: [FOIA.VBACO@va.gov](mailto:FOIA.VBACO@va.gov)

**Office of Government Information Services (OGIS)**

Email address: [ogis@nara.gov](mailto:ogis@nara.gov)

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

**FOIA Appeal**

Please be advised that should you desire to do so; you may appeal the determination made in this response to:

Office of General Counsel (024)

Department of Veterans Affairs

810 Vermont Avenue, NW

Washington, DC 20420

If you choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis of your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Due to an administrative oversight, the first interim response documents have been reviewed again and amended. We are including them with this response.

Sincerely,

Quanisha Jones

VBA Program Specialist

# Attachment 2

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofoiaservice@va.gov](mailto: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).<sup>1</sup>

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)<sup>2</sup> and, if that is not reasonably possible, in PDF format.

With this letter, I seek the following VA records:

---

<sup>1</sup> 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.”

<sup>2</sup> 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:

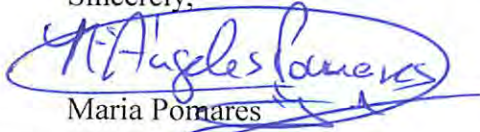
- a. Carrie Wofford.

- 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?<sup>3</sup>
  - c. Talking Points on Suspension Actions,<sup>4</sup>
  - d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
  - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

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

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

# Exhibit 22





U.S. Department of Veterans Affairs  
Office of General Counsel  
Information and Administrative Law Group

810 Vermont Avenue NW  
Washington DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In Reply Refer To: 024T  
OGC Case #: 152582

December 15, 2020

Gary Aguirre  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Re: FOIA # 21-00956-F**

Dear Mr. Aguirre:

This is to acknowledge receipt of your December 10, 2020, Freedom of Information Act (FOIA) Appeal. Your appeal was received in our office on December 10, 2020, and you are appealing the December 10, 2020, decision by the VA Veterans Benefits Administration (VBA) FOIA Office.

We are in the process of obtaining relevant records and/or information concerning your appeal. Once that information is received from the facility that denied your initial request, your appeal will be assigned to a FOIA attorney within our office. Please be aware that all appeals to our office are processed in the order in which they are received (i.e., on a first-in/first-out basis.) Given the variant circumstances that affect the length of time required to respond to each appeal, including the number and size of documents requested, the need to retrieve those records, the complexity of the legal issues involved, and the current workload of the responsible attorney, it is difficult to determine precisely when a decision will be rendered in a particular case. Currently, we are unable to offer an estimate as to when your appeal will be completed.

We will issue you a final determination in writing once a decision is made on your appeal. While we process your appeal, if you have any questions about this matter, you can contact us at (202) 461-7684 or [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov).

We appreciate your patience while we process your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Knight".

Tracy Knight  
Government Information Specialist  
Information & Administrative Law Group



# Exhibit 23



U.S. Department of Veterans Affairs  
Office of Accountability and Whistleblower Protection  
Freedom of Information Office

Ref: 21-00932-F

November 12,2020

Maria Pomares  
mapojava@gmail.com

Dear Ms. Pomares:

This letter acknowledges your November 09, 2020 Freedom of Information Act (FOIA) request, a copy of which is enclosed for your convenience. The Office of Accountability and Whistleblower Protection (OAWP) FOIA mailbox received your request by email on November 10, 2020 and we have assigned it case number 21-00932-F. We ask that you use this number when referring to your request.

The Freedom of Information Act, 5 U.S.C. § 552 provides that all FOIA requesters are placed in one of three categories for fee purposes. The three categories of FOIA requesters are commercial use; educational institutions, noncommercial scientific institutions, and representatives of the news media; and all others.

OAWP has reviewed your request, and based on the information provided, we have classified you as an "All Other" FOIA requester. As an "All Other" requester, [VA FOIA implementing regulations at 38 C.F.R. §1.561](#) states that search and copying costs after receiving the first two hours of search time free and the first 100 one-sided pages free, may be assessed. No fees will be assessed if our processing costs are less than \$25.00. However, please be advised that we reserve the right to assess fees as appropriate under the FOIA on any and all future FOIA requests.

You have agreed to pay up to \$1000.00 for the processing of your request. If we find that this will not cover the cost of processing your request, we will let you know before we incur additional charges. You can then either agree to pay the additional amount needed or narrow the scope of your request.

For your information, this office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each FOIA request is then handled on a first-in, first-out (FIFO) basis in relation to other requests in the same track. Simple requests usually receive a response in about four weeks or less, whereas complex requests necessarily take longer. FOIA requests requiring little or no search, review, or analysis are categorized as "simple" requests. Requests for records requiring search, review, or analysis are categorized as "complex" requests. Your request has been categorized as "Complex."

Although we have already begun processing your request, we do not anticipate being able to respond within the FOIA's 20-day statutory time period as there are unusual circumstances which impact our ability to quickly process your request. The FOIA defines unusual circumstances as (a) the need to search for and collect records from a facility geographically separated from this office; (b) the potential volume of records responsive to your request; and (c)

the need for consultation with one or more other offices having a substantial interest in either the determination or the subject matter of the records. At least one, if not more of these scenarios applies or would likely apply to your request. While this office handles FOIA requests for the Office of Accountability and Whistleblower Protection (OAWP), we do not physically hold all records for OAWP. As we do not hold the records, until the required records searches are complete, we are unable to estimate the potential volume of records or the number of consultations that will be required to make a release determination.

Your request has been placed in our complex processing queue and is being worked based on the order in which the request was received. In some instances, we have found that requesters who narrow the scope of their requests experience a reduction in the time needed to process their requests.

You have the right to appeal the determination made in this response to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
Email: [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)

Furthermore, in accordance with [VA's implementing FOIA regulations at 38 C.F.R. § 1.559](#), your appeal must be postmarked no later than ninety (90) days of the date of this letter. If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response.

The VA FOIA Public Liaison is available by email at [VACOFOIAService@va.gov](mailto:VACOFOIAService@va.gov) or by phone at (877) 750-3642 to answer any concerns about the foregoing. Additionally, you 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. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

We regret the delay in responding to your request and appreciate your patience. If you have any questions or concerns about the foregoing or about the processing of your request, please do not hesitate to contact the assigned FOIA Officer Dante James at (202) 461-9551 or [oawpfoiarequests@va.gov](mailto:oawpfoiarequests@va.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Tanya Guimont". The signature is fluid and cursive, with the first name "Tanya" being more prominent than the last name "Guimont".

Tanya Guimont

Supervisory, OAWP FOIA

Enclosure:  
As stated

# Exhibit 24



U.S. Department of Veterans Affairs  
Office of Accountability and Whistleblower Protection  
Freedom of Information Office

Ref: 21-00932-F

December 4, 2020

Maria Pomares  
mapojava@gmail.com

Dear Ms. Pomares:

This is the Initial agency decision to your November 09, 2020 Freedom of Information Act (FOIA) request, a copy of which is enclosed for your convenience. We received your request on November 10, 2020 and assigned it case number 21-00932-F. We ask that you use this number when referring to your request.

The Department of Veterans Affairs (VA), Office of Accountability and Whistleblower Protection (OAWP) conducted a search of its records systems based on the information provided in your request and your agreed upon, scope clarification discussions held with Ms. Ruthann Parise of the Department of Veterans Affairs (VA), Office of the Executive Secretary (OSVA). Those additional search considerations were as follows: “1)The names to search for item 3 are: Carrie Wofford, Tanya Ang, Steve Beynon, Barrett Bogue, Douglas-Gabriel, David Halperin, Michael Saunders, Bradley Safalow and Robert Shireman; 2) The requester does not want you to include marketing emails; and 3) PRDO and CECO are the ticker symbols for Perdoceo and Career Education College; as such, if you have any hits for PRDO and CECO you need to review to ensure they are specific to Perdoceo or Career Education College.”

After thorough searches of the electronic records and files systems, no records of the kind you described could be identified. We believe that these search methods were appropriate and could reasonably be expected to produce the requested records if they existed. Based on this reason, we are closing your request in this office.

In this instance, fees for processing your request were below the threshold for requiring payment. Please note that fees may be assessed on future requests.

The VA FOIA Public Liaison is available at 1-877-750-3642 or by email at [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov) to answer any concerns about the foregoing. Also, please note that the Office of Government Information Services (OGIS) at the National Archives and Records Administration offers services to requesters who have disputes with Federal agencies. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

You have the right to appeal the determination made in this response to the VA Office of General Counsel and in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter. If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. You may send your appeal to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
Email: [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)

If you have any questions or concerns about the foregoing or about the processing of your request, please do not hesitate to contact the assigned FOIA Officer Dante James at (202) 461-9551 or [oawpfoiarequests@va.gov](mailto:oawpfoiarequests@va.gov).

Sincerely,



Tanya Guimont  
Supervisory, OAWP FOIA

Enclosure:  
As stated

# Exhibit 25



## AGUIRRE LAW, APC



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

By Electronic Mail to [Dante.James@va.gov](mailto:Dante.James@va.gov) and [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov) and First-Class Mail

December 8, 2020

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Dante James  
Government Information Specialist  
US Department of Veterans Affairs  
Office of Accountability and Whistleblower Protection (OAWP)  
810 Vermont Avenue, NW  
Washington, DC 20420

Re: Appeal of Decision in Relation to FOIA Request No. 21-00932-F

Dear Madam or Sir and Mr. James:

By this letter, as attorney for Maria Pomares, I serve notice that Ms. Pomares is appealing the decision of the FOIA Office, Office of Accountability and Whistleblower Protection (OAWP), in its letter of December 4, 2020, (Attachment 1 hereto) in relation to FOIA Request No. 21-00932-F, Attachment 2 hereto. The search was incomplete.

Sincerely,

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

Gary J. Aguirre

Enclosure

# Attachment 1

**RECEIVED**

By VACOHolled at 8:51 am, Nov 10, 2020

**Holley, Denetria (TECHOP Solutions International Inc.)**

---

**From:** Maria Pomares <mapojava@gmail.com>  
**Sent:** Monday, November 9, 2020 3:05 PM  
**To:** VACO FOIA Service Inbox  
**Subject:** [EXTERNAL] Freedom of Information Act Request  
**Attachments:** 2020-11-9 FOIA Req to VA Dept..pdf

Dear Madam or Sir:

Please find attached FOIA request.

Sincerely,

Maria Pomares

**By VACOHolled at 8:51 am, Nov 10, 2020**

MARIA POMARES  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

Via Electronic Mail to [vacofoiaservice@va.gov](mailto: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).<sup>1</sup>

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)<sup>2</sup> and, if that is not reasonably possible, in PDF format.

With this letter, I seek the following VA records:

---

<sup>1</sup> 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.”

<sup>2</sup> 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?<sup>3</sup>
  - c. Talking Points on Suspension Actions,<sup>4</sup>
  - d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
  - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

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

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

# Attachment 2





U.S. Department of Veterans Affairs  
Office of Accountability and Whistleblower Protection  
Freedom of Information Office

Ref: 21-00932-F

December 4, 2020

Maria Pomares  
mapojava@gmail.com

Dear Ms. Pomares:

This is the Initial agency decision to your November 09, 2020 Freedom of Information Act (FOIA) request, a copy of which is enclosed for your convenience. We received your request on November 10, 2020 and assigned it case number 21-00932-F. We ask that you use this number when referring to your request.

The Department of Veterans Affairs (VA), Office of Accountability and Whistleblower Protection (OAWP) conducted a search of its records systems based on the information provided in your request and your agreed upon, scope clarification discussions held with Ms. Ruthann Parise of the Department of Veterans Affairs (VA), Office of the Executive Secretary (OSVA). Those additional search considerations were as follows: “1)The names to search for item 3 are: Carrie Wofford, Tanya Ang, Steve Beynon, Barrett Bogue, Douglas-Gabriel, David Halperin, Michael Saunders, Bradley Safalow and Robert Shireman; 2) The requester does not want you to include marketing emails; and 3) PRDO and CECO are the ticker symbols for Perdoceo and Career Education College; as such, if you have any hits for PRDO and CECO you need to review to ensure they are specific to Perdoceo or Career Education College.”

After thorough searches of the electronic records and files systems, no records of the kind you described could be identified. We believe that these search methods were appropriate and could reasonably be expected to produce the requested records if they existed. Based on this reason, we are closing your request in this office.

In this instance, fees for processing your request were below the threshold for requiring payment. Please note that fees may be assessed on future requests.

The VA FOIA Public Liaison is available at 1-877-750-3642 or by email at [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov) to answer any concerns about the foregoing. Also, please note that the Office of Government Information Services (OGIS) at the National Archives and Records Administration offers services to requesters who have disputes with Federal agencies. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

You have the right to appeal the determination made in this response to the VA Office of General Counsel and in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter. If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. You may send your appeal to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
Email: [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)

If you have any questions or concerns about the foregoing or about the processing of your request, please do not hesitate to contact the assigned FOIA Officer Dante James at (202) 461-9551 or [oawpfoiarequests@va.gov](mailto:oawpfoiarequests@va.gov).

Sincerely,

  
Tanya Guimont  
Supervisory, OAWP FOIA

Enclosure:  
As stated

# Exhibit 26



U.S. Department of Veterans Affairs  
Office of General Counsel  
Information and Administrative Law Group

810 Vermont Avenue NW  
Washington DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In Reply Refer To: 024T  
OGC Case #: 152527

December 8, 2020

Gary Aguirre  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Re: FOIA # 21-00932-F**

Dear Mr. Aguirre:

This is to acknowledge receipt of your December 8, 2020, Freedom of Information Act (FOIA) Appeal. You are appealing the December 4, 2020, decision by the VA Office of Accountability and Whistleblower Protection.

We are in the process of obtaining relevant records and/or information concerning your appeal. Once that information is received from the facility that denied your initial request, your appeal will be assigned to a FOIA attorney within our office. Please be aware that all appeals to our office are processed in the order in which they are received (i.e., on a first-in/first-out basis.) Given the variant circumstances that affect the length of time required to respond to each appeal, including the number and size of documents requested, the need to retrieve those records, the complexity of the legal issues involved, and the current workload of the responsible attorney, it is difficult to determine precisely when a decision will be rendered in a particular case. Currently, we are unable to offer an estimate as to when your appeal will be completed.

We will issue you a final determination in writing once a decision is made on your appeal. While we process your appeal, if you have any questions about this matter, you can contact us at (202) 461-7684 or [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov).

We appreciate your patience while we process your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Knight".

Tracy Knight  
Government Information Specialist  
Information & Administrative Law Group

# Exhibit 27

**From:** [Gary Aguirre](#)  
**To:** [OGC FOIA Appeals](#)  
**Subject:** RE: Appeal of Decision in Relation to FOIA Request No. 21-00932-F  
**Date:** Wednesday, December 9, 2020 6:35:00 AM

---

Dear Ms. Knight:

I do not know of any relevant records or information you will need other than a brief conversation with the FOIA specialist who handled this matter.

We'd like to avoid any delay in the processing of this appeal. If there is any way I can assist you in expediting the process, please contact me on my cell (REDACTED).

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](http://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](mailto:maria@aguirrelawapc.com).

---

**From:** OGC FOIA Appeals <[ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)>  
**Sent:** Wednesday, December 9, 2020 4:11 AM  
**To:** Gary Aguirre <[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)>  
**Subject:** RE: Appeal of Decision in Relation to FOIA Request No. 21-00932-F

Hello – Your FOIA Appeal has been received for 21-00932-F. Attached is our acknowledgement letter for your appeal.

Thank you,

[OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov)

**Office of General Counsel (024)  
Information & Administrative Law Group  
Department of Veteran Affairs  
810 Vermont Avenue  
Washington DC 20420**

---

**From:** Gary Aguirre <[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)>

**Sent:** Tuesday, December 8, 2020 2:17 PM

**To:** James, Dante <[Dante.James@va.gov](mailto:Dante.James@va.gov)>; OGC FOIA Appeals <[ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)>

**Subject:** [EXTERNAL] Appeal of Decision in Relation to FOIA Request No. 21-00932-F

Good afternoon:

Please find attached appeal of decision in FOIA Request No. 21-00932-F.

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](http://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](mailto:maria@aguirrelawapc.com).

# Exhibit 28





**U.S. Department of Veterans Affairs**  
**Office of General Counsel**  
**Information and Administrative Law Group**

810 Vermont Avenue, NW  
 Washington, DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In response to: 21-00933-F

November 19, 2020

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

**Sent Via Email:** [mapojava@gmail.com](mailto:mapojava@gmail.com); [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Dear Ms. Pomares:

This letter acknowledges receipt of your November 9, 2020, request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted to the VA Central Office FOIA Service seeking a copy of:

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, 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:

- 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.

Your request was assigned FOIA Tracking Number **21-00933-F**. Please refer to this number in any future correspondence to OGC.

The Freedom of Information Act, 5 U.S.C. § 552(A)(a)(ii), places all FOIA requesters in one of three categories for fee purposes. The three categories of FOIA requesters are commercial use; educational institutions, noncommercial scientific institutions, and representatives of the news media; and all others.

Based on the information provided in your letter, I have classified you as an "All Other" FOIA requester. As an "All Other" requester, VA FOIA implementing regulations found at 38 Code of Federal Regulations §1.555 state that search and copying costs after receiving the first two hours of search time free and the first 100 one-sided pages free, may be assessed. No fees will be assessed if our processing costs are less than \$25.00. However, please be advised that we reserve the right to assess fees as appropriate under the FOIA on any and all future FOIA requests.

This office assigns incoming requests to one of three tracks: simple, complex, or expedited. **Each FOIA request is then handled on a first-in, first-out (FIFO) basis in relation to other requests in the same track.** Your request has been categorized as "Simple."

If you have any questions regarding this letter, please contact the OGC FOIA Requester Service at [OGCFOIArequests@va.gov](mailto:OGCFOIArequests@va.gov).

Sincerely,



Michelle Jackson, MSL, RHIA, CPC  
Acting FOIA Officer  
VA Office of General Counsel

# Exhibit 29



**U.S. Department of Veterans Affairs**  
**Office of General Counsel**  
**Information and Administrative Law Group**

810 Vermont Avenue, NW  
Washington, DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In response to: 21-00933-F

December 18, 2020

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

**Sent Via Email:** [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Dear Ms. Pomares:

This is the Initial Agency Decision (IAD) to your November 17, 2020 Freedom of Information Act (FOIA) request to the Office of General Counsel, U.S. Department of Veterans Affairs (VA) dated November 9, 2020 and assigned FOIA tracking number 21-00933-F. You requested a copy of the following:

- 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:*
  - a. *Carrie Wofford,*
  - b. *Tanya Ang,*
  - c. *Steve Beynon,*
  - d. *Barrett Bogue,*
  - e. *Douglas-Gabriel,*
  - f. *David Halperin,*
  - g. *Michael Saunders,*
  - h. *Bradley Safalow, and*
  - i. *Robert 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,*
- 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.*

### **IAD & Reasonable Searches**

On November 19, 2020, the OGC FOIA Officer requested that the VACO OIT Office submit all responsive emails in its possession. On November 24, 2020, the VACO OIT Office submitted records with the OGC FOIA Officer to conduct secondary searches to exclude VA internal emails pertaining to items 3, 4, and 5, and include VA internal emails pertaining to item 6.

The VACO OIT conducted the initial three (3) searches below within the individual email boxes of William Hudson, Richard Hipolit, and David Barrans, sent or received to one of the following email domains, recipients, key terms, and specified key terms in the subject line.

#### **Search 1**

To OR From: William Hudson

Date Range: December 13, 2019 to March 15, 2020

Key Terms, domains, or recipients: "@eangus.org" or "@evocatillc.com" or "@paaresearch.com" or "@republicreport.org" or "@stripes.com" or "@tcf.org" or "@veteranseducationsuccess.org" or "@vetsedsuccess.org" or "@washpost.com" or "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental" or "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Schools" or "Talking Points on Suspension Action for Five GI Bill Approved School."

### Search 2

To OR From: Richard Hipolit

Date Range: December 13, 2019 to March 15, 2020

Key Terms, domains, or recipients: "@eangus.org" or "@evocatillc.com" or "@paaresearch.com" or "@republicreport.org" or "@stripes.com" or "@tcf.org" or "@veteranseducationsuccess.org" or "@vetsedsuccess.org" or "@washpost.com" or "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental" or "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Schools" or "Talking Points on Suspension Action for Five GI Bill Approved School."

### Search 3

To OR From: David Barrans

Date Range: December 13, 2019 to March 15, 2020

Key Terms, domains, or recipients: "@eangus.org" or "@evocatillc.com" or "@paaresearch.com" or "@republicreport.org" or "@stripes.com" or "@tcf.org" or "@veteranseducationsuccess.org" or "@vetsedsuccess.org" or "@washpost.com" or "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental" or "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Schools" or "Talking Points on Suspension Action for Five GI Bill Approved School."

The OGC FOIA Officer conducted the below four (4) secondary searches through the email boxes of William Hudson, Richard Hipolit, and David Barrans provided by OIT.

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To: Hudson, or Hipolit, or Barrans

Key Terms: "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Barrett Bogue" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental."

#### Search 2

From: Hudson, or Hipolit or Barrans

Key Terms: "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Barrett Bogue" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental."

#### Search 3

To: Hudson or Hipolit or Barrans

Subject Line: "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Approved Schools" or "Talking Points on Suspension Action for Five GI Bill Approved Schools."

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From: Hudson or Hipolit or Barrans

Subject Line: "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Approved Schools" or "Talking Points on Suspension Action for Five GI Bill Approved Schools."

The three (3) initial OIT searches and four (4) secondary OGC FOIA Officer searches yielded three (3) email chains and their attachments, totaling eleven (11) pages responsive to the request. After review of the eleven (11) pages, OGC redacts with FOIA Exemption 6 and FOIA Exemption 5, VA does **not** authorize releasing personal identifiable information unredacted. Enclosed are the 11 pages with 8 pages being withheld in part and 3 pages withheld in full pursuant to Title 5 U.S.C. § 552(b)(6); (b)(5) FOIA Exemptions 6 and 5.

**FOIA Exemption 6** exempts from disclosure "personnel and medical and similar files the disclosure of which could constitute a clearly unwarranted invasion of personal privacy." FOIA Exemption 6 permits VA to withhold a document of information within a document if disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requestor, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government. Specifically, the information being withheld, as indicated in the enclosed documents, consists of names, identities, email addresses, phone numbers, cellular numbers, and facsimile numbers of federal civilian employees, federal consultants, and private citizens. Federal civilian employees, federal consultants, and private citizens retain a significant privacy



interest under certain circumstances, such as instances where the release of their information could represent a threat to their well-being, harassment, or their ability to function within their spheres of employment. Federal civilian employees, federal consultants, and private citizens have a substantial privacy interest in their personal information. In weighing the private versus the public, except names of VA Senior Executives, we find that there is no public interest in knowing the names, identities, email addresses, phone numbers, cellular numbers, and facsimile numbers of federal civilian employees, federal consultants, and private citizens. The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Under consideration of the records, no countervailing public interest has been identified of sufficient magnitude to outweigh the privacy interest of the individuals whose name and signature are redacted. The protected information has been redacted and (b)(6) inserted.

Bate numbered pages (21-00933-F) – 000001 thru 000008 have been withheld in part under FOIA Exemption 6.

**FOIA Exemption 5** protects interagency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency. Moreover, this exemption permits an agency to withhold material reflecting the thoughts, opinions and recommendations of federal officials and consultants reviewing an issue. Under FOIA Exemption 5, the deliberative process privilege, OGC redacts internal government deliberations, thoughts, opinions, and recommendations. The information contained in the responsive records is both predecisional and deliberative because it reflects preliminary opinions, proposed solutions, and recommendations, which do not reflect VA's final decision. Exposure of premature discussions before a final decision is made could create undue public decision. The release of the redacted information would negatively impact the ability of federal employees and opposing counsel to openly and frankly consider negotiations amongst themselves when deliberating, discussing, reviewing, proposing changes to, and making recommendations on VA programs. The information reveals the thoughts, deliberations, and opinions, that if released, would have a chilling effect on the ability of federal officials and opposing counsel to discuss, opine, recommend or be forthcoming about the agency's issues which require full and frank assessment. Here, the disclosure of the withheld information is likely to compromise the integrity of this deliberation or decision-making process. Moreover, the predecisional character of a document is not altered by the passage of time. Bruscino v. BOP, No. 94-1955, 1995 WL 444406 at \*5 (D.D. C. May 15, 1995), aff'd in part, No. 95-5212, 1996 WL 393101 (D.C. Cir. June 24, 1996).

Bate numbered pages (21-00933-F) – 000009 thru 000011 have been withheld in full under FOIA Exemption 5.

This concludes the Office of General Counsel's FOIA Office response to your inquiry.

#### **FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not

affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

**VA Central Office FOIA Public Liaison:**

Name: Doloras Johnson

Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

**Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov) Fax: 202-741-5769

National Archives and Records Administration 8601 Adelphi Road  
College Park, MD 20740-6001

**VA FOIA Appeal**

You may appeal the initial determination made in this response to:

**Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
Email:  
[OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov)**

If you choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. You must file your appeal within ninety (90) days from the date of this letter.

Sincerely,



Michelle Jackson, MSL, RHIA, CPC  
Acting OGC FOIA Officer  
VA Office of General Counsel

# Exhibit 30

## AGUIRRE LAW, APC

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



By Electronic Mail to [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov)

December 22, 2020

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Re: Appeal of Decision in FOIA Request No. 21-00933-F

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 OGC, in its letter of December 18, 2020, (Attachment 1 hereto) in relation to FOIA Request No. 21-00933-FOIA, Attachment 2 hereto.

This appeal is based on the three grounds. First, there was an inadequate search for records.

Second, Exemption 5 was improper asserted. Additionally, the agency failed to (1) describe the records it is withholding under Exemption 5 and (2) the specific privilege that is the basis for the assertion of Exception 5.

Third, Exemption 6 was improper asserted. Among other things, Exemption 6 is not available to withhold the identity of staff members as the VA has done here. Further, there is a compelling public policy interest in the disclosure of these records, because of improper and potentially unlawful conduct by one or more high level VA officials.

Sincerely,

Gary J. Aguirre

Enclosures

# Attachment 1



**U.S. Department of Veterans Affairs**  
**Office of General Counsel**  
**Information and Administrative Law Group**

810 Vermont Avenue, NW  
Washington, DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In response to: 21-00933-F

December 18, 2020

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

**Sent Via Email:** [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Dear Ms. Pomares:

This is the Initial Agency Decision (IAD) to your November 17, 2020 Freedom of Information Act (FOIA) request to the Office of General Counsel, U.S. Department of Veterans Affairs (VA) dated November 9, 2020 and assigned FOIA tracking number 21-00933-F. You requested a copy of the following:

- 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:*
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  - g. *Michael Saunders,*
  - h. *Bradley Safalow, and*
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- b. *Tanya Ang,*
- c. *Barrett Bogue,*
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- e. *Robert Norton,*
- f. *Michael Saunders,*
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- h. *Robert Shireman.*

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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,*
- 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.*

### **IAD & Reasonable Searches**

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To OR From: William Hudson

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### Search 2

To OR From: Richard Hipolit

Date Range: December 13, 2019 to March 15, 2020

Key Terms, domains, or recipients: "@eangus.org" or "@evocatillc.com" or "@paaresearch.com" or "@republicreport.org" or "@stripes.com" or "@tcf.org" or "@veteranseducationsuccess.org" or "@vetsedsuccess.org" or "@washpost.com" or "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental" or "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Schools" or "Talking Points on Suspension Action for Five GI Bill Approved School."

### Search 3

To OR From: David Barrans

Date Range: December 13, 2019 to March 15, 2020

Key Terms, domains, or recipients: "@eangus.org" or "@evocatillc.com" or "@paaresearch.com" or "@republicreport.org" or "@stripes.com" or "@tcf.org" or "@veteranseducationsuccess.org" or "@vetsedsuccess.org" or "@washpost.com" or "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental" or "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Schools" or "Talking Points on Suspension Action for Five GI Bill Approved School."

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From: Hudson, or Hipolit or Barrans

Key Terms: "Carrie Wofford" or "Tanya Ang" or "Steve Beynon" or "Barrett Bogue" or "Douglas-Gabriel" or "David Halperin" or "Michael Saunders" or "Bradley Safalow" or "Robert Shireman" or "Robert Norton" or "University of Phoenix" or "Perdoceo Education" or "PRDO" or "Career Education" or "CECO" or "Bellevue University" or "Temple University" or "Colorado Technical" or "American InterContinental."

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To: Hudson or Hipolit or Barrans

Subject Line: "VA intends to suspend enrollment" or "Any Background/TPs on this available" or "Talking Points on Suspension Actions" or "Suspension Action for Five GI Bill Approved Schools" or "Talking Points on Suspension Action for Five GI Bill Approved Schools."

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interest under certain circumstances, such as instances where the release of their information could represent a threat to their well-being, harassment, or their ability to function within their spheres of employment. Federal civilian employees, federal consultants, and private citizens have a substantial privacy interest in their personal information. In weighing the private versus the public, except names of VA Senior Executives, we find that there is no public interest in knowing the names, identities, email addresses, phone numbers, cellular numbers, and facsimile numbers of federal civilian employees, federal consultants, and private citizens. The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Under consideration of the records, no countervailing public interest has been identified of sufficient magnitude to outweigh the privacy interest of the individuals whose name and signature are redacted. The protected information has been redacted and (b)(6) inserted.

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Bate numbered pages (21-00933-F) – 000009 thru 000011 have been withheld in full under FOIA Exemption 5.

This concludes the Office of General Counsel's FOIA Office response to your inquiry.

#### **FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not

affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

**VA Central Office FOIA Public Liaison:**

Name: Doloras Johnson

Email Address: [vacofiaservice@va.gov](mailto:vacofiaservice@va.gov)

**Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov) Fax: 202-741-5769

National Archives and Records Administration 8601 Adelphi Road  
College Park, MD 20740-6001

**VA FOIA Appeal**

You may appeal the initial determination made in this response to:

**Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
Email:  
[OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov)**

If you choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. You must file your appeal within ninety (90) days from the date of this letter.

Sincerely,



Michelle Jackson, MSL, RHIA, CPC  
Acting OGC FOIA Officer  
VA Office of General Counsel

# Attachment 2

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofoiaservice@va.gov](mailto: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).<sup>1</sup>

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)<sup>2</sup> and, if that is not reasonably possible, in PDF format.

With this letter, I seek the following VA records:

---

<sup>1</sup> 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.”

<sup>2</sup> 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?<sup>3</sup>
  - c. Talking Points on Suspension Actions,<sup>4</sup>
  - d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
  - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

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

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*



# Exhibit 31



U.S. Department of Veterans Affairs  
Office of General Counsel  
Information and Administrative Law Group

810 Vermont Avenue NW  
Washington DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In Reply Refer To: 024T  
OGC Case #: 152702

December 22, 2020

Gary Aguirre  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Re: FOIA # 21-00933-F**

Dear Mr. Aguirre:

This is to acknowledge receipt of your December 22, 2020, Freedom of Information Act (FOIA) Appeal. You are appealing the December 18, 2020, decision by the VA Office of General Counsel FOIA Office - FOIA 21-00933-F.

We are in the process of obtaining relevant records and/or information concerning your appeal. Once that information is received from the facility that denied your initial request, your appeal will be assigned to a FOIA attorney within our office. Please be aware that all appeals to our office are processed in the order in which they are received (i.e., on a first-in/first-out basis.) Given the variant circumstances that affect the length of time required to respond to each appeal, including the number and size of documents requested, the need to retrieve those records, the complexity of the legal issues involved, and the current workload of the responsible attorney, it is difficult to determine precisely when a decision will be rendered in a particular case. Currently, we are unable to offer an estimate as to when your appeal will be completed.

We will issue you a final determination in writing once a decision is made on your appeal. While we process your appeal, if you have any questions about this matter, you can contact us at (202) 461-7684 or [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov).

We appreciate your patience while we process your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Knight".

Tracy Knight  
Government Information Specialist  
Information & Administrative Law Group

# Exhibit 32

**From:** [VA OIG FOIA-PA](#)  
**To:** [Gary Aguirre](#)  
**Cc:** [REDACTED](#)  
**Subject:** RE: Attached FOIA requests  
**Date:** Monday, November 30, 2020 6:41:08 AM  
**Attachments:** [Acknowledgement Letter.pdf](#)

---

Good morning Mr. Aguirre, please see the Agency Acknowledgement Letter that was emailed (REDACTED) to Ms. Pomares on November 23, 2020.

Respectfully,  
Barya Offer,  
Government Information Specialist  
Office of Information Release (50CI)  
Office of Inspector General  
U.S. Department of Veterans Affairs

**From:** Gary Aguirre <gary@aguirrelawapc.com>  
**Sent:** Monday, November 30, 2020 8:29 AM  
**To:** VA OIG FOIA-PA <VAOIGFOIA-PA@va.gov>  
**Cc:** Parise, Ruthann <Ruthann.Parise@va.gov>  
**Subject:** [EXTERNAL] FW: Attached FOIA requests

Good morning Ms. Gowins-Bellamy:

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](http://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](mailto:maria@aguirrelawapc.com).

---

**From:** Gary Aguirre  
**Sent:** Monday, November 23, 2020 6:15 AM

**To:** [Vaoigfoia-pa@va.gov](mailto:Vaoigfoia-pa@va.gov)  
**Cc:** [Ruthann.Parise@va.gov](mailto:Ruthann.Parise@va.gov)  
**Subject:** Attached FOIA requests

Dear Ms. Gowins-Bellamy:

I am the attorney for Ms. Pomares. As you can see from the email below, Ms. Parise advised me to contact you regarding the OIG's response to Ms. Pomares's FOIA request of November 9, 2020.

I understand the attached FOIA request was forwarded to you to obtain responsive records to the extent they were generated or received by the OIG. We have not received your acknowledgment letter. Would you kindly advise us of the status?

Further, I believe Ms. Pomares's November 13, 2020, FOIA request (attached) should have also been forwarded to the OIG for responsive records. We have not received an acknowledgment letter regarding this FOIA request either. Would you kindly advise us of the status?

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](http://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](mailto:maria@aguirrelawapc.com).

**From:** Parise, Ruthann <[Ruthann.Parise@va.gov](mailto:Ruthann.Parise@va.gov)>  
**Sent:** Wednesday, November 18, 2020 5:16 PM  
**To:** Gary Aguirre <[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)>  
**Subject:** RE: FOIA 21-00916-F Request for Clarification

Good Evening Mr. Aguirre,

The FOIA Officer for OIG is Ruthlee Gowins-Bellamy. Her POC information is as follows:

Department of Veterans Affairs  
810 Vermont Avenue, NW  
(50C1) VACO



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

November 23, 2020

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

Dear Ms. Pomares:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request dated November 9, 2020, in which you asked for all emails sent by any of the designated VA persons to one or more of the following email addresses listed in the FOIA request. This FOIA office will review and process the portion of your request pertaining to designated VA person no. 5, VA Inspector General Michael Missal.

As we advise all requesters, for records protected by a confidentiality statute, regulations (see 38 C.F.R. § 1.554) require the FOIA requester's handwritten signature. For confidential records about another person, the same regulations require proof the requester is authorized to obtain the records. If your request does not satisfy these requirements, it will be denied as it pertains to such records or portions thereof.

We assigned FOIA Tracking Number 21-00065-FOIA to your request. Please refer to this number whenever communicating with VA OIG about your request.

We received your request on November 10, 2020. We are processing your request and our response will be forthcoming.

Sincerely,

A handwritten signature in black ink that reads "Ruthlee G. Bellamy".

Ruthlee G. Bellamy  
Supervisory Government Information Specialist  
VA OIG Release of Information Office (50CI)

# Exhibit 33





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

January 11, 2021

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. 21-00005-APP and FOIA Request no. 21-00065-FOIA. Your FOIA request and Appeal has been remanded to have an additional search conducted for the following:

1) All emails sent by any of the Designated VA Persons (Mr. Missal) 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 (Mr. Missal) 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 (Mr. Missal) 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 (Mr. Missal) 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 (Mr. Missal) 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. PROO,
- 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 (Mr. Missal) 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?<sup>3</sup>
- c. Talking Points on Suspension Actions,<sup>4</sup>
- d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
- e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

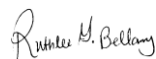
We have conducted another search utilizing the search terms provided within the request and follow-up emails you provided to other FOIA Officers within VA. We have enclosed a redacted copy of the requested records consisting of twenty-eight (28) pages. However, we are withholding portions of information 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.

Also, all inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency have been withheld under FOIA Exemption 5, 5 U.S.C. § 552 (b)(5). Specifically, frank or candor communications between officials during the deliberative process.

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 34

## 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](mailto:vaoigfoia-appeals@va.gov) and First-Class Mail

January 13, 2021

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

Re: Appeal of Decision in Relation to FOIA Request No. 21-00065-FOIA  
and FOIA Appeal No. 21-00005-APP

Dear Madam or Sir and Ms. Offer:

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 January 11, 2021, (Attachment 1 hereto) in relation to FOIA Appeal No. 21-00005-APP for FOIA Request No. 21-00065-FOIA, Attachment 2 hereto.

This appeal is based on the inadequate search for records and the improper assertion of Exemption 5. The request was designed to seek records for which Exemption 5 would not have been applicable. Further, the agency failed to (1) describe the records it is withholding under Exemption 5 and (2) the specific privilege that is the basis for the assertion of Exception 5.

This appeal is also based on the improper assertion of Exemption 6, which does not protect the identity of the staff or other assertions of the privilege in the released, redacted records. Further, there is a compelling public policy interest in the disclosure of these records, because of improper and potentially unlawful conduct by one or more high level VBA officials.

Sincerely,

Gary J. Aguirre

Enclosures

AGUIRRELAWAPC.COM

# Attachment 1



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

January 11, 2021

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. 21-00005-APP and FOIA Request no. 21-00065-FOIA. Your FOIA request and Appeal has been remanded to have an additional search conducted for the following:

1) All emails sent by any of the Designated VA Persons (Mr. Missal) 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 (Mr. Missal) 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.

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- 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 (Mr. Missal) 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 (Mr. Missal) 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. PROO,
- 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 (Mr. Missal) 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?<sup>3</sup>
- c. Talking Points on Suspension Actions,<sup>4</sup>
- d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
- e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

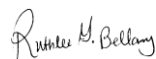
We have conducted another search utilizing the search terms provided within the request and follow-up emails you provided to other FOIA Officers within VA. We have enclosed a redacted copy of the requested records consisting of twenty-eight (28) pages. However, we are withholding portions of information 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.

Also, all inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency have been withheld under FOIA Exemption 5, 5 U.S.C. § 552 (b)(5). Specifically, frank or candor communications between officials during the deliberative process.

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



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

December 15, 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 # 21-00005-APP for FOIA # 21-00065-FOIA

Mr. Aguirre:

This letter responds to your correspondence on behalf of your client, Maria Pomares, received on December 14, 2020, in which you appeal the referenced Department of Veterans Affairs Office of the Inspector General (VA OIG) FOIA response. As further described in the final paragraph, I am remanding the FOIA file to the VA OIG FOIA Office with specific instructions. As background, the following timeline is relevant:

1. Nov. 9, 2020. Requester sends the original request to the VA Central Office, FOIA Service and others.
2. Nov. 10, 2020. VA Central Office, FOIA Service, refers the request to VA OIG for that portion that pertains to OIG records.
3. Nov. 17, 2020. Correspondence between the requester and the VA Office of the Secretary, FOIA Office, clarifying the request.
4. Nov. 19, 2020. The VA Office of the Secretary, FOIA Office forwards the clarification correspondence to the VA OIG FOIA Office.
5. Nov. 23, 2020. VA OIG FOIA Office sends an acknowledgment letter via U.S. Mail and email to the requester, which reads, in part, "This FOIA office will review and process the portion of your request pertaining to designated VA person no. 5, VA Inspector General Michael Missal." The letter also provides the standard advice that proof of consent and identity is required for any portions for which a requester asserts a right under the Privacy Act. The email delivery fails. The same day, the requester emails the VA OIG FOIA Office, requesting a status update.

6. Nov. 30, 2020. The requester emails the VA OIG FOIA Office, requesting a response to the Nov. 23, 2020 status request. The VA OIG FOIA Office responds with a copy of the acknowledgment letter and the requester advises she did not previously receive it. The requester disputes the need for any proof of consent or identity under 38 C.F.R. § 1.554(c), since the proof requirement only applies to requests under the Privacy Act. The requester explains, "Ms. Pomares's request was made exclusively under FOIA 5 U.S.C. § 552. Hence, the requirements of the Privacy Act do not apply."

7. Dec. 7, 2020. The VA OIG FOIA Office responds that the request fails to reasonably describe records as required by VA FOIA regulation 38 C.F.R. § 1.554 and requests clarification. The letter also advises, "If we do not receive additional clarification necessary to reasonably describe the records you are seeking, within thirty (30) calendar days of the date of this letter, then we will conclude that you are no longer interested in pursuing this request and will close it." On this same date (Dec. 7), the request is closed in the OIG FOIA tracking system. Other data from the system shows the request is marked received on 11/10/2020; the system-generated timeliness target date is marked 12/10/2020; the elapsed days is marked 17; the reason for closing is marked "Other Reasons - Records not Reasonably Described"; and the request is marked not perfected, based on the reasons for closing.

8. Dec. 8, 2020. The requester sends correspondence styled as an appeal to several VA offices and it is forwarded to the VA OIG Office of Counselor (this office), which responds on Dec. 9, 2020, with FOIA appeal response # 21-00003-APP, which states the appeal is premature until the FOIA response is final. This response is incorrect since the request was closed in the system effective Dec. 7, 2020; this error is mine.

9. Dec. 14, 2020. The requester files the current appeal, arguing, in part, that the agency failed to answer the request within the statutory timeline, based on the incorrect information in FOIA appeal response # 21-00003-APP.

Under FOIA, after an agency receives a FOIA request, it must determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) whether or not to comply with such request. See 5 U.S.C. § 552(a)(6)(A)(ii). However, the courts have held that the requirements of the FOIA do not begin to apply until an agency receives a proper FOIA request -- one that reasonably describes the records sought and complies with published rules regarding procedures to be followed. See 5 U.S.C. § 552(a)(3)(A), (a)(6)(A); *Borden v. FBI*, No. 94-1029, 1994 WL 283729, at 1 (1st Cir. June 28, 1994) (per curiam) (affirming dismissal of case because request not proper where it failed to comply with agency regulations and did not reasonably describe records sought). The FOIA also provides that in "unusual circumstances," an agency can extend the twenty-day time limit for processing a FOIA request by written notice to the requester "setting forth the unusual circumstances for such extension and the date on which a determination is expected. If the required extension exceeds ten days, the agency must allow the requester an opportunity to modify his or her request, or to arrange for an

alternative time frame for completion of the agency's processing. See, 5 U.S.C. § 552(a)(6)(B)(ii).

In the present case, the VA OIG FOIA Office did not choose to seek an extension, but instead closed the request because the requester failed to reasonably describe records as required by VA FOIA regulation 38 C.F.R. § 1.554. Per the Dec. 7 denial letter, the VA OIG FOIA Office states a willingness to reopen the file, if the requester provides clarification within 30 calendar days. However, the denial letter failed to notify the requester of administrative appeal rights, a requirement for final decisions under the FOIA. See 5 U.S.C. § 552(a)(6)(A)(i). In addition, the office failed to offer any specificity as to how the requester failed to reasonably describe the requested records. Although this specificity is not normally required, the FOIA file shows the requester contacted the office several times, requesting a status update and the VA OIG FOIA Office did not take those opportunities to seek any clarification. This failure to request clarification is puzzling where, on Nov. 17, the FOIA office for the VA Secretary obtained clarification on a similar, related request and, on Nov. 19, communicated that clarification to the VA OIG FOIA Office.

Under the totality of the circumstances, I have determined to remand the FOIA file to the VA OIG FOIA Office with the following specific instructions. 1. First, the office shall ensure that all final FOIA responses notify the requester of administrative appeal rights. 2. Second, the office FOIA Supervisor will contact the requester and discuss the specific clarification(s) needed to respond to the request. 3. Third and finally, the office will consider the timeliness requirement under 5 U.S.C. § 552(a)(6)(A)(ii) to begin when the FOIA Supervisor determines the requester has described the records sought as required by VA FOIA regulation 38 C.F.R. § 1.554. If the office FOIA Supervisor determines the requester has clarified the request, FOIA # 21-00065-FOIA shall be reopened and processed. If the request remains unperfected, the FOIA Supervisor will notify the requester by a letter to include the standard notification of administrative appeal rights.

Respectfully,

*Christopher Connor*

Christopher Connor  
Chief, Office of Information Release (50CI)  
Office of Counselor to the Inspector General (50C)

Copy to: VA OIG FOIA Office

# Exhibit 35

**From:** [VA OIG FOIA-Appeals](#)  
**To:** [Gary Aguirre](#)  
**Subject:** FOIA Appeal # 21-00007-APP for FOIA # 21-00065-FOIA  
**Date:** Thursday, January 14, 2021 6:42:18 AM

---

Mr. Aguirre:

This acknowledges receipt of your appeal. We assigned it tracking # 21-00007-APP.

Respectfully,

Office of Information Release (50CI)  
Office of Inspector General  
Department of Veterans Affairs

---

**From:** Gary Aguirre <gary@aguirrelawapc.com>  
**Sent:** Wednesday, January 13, 2021 2:24 PM  
**To:** VA OIG FOIA-Appeals <VAOIGFOIA-Appeals@va.gov>  
**Subject:** [EXTERNAL] Appeal of Decision in FOIA Request No. 21-00065-FOIA and FOIA Appeal No. 21-00005-APP

Dear Madam or Sir:

Please find attached FOIA appeal.

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](http://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](mailto:maria@aguirrelawapc.com).

# Exhibit 36



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

January 11, 2021

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. 21-00005-APP and FOIA Request no. 21-00065-FOIA. Your FOIA request and Appeal has been remanded to have an additional search conducted for the following:

1) All emails sent by any of the Designated VA Persons (Mr. Missal) 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 (Mr. Missal) 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 (Mr. Missal) 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 (Mr. Missal) 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 (Mr. Missal) 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. PROO,
- 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 (Mr. Missal) 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?<sup>3</sup>
- c. Talking Points on Suspension Actions,<sup>4</sup>
- d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
- e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

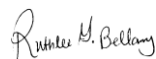
We have conducted another search utilizing the search terms provided within the request and follow-up emails you provided to other FOIA Officers within VA. We have enclosed a redacted copy of the requested records consisting of twenty-eight (28) pages. However, we are withholding portions of information 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.

Also, all inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency have been withheld under FOIA Exemption 5, 5 U.S.C. § 552 (b)(5). Specifically, frank or candor communications between officials during the deliberative process.

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 37



DEPARTMENT OF VETERANS AFFAIRS  
Washington DC 20420

November 30, 2020

In Reply Refer To: 001B  
**FOIA Request: 21-00916-F**

Via Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

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

Dear Ms. Pomares:

This letter serves as a correction/clarification to the November 20, 2020 Initial Agency Decision (IAD) in response to your November 9, 2020 Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA), FOIA Service. This letter serves to correct/clarify how the search for records was conducted; all other matters remain unchanged.

You requested a copy of emails specific to the following 13 individuals that are collectively referred to as "Designated VA Persons":

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."

You are specifically requesting the following:

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;

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November 30, 2020

- 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](mailto: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 email 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,

Maria Pomares  
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November 30, 2020

- 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 was received by the VA FOIA Service on November 10, 2020 and assigned FOIA tracking numbers **21-00916-F**, **21-00931-F**, **21-00932-F**, and **21-00933-F**.

On November 10, 2020, your request, assigned FOIA tracking number **21-00916-F**, was referred to and received by the VA Office of the Secretary (OSVA). Please refer to this number when communicating with the OSVA about this FOIA request. The OSVA is responsible for processing the portion of your request pertaining to the following Designated VA Persons: Robert L. Wilkie, Pamela Powers, and Christopher Syrek.

That same day, November 10, 2020, I requested the VA Central Office, Office of the Assistant Secretary for Information and Technology (OI&T) provide me with the email box of Deputy Chief of Staff Christopher Syrek for the timeframe of February 1, 2020 through March 15, 2020. Please know, our office already had the email boxes of Secretary Wilkie and Acting Deputy Secretary Powers, covering the timeframe of your request, as we routinely process requests for their email boxes. Additionally, we also had Christopher Syrek's email box, covering the timeframe of December 15, 2019 through January 31, 2020, on hand in order to respond to other FOIA request(s).

On November 11, 2020, our office received an email from Mr. Gary Aguirre of Aguirre Law, APC advising that he was representing you in this FOIA request.

On November 12, 2020, the VACO OIT provided our office with Christopher Syrek's February 1, 2020 through March 15, 2020 email box.

On November 13, 2020, our office received your signed authorization requesting that we communicate with your attorney Gary Aguirre. As such, all communications since receipt of your signed authorization have been conducted through your attorney.

That same day, November 13, 2020, I advised Mr. Aguirre that I had received your November 9, 2020 FOIA request, his November 10, 2020 email, and your November 13, 2020 signed authorization. I further advised that I was the lead on your request and that I was collecting all clarification needs and would send a request for clarification on Tuesday, November 17, 2020.

Maria Pomares  
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November 30, 2020

On November 17, 2020, I sent a joint clarification requesting clarification to item 3 of the request. I advised that without having a first name, email address, or key terms, for that portion of the request, the search may result in records that truly are not responsive to the request. That same day, November 17, 2020, Mr. Aguirre confirmed the names with the names I provided in the email and further advised that the name associated with "Beynon" is Steve Beynon.

On November 18, 2020, conducted 26 searches of the email boxes of Secretary Wilkie, Acting Deputy Secretary Powers, and Deputy Chief of Staff Syrek. The searches were conducted as follows:

The following searches were conducted in response to item 1 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @eangus.org or @evocatillc.com or @paaresearch.com  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @republicreport.org or stripes.com or tcf.org  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @veteranseducationsuccess.org or @vetsedsuccess.org or @washpost.com  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 2 of request 21-00916-F:

**Search 1:**

From (Sender): @eangus.org or @evocatillc.com or @paaresearch.com  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): @republicreport.org or stripes.com or tcf.org  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): @veteranseducationsuccess.org or @vetsedsuccess.org or @washpost.com

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Page 5  
November 30, 2020

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 3 and 4 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Carrie Wofford or Tanya Ang or Steve Beynon  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Barrett Bogue or Douglas-Gabriel or David Halperin  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Michael Saunders or Bradley Safalow or Robert Shireman  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 4:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Robert Norton  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 5:**

From (Sender): Carrie Wofford or Tanya Ang or Barrett Bogue  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 6:**

From (Sender): David Halperin or Robert Norton or Michael Saunders  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 7:**

From (Sender): Bradley Safalow or Robert Shireman  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 8:**



Maria Pomares  
Page 6  
November 30, 2020

From (Sender): Douglas-Gabriel  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 5 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020  
Key Terms: University of Phoenix or Perdoceo Education or PRDO or Career Education or CECO or Bellevue University or Temple University or Colorado Technical or American InterContinental

**Search 2:**

To (Recipient): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020  
Key Terms: University of Phoenix or Perdoceo Education or PRDO or Career Education or CECO or Bellevue University or Temple University or Colorado Technical or American InterContinental

The following searches were conducted in response to item 6 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: VA intends to suspend enrollment

**Search 2:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: VA intends to suspend enrollment

**Search 3:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Any Background/TPs on this available?

**Search 4:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Any Background/TPs on this available?

**Search 5:**

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From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action

**Search 6:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action

**Search 7:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Suspension Action for Five GI Bill Approved Schools

**Search 8:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Suspension Action for Five GI Bill Approved Schools

**Search 9:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action for Five GI Bill Approved Schools

**Search 10:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action for Five GI Bill Approved Schools

That same day, November 18, 2020, I sent a joint clarification requesting clarification to whether or not you are seeking those emails that are considered external marketing emails and further requested additional information regarding the terms PRDO and CECO. Mr. Aguirre advised, on November 18, 2020, "No need to include marketing emails" and "PRDO and CECO are the ticker symbols for the companies' stocks."

My search for responsive records located four pages in responsive to item 6 of your request. The pages have been Bates numbered as (21-00916-F) 000001 through (21-00916-F) 000004. I have determined that one page is releasable in their entirety and three pages are partially releasable pursuant to Title 5 U.S.C. § 552(b)(6), FOIA Exemption 6.

**FOIA Exemption 6** exempts from disclosure of personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires

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a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test. Specifically, the information being withheld, as indicated on the enclosed documents, under FOIA Exemption 6, consists of names, email addresses, phone numbers and/or cellular numbers of federal civilian employees; we however release the names of VA Senior Executives. Federal civilian employees and private citizens retain a significant privacy interest under certain circumstances, such as in instances where the release of their information could represent a threat to their well-being, harassment, or their ability to function within their sphere of employment. The federal civilian employees and private citizens whose information is at issue have a substantial privacy interest in their personal information. In weighing the private versus the public interest, except names of VA Senior Executives, we find that there is no public interest in knowing the consists of names, email addresses, phone numbers and/or cellular numbers of federal civilian employees. The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the records, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest of the individuals whose names are redacted. The protected information has been redacted and (b)(6) inserted. "Withholding a telephone number or e-mail address, alone, is not sufficient to protect that [privacy] interest; alternate means of contacting and harassing these employees would be readily discoverable on the Internet if this court ordered their names disclosed." Long v. Immigration & Customs Enf't, 2017 U.S. Dist. LEXIS 160719 (D.C. Cir. 2017).

Unfortunately, I was unable to locate responsive records in response to items 1 through 5. As such, I am issuing a "No Records" response to items 1 through 5 of your request.

#### **FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

#### **VA Central Office FOIA Public Liaison:**

Name: Doloras Johnson  
 Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

#### **Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)  
 Fax: 202-741-5769  
 Mailing address:  
 National Archives and Records Administration  
 8601 Adelphi Road  
 College Park, MD 20740-6001

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**FOIA Appeal**

Please be advised that should you desire to do so; you may appeal the determination made in this response to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Sincerely,

Ruthann Parise  
OSVA FOIA Officer

Enclosure: 4 pages, Bates numbered (21-00916-F) 000001 through (21-00916-F) 000004

# Exhibit 38



DEPARTMENT OF VETERANS AFFAIRS  
Washington DC 20420

December 2, 2020

In Reply Refer To: 001B  
**FOIA Request: 21-00916-F**

Via Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

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

Dear Ms. Pomares:

This is the second interim Initial Agency Decision (IAD) in response to your November 9, 2020 Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA), FOIA Service. This letter serves to correct/clarify how the search for records was conducted; all other matters remain unchanged.

You requested a copy of emails specific to the following 13 individuals that are collectively referred to as "Designated VA Persons":

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."

You are specifically requesting the following:

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;

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- 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](mailto: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 email 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,

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- 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 was received by the VA FOIA Service on November 10, 2020 and assigned FOIA tracking numbers **21-00916-F**, **21-00931-F**, **21-00932-F**, and **21-00933-F**.

On November 10, 2020, your request, assigned FOIA tracking number **21-00916-F**, was referred to and received by the VA Office of the Secretary (OSVA). Please refer to this number when communicating with the OSVA about this FOIA request. The OSVA is responsible for processing the portion of your request pertaining to the following Designated VA Persons: Robert L. Wilkie, Pamela Powers, and Christopher Syrek.

That same day, November 10, 2020, I requested the VA Central Office, Office of the Assistant Secretary for Information and Technology (OI&T) provide me with the email box of Deputy Chief of Staff Christopher Syrek for the timeframe of February 1, 2020 through March 15, 2020. Please know, our office already had the email boxes of Secretary Wilkie and Acting Deputy Secretary Powers, covering the timeframe of your request, as we routinely process requests for their email boxes. Additionally, we also had Christopher Syrek's email box, covering the timeframe of December 15, 2019 through January 31, 2020, on hand in order to respond to other FOIA request(s).

On November 11, 2020, our office received an email from Mr. Gary Aguirre of Aguirre Law, APC advising that he was representing you in this FOIA request.

On November 12, 2020, the VACO OIT provided our office with Christopher Syrek's February 1, 2020 through March 15, 2020 email box.

On November 13, 2020, our office received your signed authorization requesting that we communicate with your attorney Gary Aguirre. As such, all communications since receipt of your signed authorization have been conducted through your attorney.

That same day, November 13, 2020, I advised Mr. Aguirre that I had received your November 9, 2020 FOIA request, his November 10, 2020 email, and your November 13, 2020 signed authorization. I further advised that I was the lead on your request and that I was collecting all clarification needs and would send a request for clarification on Tuesday, November 17, 2020.



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On November 17, 2020, I sent a joint clarification requesting clarification to item 3 of the request. I advised that without having a first name, email address, or key terms, for that portion of the request, the search may result in records that truly are not responsive to the request. That same day, November 17, 2020, Mr. Aguirre confirmed the names with the names I provided in the email and further advised that the name associated with "Beynon" is Steve Beynon.

On November 18, 2020, conducted 26 searches of the email boxes of Secretary Wilkie, Acting Deputy Secretary Powers, and Deputy Chief of Staff Syrek. The searches were conducted as follows:

The following searches were conducted in response to item 1 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @eangus.org or @evocatillc.com or @paaresearch.com  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @republicreport.org or stripes.com or tcf.org  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @veteranseducationsuccess.org or @vetsedsuccess.org or @washpost.com  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 2 of request 21-00916-F:

**Search 1:**

From (Sender): @eangus.org or @evocatillc.com or @paaresearch.com  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): @republicreport.org or stripes.com or tcf.org  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): @veteranseducationsuccess.org or @vetsedsuccess.org or @washpost.com

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To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 3 and 4 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Carrie Wofford or Tanya Ang or Steve Beynon  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Barrett Bogue or Douglas-Gabriel or David Halperin  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Michael Saunders or Bradley Safalow or Robert Shireman  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 4:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Robert Norton  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 5:**

From (Sender): Carrie Wofford or Tanya Ang or Barrett Bogue  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 6:**

From (Sender): David Halperin or Robert Norton or Michael Saunders  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 7:**

From (Sender): Bradley Safalow or Robert Shireman  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 8:**

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From (Sender): Douglas-Gabriel  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 5 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020  
Key Terms: University of Phoenix or Perdoceo Education or PRDO or Career Education or CECO or Bellevue University or Temple University or Colorado Technical or American InterContinental

**Search 2:**

To (Recipient): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020  
Key Terms: University of Phoenix or Perdoceo Education or PRDO or Career Education or CECO or Bellevue University or Temple University or Colorado Technical or American InterContinental

The following searches were conducted in response to item 6 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: VA intends to suspend enrollment

**Search 2:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: VA intends to suspend enrollment

**Search 3:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Any Background/TPs on this available?

**Search 4:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Any Background/TPs on this available?

**Search 5:**

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From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action

**Search 6:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action

**Search 7:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Suspension Action for Five GI Bill Approved Schools

**Search 8:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Suspension Action for Five GI Bill Approved Schools

**Search 9:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action for Five GI Bill Approved Schools

**Search 10:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action for Five GI Bill Approved Schools

That same day, November 18, 2020, I sent a joint clarification requesting clarification to whether or not you are seeking those emails that are considered external marketing emails and further requested additional information regarding the terms PRDO and CECO. Mr. Aguirre advised, on November 18, 2020, "No need to include marketing emails" and "PRDO and CECO are the ticker symbols for the companies' stocks."

On November 20, 2020, for my initial release, a total of one page was released in its entirety and three pages were partially released pursuant to FOIA exemption (b)(6). The pages were Bates numbered (21-00916-F) 000001 through (21-00916-F) 000004.

On November 30, 2020, I sent a correction/clarification letter to the initial IAD. The November 30, 2020 letter corrected/clarified the searches that were conducted on November 18, 2020.

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The searches on November 18, 2020 were conducted as described on pages 4 through 7 of this letter.

On December 1, 2020, I conducted one additional search in response to item 3 of your request. The search was conducted as follows:

**Search:**

From (Sender): Steve Beynon  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

Unfortunately, the additional search failed to locate records responsive to your request. For this second interim IAD I am issuing a "No Records" response.

**FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

**VA Central Office FOIA Public Liaison:**

Name: Doloras Johnson  
Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

**Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769  
Mailing address:  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740-6001

**FOIA Appeal**

Please be advised that should you desire to do so; you may appeal the determination made in this response to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

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Sincerely,

Ruthann Parise  
OSVA FOIA Officer

# Exhibit 39

## AGUIRRE LAW, APC



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

By Electronic Mail to [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov) and [Ruthann.Parise@va.gov](mailto:Ruthann.Parise@va.gov) and First-Class Mail

December 8, 2020

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Ruthann Parise  
OSVA FOIA Officer  
Office of the Executive Secretary  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Re: Appeal of Decision in Relation to FOIA Request No. 21-00916-F

Dear Ms. Parise:

By this letter, as attorney for Maria Pomares, I serve notice that Ms. Pomares is appealing the decision of the FOIA Office in its letter of December 2, 2020, (Attachment 1 hereto) in relation to FOIA Request No. 21-00916-F, Attachment 2 hereto.

Sincerely,

Gary J. Aguirre

Enclosures



# Attachment 1

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofoiaservice@va.gov](mailto: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).<sup>1</sup>

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)<sup>2</sup> and, if that is not reasonably possible, in PDF format.

With this letter, I seek the following VA records:

---

<sup>1</sup> 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.”

<sup>2</sup> 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:

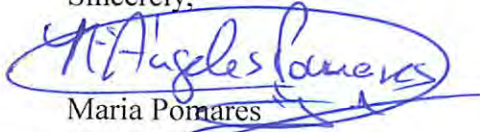
- a. Carrie Wofford.

- 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?<sup>3</sup>
  - c. Talking Points on Suspension Actions,<sup>4</sup>
  - d. Suspension Action for Five GI Bill Approved Schools,<sup>5</sup> and
  - e. Talking Points on Suspension Action for Five GI Bill Approved Schools.<sup>6</sup>

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

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

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

# Attachment 2





DEPARTMENT OF VETERANS AFFAIRS  
Washington DC 20420

December 2, 2020

In Reply Refer To: 001B  
**FOIA Request: 21-00916-F**

Via Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

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

Dear Ms. Pomares:

This is the second interim Initial Agency Decision (IAD) in response to your November 9, 2020 Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA), FOIA Service. This letter serves to correct/clarify how the search for records was conducted; all other matters remain unchanged.

You requested a copy of emails specific to the following 13 individuals that are collectively referred to as "Designated VA Persons":

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."

You are specifically requesting the following:

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;

Maria Pomares  
Page 2  
December 2, 2020

- 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](mailto: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 email 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,



Maria Pomares  
Page 3  
December 2, 2020

- 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 was received by the VA FOIA Service on November 10, 2020 and assigned FOIA tracking numbers **21-00916-F**, **21-00931-F**, **21-00932-F**, and **21-00933-F**.

On November 10, 2020, your request, assigned FOIA tracking number **21-00916-F**, was referred to and received by the VA Office of the Secretary (OSVA). Please refer to this number when communicating with the OSVA about this FOIA request. The OSVA is responsible for processing the portion of your request pertaining to the following Designated VA Persons: Robert L. Wilkie, Pamela Powers, and Christopher Syrek.

That same day, November 10, 2020, I requested the VA Central Office, Office of the Assistant Secretary for Information and Technology (OI&T) provide me with the email box of Deputy Chief of Staff Christopher Syrek for the timeframe of February 1, 2020 through March 15, 2020. Please know, our office already had the email boxes of Secretary Wilkie and Acting Deputy Secretary Powers, covering the timeframe of your request, as we routinely process requests for their email boxes. Additionally, we also had Christopher Syrek's email box, covering the timeframe of December 15, 2019 through January 31, 2020, on hand in order to respond to other FOIA request(s).

On November 11, 2020, our office received an email from Mr. Gary Aguirre of Aguirre Law, APC advising that he was representing you in this FOIA request.

On November 12, 2020, the VACO OIT provided our office with Christopher Syrek's February 1, 2020 through March 15, 2020 email box.

On November 13, 2020, our office received your signed authorization requesting that we communicate with your attorney Gary Aguirre. As such, all communications since receipt of your signed authorization have been conducted through your attorney.

That same day, November 13, 2020, I advised Mr. Aguirre that I had received your November 9, 2020 FOIA request, his November 10, 2020 email, and your November 13, 2020 signed authorization. I further advised that I was the lead on your request and that I was collecting all clarification needs and would send a request for clarification on Tuesday, November 17, 2020.

Maria Pomares  
Page 4  
December 2, 2020

On November 17, 2020, I sent a joint clarification requesting clarification to item 3 of the request. I advised that without having a first name, email address, or key terms, for that portion of the request, the search may result in records that truly are not responsive to the request. That same day, November 17, 2020, Mr. Aguirre confirmed the names with the names I provided in the email and further advised that the name associated with "Beynon" is Steve Beynon.

On November 18, 2020, conducted 26 searches of the email boxes of Secretary Wilkie, Acting Deputy Secretary Powers, and Deputy Chief of Staff Syrek. The searches were conducted as follows:

The following searches were conducted in response to item 1 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @eangus.org or @evocatillc.com or @paaresearch.com  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @republicreport.org or stripes.com or tcf.org  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): @veteranseducationsuccess.org or @vetsedsuccess.org or @washpost.com  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 2 of request 21-00916-F:

**Search 1:**

From (Sender): @eangus.org or @evocatillc.com or @paaresearch.com  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): @republicreport.org or stripes.com or tcf.org  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): @veteranseducationsuccess.org or @vetsedsuccess.org or @washpost.com

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Page 5  
December 2, 2020

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 3 and 4 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Carrie Wofford or Tanya Ang or Steve Beynon  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 2:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Barrett Bogue or Douglas-Gabriel or David Halperin  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 3:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Michael Saunders or Bradley Safalow or Robert Shireman  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 4:**

From (Sender): RLW or Wilkie or Powers or Syrek  
To (Recipients): Robert Norton  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 5:**

From (Sender): Carrie Wofford or Tanya Ang or Barrett Bogue  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 6:**

From (Sender): David Halperin or Robert Norton or Michael Saunders  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 7:**

From (Sender): Bradley Safalow or Robert Shireman  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

**Search 8:**

Maria Pomares  
Page 6  
December 2, 2020

From (Sender): Douglas-Gabriel  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

The following searches were conducted in response to item 5 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020  
Key Terms: University of Phoenix or Perdoceo Education or PRDO or Career Education or CECO or Bellevue University or Temple University or Colorado Technical or American InterContinental

**Search 2:**

To (Recipient): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020  
Key Terms: University of Phoenix or Perdoceo Education or PRDO or Career Education or CECO or Bellevue University or Temple University or Colorado Technical or American InterContinental

The following searches were conducted in response to item 6 of request 21-00916-F:

**Search 1:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: VA intends to suspend enrollment

**Search 2:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: VA intends to suspend enrollment

**Search 3:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Any Background/TPs on this available?

**Search 4:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Any Background/TPs on this available?

**Search 5:**

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Page 7  
December 2, 2020

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action

**Search 6:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action

**Search 7:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Suspension Action for Five GI Bill Approved Schools

**Search 8:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Suspension Action for Five GI Bill Approved Schools

**Search 9:**

From (Sender): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action for Five GI Bill Approved Schools

**Search 10:**

To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 3/8/2020  
To Date: 3/10/2020  
Subject/Document Name: Talking Points on Suspension Action for Five GI Bill Approved Schools

That same day, November 18, 2020, I sent a joint clarification requesting clarification to whether or not you are seeking those emails that are considered external marketing emails and further requested additional information regarding the terms PRDO and CECO. Mr. Aguirre advised, on November 18, 2020, "No need to include marketing emails" and "PRDO and CECO are the ticker symbols for the companies' stocks."

On November 20, 2020, for my initial release, a total of one page was released in its entirety and three pages were partially released pursuant to FOIA exemption (b)(6). The pages were Bates numbered (21-00916-F) 000001 through (21-00916-F) 000004.

On November 30, 2020, I sent a correction/clarification letter to the initial IAD. The November 30, 2020 letter corrected/clarified the searches that were conducted on November 18, 2020.

Maria Pomares  
Page 8  
December 2, 2020

The searches on November 18, 2020 were conducted as described on pages 4 through 7 of this letter.

On December 1, 2020, I conducted one additional search in response to item 3 of your request. The search was conducted as follows:

**Search:**

From (Sender): Steve Beynon  
To (Recipients): RLW or Wilkie or Powers or Syrek  
From Date: 12/15/2019  
To Date: 3/15/2020

Unfortunately, the additional search failed to locate records responsive to your request. For this second interim IAD I am issuing a "No Records" response.

**FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

**VA Central Office FOIA Public Liaison:**

Name: Doloras Johnson  
Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

**Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769  
Mailing address:  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740-6001

**FOIA Appeal**

Please be advised that should you desire to do so; you may appeal the determination made in this response to:

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Maria Pomares  
Page 9  
December 2, 2020

Sincerely,

Ruthann Parise  
OSVA FOIA Officer

# Exhibit 40





U.S. Department of Veterans Affairs  
Office of General Counsel  
Information and Administrative Law Group

810 Vermont Avenue NW  
Washington DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In Reply Refer To: 024T  
OGC Case #: 152512

December 8, 2020

Gary Aguirre  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Re: FOIA # 21-00916-F**

Dear Mr. Aguirre:

This is to acknowledge receipt of your December 8, 2020, Freedom of Information Act (FOIA) Appeal. You are appealing the November 20, 2020, and December 2, 2020 decisions by the VA Office of the Secretary.

We are in the process of obtaining relevant records and/or information concerning your appeal. Once that information is received from the facility that denied your initial request, your appeal will be assigned to a FOIA attorney within our office. Please be aware that all appeals to our office are processed in the order in which they are received (i.e., on a first-in/first-out basis.) Given the variant circumstances that affect the length of time required to respond to each appeal, including the number and size of documents requested, the need to retrieve those records, the complexity of the legal issues involved, and the current workload of the responsible attorney, it is difficult to determine precisely when a decision will be rendered in a particular case. Currently, we are unable to offer an estimate as to when your appeal will be completed.

We will issue you a final determination in writing once a decision is made on your appeal. While we process your appeal, if you have any questions about this matter, you can contact us at (202) 461-7684 or [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov).

We appreciate your patience while we process your appeal.

Sincerely,

Tracy Knight  
Government Information Specialist  
Information & Administrative Law Group

# Exhibit 41



**U.S. Department of Veterans Affairs**  
**Office of General Counsel**  
**Information and Administrative Law Group**

810 Vermont Avenue NW  
Washington DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

**In Reply Refer To:** 024  
OGC Case #: 152512  
FOIA Tracking #: 21-00916-F

March 29, 2021

Maria Pomares  
c/o Gary J. Aguirre, Esquire  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Dear Ms. Pomares:

On December 8, 2020, we received your appeal in response to the second interim Initial Agency Decision (IAD) processed by Ruthann Parise, Freedom of Information Act Officer (FOIA) Department of Veterans Affairs Office of the Secretary (OSVA). Your letter appeals the no records response issued by Ms. Parise.

By way of background, on November 9, 2020, you requested the following.

A copy of emails specific to the following 13 individuals that are collectively referred to as 'Designated VA Persons':

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.

2.

Maria Pomares

You are specifically requested the following:

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,

3.

Maria Pomares

- 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?
- 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.

4.

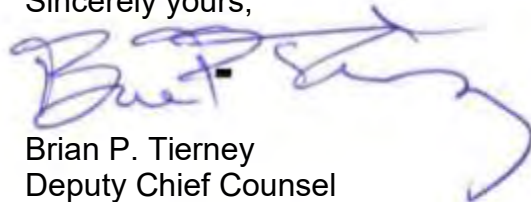
Maria Pomares

On December 2, 2020, Ms. Parise advised that the additional search failed to locate records responsive to your request.

Upon receipt of your appeal, we have requested the OSVA conduct another search for responsive records and provide a subsequent decision.

Ultimately, should you disagree with the response once the FOIA Officer's subsequent decision is rendered, you may re-open the appeal by writing to the Office of General Counsel (024), 810 Vermont Avenue, NW, Washington, DC 20420. While we generally process appeals on a first-in, first-out basis, if you believe such an appeal is warranted, we would process it based upon our receipt of your December 8, 2020, correspondence.

Sincerely yours,



Brian P. Tierney  
Deputy Chief Counsel  
Information & Administrative Law Group

cc: Ruthann Parise, OSVA FOIA Officer  
Doloras Johnson, Director, VA FOIA Service

# Exhibit 42



**DEPARTMENT OF VETERANS AFFAIRS**  
Washington DC 20420

November 12, 2020

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

Dear Ms. Pomares:

This is in response to your Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA).

In your request dated November 9, 2020, you asked for a copy of "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.

@eangus.org  
@paaresearch.com  
@republicreport.org  
@stripes.com  
@tcf.org  
@veteranseducationsuccess.org  
@vetsedsuccess.org; and  
@washpost.com

Your request was received in the Office of Public and Intergovernmental Affairs (OPIA) on November 10, 2020, and has been assigned FOIA Tracking Number **21-00930-F**. Please refer to it whenever communicating with VA about your request. The FOIA request is on hold and has been referred to another area for records search.

We appreciate your interest in the Department of Veterans Affairs. If you have further questions, please feel free to contact Anita Major at (202) 461-7440.

Sincerely,

A handwritten signature in black ink that reads "Lyndon B. Johnson". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Lyndon B. Johnson  
Chief of Staff  
Office of Public and Intergovernmental Affairs



# Exhibit 43



**DEPARTMENT OF VETERANS AFFAIRS**  
Washington DC 20420

December 1, 2020

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

Dear Ms. Pomares:

This is in response to your Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA).

On November 9, 2020, you asked for a copy of "All emails sent by any of the Designated VA Person, VA Press Secretary Christina Noel, to one or more of the following email addresses" and search request from 1-6 mentioned in the FOIA request, between December 15, 2019 and March 15, 2020.

@eangus.org;  
@evocatillc.com;  
@paaresearch.com;  
@republicreport.org;  
@stripes.com;  
@tcf.org;  
@veteranseducationsuccess.org;  
@vetsedsuccess.org; and  
@washpost.com

Your clarification request was received in the Office of Public and Intergovernmental Affairs (OPIA) on November 30, 2020 and has been assigned FOIA Tracking Number **21-00930-F**. Please refer to it whenever communicating with VA about your request, your FOIA request is on hold and has been referred to another area for records search.

We appreciate your interest in the Department of Veterans Affairs. If you have further questions, please feel free to contact Anita Major at (202) 461-7440.

Sincerely,

A handwritten signature in black ink, appearing to read "Lyndon B. Johnson", is written over a horizontal line.

Lyndon B. Johnson  
Chief of Staff  
Office of Public and Intergovernmental Affairs

# Exhibit 44



**DEPARTMENT OF VETERANS AFFAIRS**  
Washington DC 20420

January 26, 2021

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

Dear Ms. Pomares:

This is in response to your Freedom of Information Act (FOIA) request to the Department of Veterans Affairs (VA).

On November 9, 2020, you asked for a copy of "All emails sent by any of the Designated VA Person, VA Press Secretary Christina Noel, to one or more of the "email addresses" and search request from 1-6 mentioned in the FOIA request, between December 15, 2019 and March 15, 2020.

Your clarification request was received in the Office of Public and Intergovernmental Affairs (OPIA) on November 30, 2020. In conducting our search, the Office of Public and Intergovernmental Affairs found a total of 31 pages regarding **FOIA 21-00930-F**.

We appreciate your interest in the Department of Veterans Affairs. If you have further questions, please feel free to contact Anita Major at (202) 461-7440.

Sincerely,

A handwritten signature in black ink, which appears to read "Lyndon B. Johnson", is written over a horizontal line.

Lyndon B. Johnson  
Chief of Staff  
Office of Public and Intergovernmental Affairs

Enclosures

# Exhibit 45

**From:** [Gary Aguirre](#)  
**To:** ["Williams, Shirley \(075\)"](#)  
**Cc:** ["Major, Anita"](#)  
**Subject:** RE: FOIA Req. No. 21-00930-F  
**Date:** Thursday, January 28, 2021 11:41:00 AM

---

Ms. Williams:

May I have a response to my email below?

Thank you in advance,

Gary J. Aguirre

Aguirre Law, APC

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](mailto:maria@aguirrelawapc.com).

---

**From:** Gary Aguirre

**Sent:** Wednesday, January 27, 2021 6:53 AM

**To:** Williams, Shirley (075) <[shirley.williams@va.gov](mailto:shirley.williams@va.gov)>

**Cc:** Major, Anita <[anita.major@va.gov](mailto:anita.major@va.gov)>

**Subject:** FOIA Req. No. 21-00930-F

Dear Ms. Williams:

As Ms. Pomares informed the VA earlier with her attached letter, I represent her.

Was the letter you sent yesterday to Ms. Pomares in the above-referenced FOIA request a final response? If so, kindly confirm it so Ms. Pomares can exercise her rights.

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](http://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](mailto:maria@aguirrelawapc.com).

# Exhibit 46

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofiaservice@va.gov](mailto:vacofiaservice@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).<sup>1</sup>

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).<sup>2</sup>

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).<sup>3</sup>

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.

---

<sup>1</sup> 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.”

<sup>2</sup> 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.”

<sup>3</sup> 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](mailto: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, which appears to read "Maria Pomares", is enclosed within a blue oval. The signature is stylized and somewhat cursive. Below the oval, the name "Maria Pomares" is printed in a standard black font.

Maria Pomares

# Exhibit 47



U.S. Department  
of Veterans Affairs

810 Vermont Ave NW  
Washington DC 20420  
[www.va.gov](http://www.va.gov)

November 18, 2020

Via Email: [gary@aguirrelawapc.com](mailto: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](mailto: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](mailto: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 of 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](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 48



**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](mailto: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 49

## 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](mailto:vaoigfoia-pa@va.gov) and [VAOIGFOIA-Appeals@va.gov](mailto: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,

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](mailto: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](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofiaservice@va.gov](mailto:vacofiaservice@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).<sup>1</sup>

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).<sup>2</sup>

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).<sup>3</sup>

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.

---

<sup>1</sup> 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.”

<sup>2</sup> 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.”

<sup>3</sup> 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](mailto: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, which appears to read "Maria Pomares", is enclosed within a blue oval. The signature is stylized and somewhat cursive.

Maria Pomares

# Exhibit 50



**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.<sup>1</sup> 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](mailto:VAOIGFOIA-Appeals@va.gov).

Respectfully,

*Christopher Connor*

Christopher Connor  
Chief, Information Release Office (50CI)

Copy to: VA OIG FOIA Office

---

<sup>1</sup> 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 51



**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](mailto: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 52



## 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](mailto: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,

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](mailto: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](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofiaservice@va.gov](mailto:vacofiaservice@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).<sup>1</sup>

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).<sup>2</sup>

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).<sup>3</sup>

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.

---

<sup>1</sup> 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.”

<sup>2</sup> 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.”

<sup>3</sup> 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](mailto: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, which appears to read "Maria Pomares", is enclosed within a blue oval. The signature is stylized and somewhat cursive. Below the oval, the name "Maria Pomares" is printed in a standard black font.

Maria Pomares



# Exhibit 53



**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](mailto: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

# Exhibit 54



U.S. Department  
of Veterans Affairs

810 Vermont Ave NW  
Washington DC 20420  
[www.va.gov](http://www.va.gov)

November 18, 2020

Via Email: [gary@aguirrelawapc.com](mailto: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](mailto: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](mailto: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](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 55

## AGUIRRE LAW, APC

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



By Electronic Mail to [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)

January 18, 2021

Department of Veterans Affairs  
General Counsel (024)  
810 Vermont Avenue, NW  
Washington, DC 20420

Re: Appeal of Decision in FOIA Request No. 21-01007-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 November 18, 2021, (Attachment 1 hereto) in relation to FOIA Request no. 21-01007-FOIA, Attachment 2 hereto.

This appeal is based on the following grounds: inadequate search, and improper and unexplained assertion of exemptions, including Exemptions 5 and 6 and 7(C).

Sincerely,

Gary J. Aguirre

Enclosures



# Attachment 1



U.S. Department  
of Veterans Affairs

810 Vermont Ave NW  
Washington DC 20420  
[www.va.gov](http://www.va.gov)

November 18, 2020

Via Email: [gary@aguirrelawapc.com](mailto: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](mailto: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](mailto: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 of 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](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)

# Attachment 2

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vafoiaservice@va.gov](mailto:vafoiaservice@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).<sup>1</sup>

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).<sup>2</sup>

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).<sup>3</sup>

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.

---

<sup>1</sup> 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.”

<sup>2</sup> 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.”

<sup>3</sup> 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](mailto: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, which appears to read "Maria Pomares", is enclosed within a blue oval. The signature is stylized and somewhat cursive. Below the oval, the name "Maria Pomares" is printed in a standard black font.

Maria Pomares

# Exhibit 56





U.S. Department of Veterans Affairs  
Office of General Counsel  
Information and Administrative Law Group

810 Vermont Avenue NW  
Washington DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In Reply Refer To: 024T  
OGC Case #: 152953

January 19, 2021

Gary Aguirre  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Re: FOIA # 21-01007-F**

Dear Mr. Aguirre:

This is to acknowledge receipt of your January 18, 2021, Freedom of Information Act (FOIA) Appeal. You are appealing the November 18, 2020, decision by the VA VACO FOIA Service – FOIA # 21-01007-F.

We are in the process of obtaining relevant records and/or information concerning your appeal. Once that information is received from the facility that denied your initial request, your appeal will be assigned to a FOIA attorney within our office. Please be aware that all appeals to our office are processed in the order in which they are received (i.e., on a first-in/first-out basis.) Given the variant circumstances that affect the length of time required to respond to each appeal, including the number and size of documents requested, the need to retrieve those records, the complexity of the legal issues involved, and the current workload of the responsible attorney, it is difficult to determine precisely when a decision will be rendered in a particular case. Currently, we are unable to offer an estimate as to when your appeal will be completed.

We will issue you a final determination in writing once a decision is made on your appeal. While we process your appeal, if you have any questions about this matter, you can contact us at (202) 461-7684 or [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov).

We appreciate your patience while we process your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Knight".

Tracy Knight  
Government Information Specialist  
Information & Administrative Law Group

# Exhibit 57



November 24, 2020

**VIA EMAIL: [mapojava@gmail.com](mailto:mapojava@gmail.com)**

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

Re: Freedom of Information Act Tracking Number **21-01062-F**

Dear Ms. Pomares:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request, received in the Veterans Benefits Administration (VBA) FOIA Office of the Department of Veterans Affairs (VA) on November 20, 2020. You requested the following information from January 1, 2019 to November 13, 2020:

- 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.
- 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 U.S.C § 552(a)(2)(D)(i).

Further, you requested records to be released as PST files to the extent they are comprised of emails and all other records in PDF format in compliance with 5 U.S.C § 552(a)(3)(B).

Your request has been assigned tracking number **21-01062-F**. Your request will be assigned to a Program Specialist for processing and you will be notified of the findings as soon as possible. Please refer to your tracking number when contacting us about your request.

If you do not receive a response after twenty business days from when we 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](mailto:foia.vbaco@va.gov). 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](mailto:ogis@nara.gov).

We appreciate your interest in the VA.

Sincerely,

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

# Exhibit 58



DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Washington, DC 20420

**VIA E-MAIL: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)**

January 27, 2021

Gary J. Aguirre  
C/O Maria Pomares  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101

Re: Freedom of Information Act (FOIA) Request – 21-01062-F

Dear Mr. Aguirre:

This letter is in response to your FOIA request sent via electronic mail to Veterans Benefits Administration (VBA) of the Department of Veterans Affairs (VA) on November 23, 2020. You requested a copy of the following records:

- 1) All FOIA requests received by the VA or any of its Administration, Office, and Centers that contain the following name: Charmain Bogue.
- 2) All FOIA requests received by the VA or any of its Administration, 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
  - g. Career Education
- 3) All records released in electronic format in response to any of the FOIA requests identified in response to requests and 1 and 2 above pursuant to 5 USCS § 552(a)(2)(D)(i).

Your request was processed in accordance with the FOIA and the VBA's implementing regulation.

Pursuant to your request, we commenced a search of responsive records. We located approximately **4,535** pages of records, which is being released to you in full or in part as follows:

**Items 1 & 3**

- 21-00523-F Disclosure Determination

21-00931-F  
Aguirre

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**Items 2(a), 2(b), 2(c), 2(d), 2(g), & 3**

1. 20-05881-F Disclosure Determination
  - 1<sup>st</sup> Interim Release
  - 2<sup>nd</sup> Interim Release
    - Revised 2<sup>nd</sup> Interim Release
  - 3<sup>rd</sup> Interim Release
    - Revised 3<sup>rd</sup> Interim Release
  - 4<sup>th</sup> Interim Release
  - 5<sup>th</sup> Interim Release
    - Revised 5<sup>th</sup> Interim Release
2. 20-06217-F Disclosure Determination
  - 1<sup>st</sup> Interim Release
  - 2<sup>nd</sup> Interim Release
  - 3<sup>rd</sup> Interim Release
  - 4<sup>th</sup> Interim Release

**Items 2(a), 2(e), 2(f), 2(g), & 3**

- 20-03205-F Disclosure Determination
  - 1<sup>st</sup> Interim Release
  - 2<sup>nd</sup> Interim Release

**Items 2(b), 2(e), 2(f), & 3**

- 20-08807-F Disclosure Determination

**Items 2(e), 2(f), 2(g), & 3**

- 20-03209-F Disclosure Determination

**Items 2(f) & 3**

- 20-09955-F Disclosure Determination

**Items 2(g) & 3**

1. 20-06724-F Disclosure Determination
2. 20-03213-F Disclosure Determination

It was necessary to withhold certain portions of responsive records, consisting of personally identifiable information (PII) such as the name and email address of VA employees. The VBA reasonably foresees that disclosure of this information would harm interests protected by the FOIA. I have relied on the following FOIA exemption to withhold this information.

21-00931-F

Aguirre

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The applicable exemption, 5 U.S.C. § 552(b)(6), exempts from required public disclosure, “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Some of the records you have requested contain “similar files” within the meaning of the above cited statutory language. Specifically, I have withheld PII consisting of names and contact information of VA employees and external stakeholders. In applying Exemption 6, a balancing test was conducted, weighing the privacy interests of the individuals named in a document against the public interest in disclosure of the information. The public interest in disclosure is one that “sheds light on an agency’s performance of its statutory duties.” *Dep’t of Justice v. Reporters Committee*, 489 U.S. 749, 773 (1989). I have determined disclosure of this information would constitute a clearly unwarranted invasion of an individual’s personal privacy.

There are several responsive records that could not be transmitted to you due to the voluminous size of each document. In order to review these records, it is necessary to follow the instructions provided below.

1. Visit: [https://www.va.gov/FOIA/Document\\_Retrieval.asp](https://www.va.gov/FOIA/Document_Retrieval.asp)
2. Enter password: Q425dyBqwNR
3. Download the following documents:
  - a) 21\_01062\_F\_Resp\_to\_20\_03205\_F
  - b) 21\_01062\_F\_Resp\_to\_20\_05881\_F\_Pt\_1
  - c) 21\_01062\_F\_Resp\_to\_20\_05881\_F\_Pt\_2
  - d) 21\_01062\_F\_Resp\_to\_20\_06217\_F\_Pt\_1
  - e) 21\_01062\_F\_Resp\_to\_20\_06217\_F\_Pt\_2
  - f) 21\_01062\_F\_Resp\_to\_20\_06724\_F

Since this response constitutes a partial denial of your request, I am providing you your administrative appeal rights in the event you wish to avail yourself of this process. The FOIA provides at 5 U.S.C. § 552(a)(6)(A)(i) (2014) amended by FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 that if a disclosure request is denied in whole or in part, the requester may file a written appeal within 90 days from the date of the denial or, if later (in the case of a partial denial), 90 days from the date the requester receives the disclosed material.

Please mail your appeal to:

Mrs. Rochelle Foxworth  
 Chief FOIA/PA Officer  
 Veterans Benefits Administration  
 810 Vermont Avenue, N.W. (20)  
 Telephone: (202) 461-8401  
 E-mail: FOIA.VBACO@va.gov  
 Washington, DC 20420

Please clearly mark both the envelope and your letter or email “Freedom of Information Act Appeal.”

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the VBA FOIA Service Office at the aforementioned contact information.

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have



21-00931-F

Aguirre

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the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows:

The contact information for OGIS is:  
Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740-6001  
Telephone: 202-741-5770  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769

Sincerely,

Stephanie Tucker  
Program Specialist (FOIA/Privacy)  
Office of Mission Support  
Veterans Benefits Administration  
Department of Veterans Affairs

Enclosures

# Exhibit 59

## AGUIRRE LAW, APC

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



By Electronic Mail to [FOIA.VBACO@va.gov](mailto:FOIA.VBACO@va.gov)

January 28, 2021

Mrs. Rochelle Foxworth  
Chief FOIA/PA Officer  
Veterans Benefits Administration  
810 Vermont Avenue, N.W. (20)  
Telephone: (202) 461-8401  
Washington, DC 20420

Re: Appeal of Decision in FOIA Request No. 21-01062-F

Dear Mrs. Foxworth:

By this letter, as attorney for Maria Pomares, I serve notice that Ms. Pomares is appealing the decision of the VA OGC, in its letter of January 27, 2021, (Attachment 1 hereto) in relation to FOIA Request No. 21-01062-FOIA, Attachment 2 hereto.

This appeal is based on the inadequate search for records and the improper assertion of Exemption 5. The request was designed to seek records for which Exemption 5 would not have been applicable. Further, the agency failed to (1) describe the records it is withholding under Exemption 5 and (2) the specific privilege that is the basis for the assertion of Exception 5.

This appeal is also based on the improper assertion of Exemption 6, which does not protect the identity of the staff or other assertions of the privilege in the released, redacted records. Further, there is a compelling public policy interest in the disclosure of these records, because of improper and potentially unlawful conduct by one or more high level VA officials.

Sincerely,

Gary J. Aguirre

Enclosures

# Attachment 1



DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Washington, DC 20420

**VIA E-MAIL: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)**

January 27, 2021

Gary J. Aguirre  
C/O Maria Pomares  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101

Re: Freedom of Information Act (FOIA) Request – 21-01062-F

Dear Mr. Aguirre:

This letter is in response to your FOIA request sent via electronic mail to Veterans Benefits Administration (VBA) of the Department of Veterans Affairs (VA) on November 23, 2020. You requested a copy of the following records:

- 1) All FOIA requests received by the VA or any of its Administration, Office, and Centers that contain the following name: Charmain Bogue.
- 2) All FOIA requests received by the VA or any of its Administration, 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
  - g. Career Education
- 3) All records released in electronic format in response to any of the FOIA requests identified in response to requests and 1 and 2 above pursuant to 5 USCS § 552(a)(2)(D)(i).

Your request was processed in accordance with the FOIA and the VBA's implementing regulation.

Pursuant to your request, we commenced a search of responsive records. We located approximately **4,535** pages of records, which is being released to you in full or in part as follows:

**Items 1 & 3**

- 21-00523-F Disclosure Determination

21-00931-F  
Aguirre

2

**Items 2(a), 2(b), 2(c), 2(d), 2(g), & 3**

1. 20-05881-F Disclosure Determination
  - 1<sup>st</sup> Interim Release
  - 2<sup>nd</sup> Interim Release
    - Revised 2<sup>nd</sup> Interim Release
  - 3<sup>rd</sup> Interim Release
    - Revised 3<sup>rd</sup> Interim Release
  - 4<sup>th</sup> Interim Release
  - 5<sup>th</sup> Interim Release
    - Revised 5<sup>th</sup> Interim Release
2. 20-06217-F Disclosure Determination
  - 1<sup>st</sup> Interim Release
  - 2<sup>nd</sup> Interim Release
  - 3<sup>rd</sup> Interim Release
  - 4<sup>th</sup> Interim Release

**Items 2(a), 2(e), 2(f), 2(g), & 3**

- 20-03205-F Disclosure Determination
  - 1<sup>st</sup> Interim Release
  - 2<sup>nd</sup> Interim Release

**Items 2(b), 2(e), 2(f), & 3**

- 20-08807-F Disclosure Determination

**Items 2(e), 2(f), 2(g), & 3**

- 20-03209-F Disclosure Determination

**Items 2(f) & 3**

- 20-09955-F Disclosure Determination

**Items 2(g) & 3**

1. 20-06724-F Disclosure Determination
2. 20-03213-F Disclosure Determination

It was necessary to withhold certain portions of responsive records, consisting of personally identifiable information (PII) such as the name and email address of VA employees. The VBA reasonably foresees that disclosure of this information would harm interests protected by the FOIA. I have relied on the following FOIA exemption to withhold this information.

21-00931-F

Aguirre

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The applicable exemption, 5 U.S.C. § 552(b)(6), exempts from required public disclosure, “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Some of the records you have requested contain “similar files” within the meaning of the above cited statutory language. Specifically, I have withheld PII consisting of names and contact information of VA employees and external stakeholders. In applying Exemption 6, a balancing test was conducted, weighing the privacy interests of the individuals named in a document against the public interest in disclosure of the information. The public interest in disclosure is one that “sheds light on an agency’s performance of its statutory duties.” *Dep’t of Justice v. Reporters Committee*, 489 U.S. 749, 773 (1989). I have determined disclosure of this information would constitute a clearly unwarranted invasion of an individual’s personal privacy.

There are several responsive records that could not be transmitted to you due to the voluminous size of each document. In order to review these records, it is necessary to follow the instructions provided below.

1. Visit: [https://www.va.gov/FOIA/Document\\_Retrieval.asp](https://www.va.gov/FOIA/Document_Retrieval.asp)
2. Enter password: Q425dyBqwNR
3. Download the following documents:
  - a) 21\_01062\_F\_Resp\_to\_20\_03205\_F
  - b) 21\_01062\_F\_Resp\_to\_20\_05881\_F\_Pt\_1
  - c) 21\_01062\_F\_Resp\_to\_20\_05881\_F\_Pt\_2
  - d) 21\_01062\_F\_Resp\_to\_20\_06217\_F\_Pt\_1
  - e) 21\_01062\_F\_Resp\_to\_20\_06217\_F\_Pt\_2
  - f) 21\_01062\_F\_Resp\_to\_20\_06724\_F

Since this response constitutes a partial denial of your request, I am providing you your administrative appeal rights in the event you wish to avail yourself of this process. The FOIA provides at 5 U.S.C. § 552(a)(6)(A)(i) (2014) amended by FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 that if a disclosure request is denied in whole or in part, the requester may file a written appeal within 90 days from the date of the denial or, if later (in the case of a partial denial), 90 days from the date the requester receives the disclosed material.

Please mail your appeal to:

Mrs. Rochelle Foxworth  
 Chief FOIA/PA Officer  
 Veterans Benefits Administration  
 810 Vermont Avenue, N.W. (20)  
 Telephone: (202) 461-8401  
 E-mail: FOIA.VBACO@va.gov  
 Washington, DC 20420

Please clearly mark both the envelope and your letter or email “Freedom of Information Act Appeal.”

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the VBA FOIA Service Office at the aforementioned contact information.

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have

21-00931-F

Aguirre

4

the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows:

The contact information for OGIS is:  
Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740-6001  
Telephone: 202-741-5770  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769

Sincerely,

Stephanie Tucker  
Program Specialist (FOIA/Privacy)  
Office of Mission Support  
Veterans Benefits Administration  
Department of Veterans Affairs

Enclosures



# Attachment 2

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofiaservice@va.gov](mailto:vacofiaservice@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).<sup>1</sup>

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).<sup>2</sup>

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).<sup>3</sup>

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.

---

<sup>1</sup> 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.”

<sup>2</sup> 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.”

<sup>3</sup> 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](mailto: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, which appears to read "Maria Pomares", is enclosed within a blue oval. The signature is stylized and somewhat cursive. Below the oval, the name "Maria Pomares" is printed in a standard black font.

Maria Pomares

# Exhibit 60



**U.S. Department of Veterans Affairs**  
**Office of General Counsel**  
**Information and Administrative Law Group**

**810 Vermont Avenue NW**  
**Washington DC 20420**  
**[www.va.gov/ogc](http://www.va.gov/ogc)**

**In Reply Refer To: 024T**  
**OGC Case #: 152953**

January 19, 2021

Gary Aguirre  
[gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

**Re: FOIA # 21-01062-F**

Dear Mr. Aguirre:

This is to acknowledge receipt of your January 28, 2021, Freedom of Information Act (FOIA) Appeal. You are appealing the January 27, 2021, decision by the VA Veterans Benefits Administration (VBA) FOIA Office.

We are in the process of obtaining relevant records and/or information concerning your appeal. Once that information is received from the facility that denied your initial request, your appeal will be assigned to a FOIA attorney within our office. Please be aware that all appeals to our office are processed in the order in which they are received (i.e., on a first-in/first-out basis.) Given the variant circumstances that affect the length of time required to respond to each appeal, including the number and size of documents requested, the need to retrieve those records, the complexity of the legal issues involved, and the current workload of the responsible attorney, it is difficult to determine precisely when a decision will be rendered in a particular case. Currently, we are unable to offer an estimate as to when your appeal will be completed.

We will issue you a final determination in writing once a decision is made on your appeal. While we process your appeal, if you have any questions about this matter, you can contact us at (202) 461-7684 or [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov).

We appreciate your patience while we process your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Knight".

Tracy Knight  
Government Information Specialist

# Exhibit 61



**U.S. Department of Veterans Affairs**  
**Office of General Counsel**  
**Information and Administrative Law Group**

810 Vermont Avenue, NW  
Washington, DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In Reply Refer To: 024  
FOIA Request: 21-01069-F

December 17, 2020

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

Via Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Dear Ms. Pomares:

This is a partial Initial Agency Decision (IAD) to your November 13, 2020 Freedom of Information Act (FOIA) request submitted to the VA Office of General Counsel, received on November 19, 2020. You requested a copy of the following information:

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,
  - 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 USC § 522(a)(2)(D)(i).

The VA FOIA Service received your request on November 13, 2020 and assigned it tracking numbers 21-01069-F.

On November 19, 2020 your request was referred to and received by the VA Office of General (OGC) Counsel under the same FOIA tracking number 21-01069-F.

**IAD & Reasonable Search**

On November 17, 2020 the VA FOIA Service Office conducted the below searches in response to item's 1 and 2 within the VA FOIAXpress software system using the below key terms:



### Search 1

Key Terms: "Charmain Bogue"

### Search 2:

Key Terms: "University of Phoenix," "Perdoceo," "Bellevue University," "Temple University," "Colorado Technical," "American InterContinental," "Career Education."

After conducting the search, three (3) VA OGC FOIA requests were determined responsive, 20-07053-F; 20-03471-F; and 20-20-03474-F. Request 20-07053-F was provided a "no records" response and the status reflects closed. In part, we have concluded that the VA Office of General Counsel has no records in response to item 3 of your request for FOIA tracking number 20-07053-F. Courts have determined the reasonableness of an agency's search can depend on whether the agency properly determined where responsive records were likely to be found, and searched those locations. [See *Iacoe v. IRS*, No. 98-C-0466, 1999 WL 675322, at \*4 (E.D. Wis. July 23, 1999) (recognizing that agency "diligently searched for the records requested in those places where [agency] expected they could be located")]. Record search inquiries were made to the appropriate office. At the conclusion of the search, a "no records" response was provided for responsive records in part, to item 3 of your request.

As of the date of this letter, the status of FOIA requests 20-03471-F and 20-03474-F are currently open and are pending review. Therefore, the VA OGC FOIA Office will provide another interim or final IAD to item 3 of your request once the status of the two aforementioned FOIA requests reflects closed.

This concludes the Office of General Counsel's FOIA Office response to your inquiry for items 1 and 2 of your requests.

### **FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

#### **VA Central Office FOIA Public Liaison:**

Name: Doloras Johnson

Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

#### **Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)

Fax: 202-741-5769

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

### **FOIA Appeal**

You may appeal the initial determination made in this response to:

**Office of General Counsel (024)**  
**Department of Veterans Affairs**  
**810 Vermont Avenue, NW**  
**Washington, DC 20420**  
**Email: [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov)**

If you choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. You must file your appeal within ninety (90) days from the date of this letter.

Sincerely,



Michelle Jackson, MSL, RHIA, CPC  
Acting FOIA Officer  
VA Office of General Counsel

# Exhibit 62

## AGUIRRE LAW, APC

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



By Electronic Mail to [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov)

December 22, 2020

Office of General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

Re: Appeal of Decision in FOIA Request No. 21-01069-F

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 OGC, in its letter of December 17, 2020, (Attachment 1 hereto) in relation to FOIA Request No. 21-01069-FOIA, Attachment 2 hereto.

This appeal is based on the fact the search for records was inadequate.

Sincerely,

Gary J. Aguirre

Enclosures

# Attachment 1



**U.S. Department of Veterans Affairs**  
**Office of General Counsel**  
**Information and Administrative Law Group**

810 Vermont Avenue, NW  
Washington, DC 20420  
[www.va.gov/ogc](http://www.va.gov/ogc)

In Reply Refer To: 024  
FOIA Request: 21-01069-F

December 17, 2020

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

Via Email: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)

Dear Ms. Pomares:

This is a partial Initial Agency Decision (IAD) to your November 13, 2020 Freedom of Information Act (FOIA) request submitted to the VA Office of General Counsel, received on November 19, 2020. You requested a copy of the following information:

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,
  - 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 USC § 522(a)(2)(D)(i).

The VA FOIA Service received your request on November 13, 2020 and assigned it tracking numbers 21-01069-F.

On November 19, 2020 your request was referred to and received by the VA Office of General (OGC) Counsel under the same FOIA tracking number 21-01069-F.

**IAD & Reasonable Search**

On November 17, 2020 the VA FOIA Service Office conducted the below searches in response to item's 1 and 2 within the VA FOIAXpress software system using the below key terms:

### Search 1

Key Terms: "Charmain Bogue"

### Search 2:

Key Terms: "University of Phoenix," "Perdoceo," "Bellevue University," "Temple University," "Colorado Technical," "American InterContinental," "Career Education."

After conducting the search, three (3) VA OGC FOIA requests were determined responsive, 20-07053-F; 20-03471-F; and 20-20-03474-F. Request 20-07053-F was provided a "no records" response and the status reflects closed. In part, we have concluded that the VA Office of General Counsel has no records in response to item 3 of your request for FOIA tracking number 20-07053-F. Courts have determined the reasonableness of an agency's search can depend on whether the agency properly determined where responsive records were likely to be found, and searched those locations. [See *Iacoe v. IRS*, No. 98-C-0466, 1999 WL 675322, at \*4 (E.D. Wis. July 23, 1999) (recognizing that agency "diligently searched for the records requested in those places where [agency] expected they could be located")]. Record search inquiries were made to the appropriate office. At the conclusion of the search, a "no records" response was provided for responsive records in part, to item 3 of your request.

As of the date of this letter, the status of FOIA requests 20-03471-F and 20-03474-F are currently open and are pending review. Therefore, the VA OGC FOIA Office will provide another interim or final IAD to item 3 of your request once the status of the two aforementioned FOIA requests reflects closed.

This concludes the Office of General Counsel's FOIA Office response to your inquiry for items 1 and 2 of your requests.

### **FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

#### **VA Central Office FOIA Public Liaison:**

Name: Doloras Johnson

Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

#### **Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)

Fax: 202-741-5769

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

### **FOIA Appeal**

You may appeal the initial determination made in this response to:

**Office of General Counsel (024)**  
**Department of Veterans Affairs**  
**810 Vermont Avenue, NW**  
**Washington, DC 20420**  
**Email: [OGCFOIAAppeals@va.gov](mailto:OGCFOIAAppeals@va.gov)**

If you choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. You must file your appeal within ninety (90) days from the date of this letter.

Sincerely,



Michelle Jackson, MSL, RHIA, CPC  
Acting FOIA Officer  
VA Office of General Counsel



# Attachment 2

**MARIA POMARES**  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

**Via Electronic Mail to [vacofiaservice@va.gov](mailto:vacofiaservice@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).<sup>1</sup>

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).<sup>2</sup>

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).<sup>3</sup>

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.

---

<sup>1</sup> 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.”

<sup>2</sup> 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.”

<sup>3</sup> 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](mailto: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, which appears to read "Maria Pomares", is enclosed within a blue oval. The signature is stylized and somewhat cursive. Below the oval, the name "Maria Pomares" is printed in a standard black font.

Maria Pomares

# Exhibit 63

MARIA POMARES  
[mapojava@gmail.com](mailto:mapojava@gmail.com)

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

Via Electronic Mail to [vaoigfoia-pa@va.gov](mailto:vaoigfoia-pa@va.gov) and [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)  
and First-Class Mail

December 15, 2020

Ruthlee Gowins-Bellamy  
Supervisory Government Information Specialist  
VA OIG Release of Information Office  
810 Vermont Avenue, NW  
(50CI) VACO  
Washington, DC 20420

Re: Freedom of Information Act Request

Dear Ms. Gowins-Bellamy:

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"), and the VA's Office of the Inspector General ("OIG").

With this letter, I seek all records relating to:

1. Any OIG inquiry or investigation or audit where Charmain Bogue was the subject.
2. Any OIG inquiry or investigation or audit where Charmain Bogue a witness.
3. Any OIG inquiry or investigation or audit relating to the handling of material nonpublic information.

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](mailto:gary@aguirrelawapc.com).

I will pay the reasonable research and duplication costs, but not to exceed \$100 without further authorization, for documents produced pursuant to this FOIA request.

Sincerely,



Maria Pomares

# Exhibit 64





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

December 21, 2020

Maria Pomares  
P.O. Box 2532  
Rancho Santa Fe, CA 92067  
Sent via email to: [gary@aguirrelawapc.com](mailto:gary@aguirrelawapc.com)  
CC: [mapojava@gmail.com](mailto:mapojava@gmail.com)

Dear Ms. Pomares:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request dated December 15, 2020, in which you asked for a copy of VA OIG records as follows:

1. Any OIG inquiry or investigation or audit where Charmain Bogue was the subject.
2. Any OIG inquiry or investigation or audit where Charmain Bogue a witness.
3. Any OIG inquiry or investigation or audit relating to the handling or material nonpublic information.

As we advise all requesters, for records protected by a confidentiality statute, regulations (see 38 C.F.R. § 1.554) require the FOIA requester's handwritten signature. For confidential records about another person, the same regulations require proof the requester is authorized to obtain the records. If your request does not satisfy these requirements, it will be denied as it pertains to such records or portions thereof.

We assigned FOIA Tracking Number 21-00114-FOIA to your request. Please refer to this number whenever communicating with VA OIG about your request.

We received your request on December 16, 2020. We are processing your request and our response will be forthcoming.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ruthlee G. Bellamy".

Ruthlee G. Bellamy  
Supervisory Government Information Specialist  
VA OIG Release of Information Office (50CI)



# Exhibit 65



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

January 14, 2021

Maria Pomares  
P.O. Box 2532  
Rancho Santa Fe, CA 92067  
Sent via email to: gary@aguirrelawapc.com  
CC: mapojava@gmail.com

Dear Ms. Pomares:

This is in response to your Freedom of Information Act (FOIA) request dated December 15, 2020 in which you are requesting a copy of the following records:

1. Any OIG inquiry or investigation or audit where Charmain Bogue was the subject.
2. Any OIG inquiry or investigation or audit where Charmain Bogue a witness.
3. Any OIG inquiry or investigation or audit relating to the handling or material nonpublic information.

Your request was received in this office on December 16, 2020 and we assigned it FOIA Tracking Number 21-00114-FOIA. Please refer to this number whenever communicating with VA OIG about your request.

Please be advised that this office will neither confirm nor deny whether any such inquiry or investigative records exist. The courts have recognized that an agency may give this response when confirming or denying the existence of records would cause harm recognized under a FOIA exemption. This is known as a "Glomar" response, which may be asserted, for example, when another response would cause an unwarranted invasion of personal privacy under FOIA Exemption 7(C) or 6, or when a statute prohibits disclosure under FOIA Exemption 3.

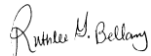
As it relates to the portion of your request for Audits, the FOIA cited at Title 5 United States Code (U.S.C.) Section 552 (a)(1)(D) requires agencies to make available to the public through publication in the Federal Register substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency. The FOIA cited at Title 5 U.S.C. 552 (a)(2)(B)&(C) requires agencies to make available for public inspection and copying statements of policy and interpretations which have been

adopted by the agency and are not published in the Federal Register and administrative staff manuals and instructions to staff that affect a member of the public. This is accomplished by conventional "reading rooms" located at VA facility sites and an "electronic" reading room found on the Internet at web site <http://www.va.gov/foia> or [www.vaoig.gov](http://www.vaoig.gov). Individuals seeking access to such information may do so by visiting the reading room by visiting the aforementioned web site.

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](mailto: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 66

## 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](mailto:VAOIGFOIA-Appeals@va.gov)

January 15, 2021

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 Request No. 21-00114-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 January 15, 2021, (Attachment 1 hereto) in relation to FOIA Request no. 21-00114-FOIA, Attachment 2 hereto.

This appeal is based on the following grounds: inadequate search, improper assertion of Exemptions 3, 6 and 7(C), and ambiguity and lack of specificity in the assertion of the “Glomar” response.

Sincerely,

  
Gary J. Aguirre

Enclosures

# Attachment 1



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

January 14, 2021

Maria Pomares  
P.O. Box 2532  
Rancho Santa Fe, CA 92067  
Sent via email to: gary@aguirrelawapc.com  
CC: mapojava@gmail.com

Dear Ms. Pomares:

This is in response to your Freedom of Information Act (FOIA) request dated December 15, 2020 in which you are requesting a copy of the following records:

1. Any OIG inquiry or investigation or audit where Charmain Bogue was the subject.
2. Any OIG inquiry or investigation or audit where Charmain Bogue a witness.
3. Any OIG inquiry or investigation or audit relating to the handling or material nonpublic information.

Your request was received in this office on December 16, 2020 and we assigned it FOIA Tracking Number 21-00114-FOIA. Please refer to this number whenever communicating with VA OIG about your request.

Please be advised that this office will neither confirm nor deny whether any such inquiry or investigative records exist. The courts have recognized that an agency may give this response when confirming or denying the existence of records would cause harm recognized under a FOIA exemption. This is known as a "Glomar" response, which may be asserted, for example, when another response would cause an unwarranted invasion of personal privacy under FOIA Exemption 7(C) or 6, or when a statute prohibits disclosure under FOIA Exemption 3.

As it relates to the portion of your request for Audits, the FOIA cited at Title 5 United States Code (U.S.C.) Section 552 (a)(1)(D) requires agencies to make available to the public through publication in the Federal Register substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency. The FOIA cited at Title 5 U.S.C. 552 (a)(2)(B)&(C) requires agencies to make available for public inspection and copying statements of policy and interpretations which have been

adopted by the agency and are not published in the Federal Register and administrative staff manuals and instructions to staff that affect a member of the public. This is accomplished by conventional "reading rooms" located at VA facility sites and an "electronic" reading room found on the Internet at web site <http://www.va.gov/foia> or [www.vaoig.gov](http://www.vaoig.gov). Individuals seeking access to such information may do so by visiting the reading room by visiting the aforementioned web site.

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](mailto: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](mailto:mapojava@gmail.com)

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

Via Electronic Mail to [vaoigfoia-pa@va.gov](mailto:vaoigfoia-pa@va.gov) and [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)  
and First-Class Mail

December 15, 2020

Ruthlee Gowins-Bellamy  
Supervisory Government Information Specialist  
VA OIG Release of Information Office  
810 Vermont Avenue, NW  
(50CI) VACO  
Washington, DC 20420

Re: Freedom of Information Act Request

Dear Ms. Gowins-Bellamy:

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"), and the VA's Office of the Inspector General ("OIG").

With this letter, I seek all records relating to:

1. Any OIG inquiry or investigation or audit where Charmain Bogue was the subject.
2. Any OIG inquiry or investigation or audit where Charmain Bogue a witness.
3. Any OIG inquiry or investigation or audit relating to the handling of material nonpublic information.

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](mailto:gary@aguirrelawapc.com).

I will pay the reasonable research and duplication costs, but not to exceed \$100 without further authorization, for documents produced pursuant to this FOIA request.

Sincerely,



Maria Pomares

# Exhibit 67

**From:** [VA OIG FOIA-Appeals](#)  
**To:** [Gary Aguirre](#)  
**Subject:** FOIA Appeal # 21-00009-APP for FOIA # 21-00114-FOIA  
**Date:** Friday, January 15, 2021 3:45:43 PM

---

Mr. Aguirre:

This acknowledges receipt of your FOIA appeal, which is assigned tracking # 21-00009-APP.

Respectfully,

Office of Information Release  
Office of Inspector General  
Department of Veterans Affairs

---

**From:** Gary Aguirre <gary@aguirrelawapc.com>  
**Sent:** Friday, January 15, 2021 2:20 PM  
**To:** VA OIG FOIA-Appeals <VAOIGFOIA-Appeals@va.gov>  
**Subject:** [EXTERNAL] Appeal of Decision in FOIA Request No. 21-00114-FOIA

Dear Madam or Sir:

Please find attached appeal of FOIA decision.

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](http://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](mailto:maria@aguirrelawapc.com).

# Exhibit 68



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

January 28, 2021

Gary J. Aguirre  
Aguirre Law, APC  
501 W. Broadway, Suite 800  
San Diego, CA 92101

Ref: FOIA Appeal # 21-00009-APP for FOIA # 21-00114-FOIA

Mr. Aguirre:

This letter responds to your FOIA appeal, received on January 15, 2021, of the referenced Department of Veterans Affairs Office of the Inspector General (VA OIG) FOIA response. As background, your December 15, 2020 request sought the following: "1. Any OIG inquiry or investigation or audit where [a specific person] was the subject. 2. Any OIG inquiry or investigation or audit where [a specific person] was a witness. 3. Any OIG inquiry or investigation or audit relating to the handling of material nonpublic information." The January 14, 2021 agency final response denied parts 1 and 2 of your request with a "Glomar" response and advised you that records responsive to part 3 of your request are publicly available in the agency's searchable electronic reading room. You describe the basis for your appeal as follows: "inadequate search, improper assertion of Exemptions 3, 6 and 7(C), and ambiguity and lack of specificity in the assertion of the "Glomar" response."

The courts have recognized that if an agency properly asserts a Glomar response to a group of records, FOIA does not require the agency to conduct a search or review responsive records. *See Elec. Priv. Info. Ctr. v. NSA*, 678 F.3d 926, 933 (D.C. Cir. 2012) (finding no agency obligation under FOIA to conduct a record search or a segregability analysis if agency properly asserted Glomar response). An agency's Glomar response is proper when "to answer the FOIA inquiry would cause harm cognizable under" an applicable statutory exemption. (*Id.*) The VA OIG FOIA denial letter identified harms under three FOIA exemptions, Exemptions 3, 6, and 7(C), as bases for a Glomar response. The FOIA and court precedents require agencies to apply Exemptions 7(C) and 6 to protect any substantial privacy interests from unwarranted invasions; and the term "unwarranted" requires agencies to balance these 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 Supreme Court has ruled 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). FOIA Exemption 3 shields from disclosure records that are "specifically exempted from disclosure by statute" if such statute either "requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue" or "establishes particular criteria for withholding or refers to particular types of matters to be withheld." 5 U.S.C. § 552(b)(3). The Inspector General Act of 1978 [as amended] (IG Act), Section 7(b), forbids the disclosure of information that would identify an employee who provides information to the OIG, except with the employee's consent, unless necessary in the course of the investigation. In the present case, it was reasonable for the FOIA staff to conclude that disclosure of the type of records you requested, if any, would constitute an unwarranted invasion of privacy and risk a violation of the IG Act.

Therefore, after a review of the appeal 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](mailto: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