

May 13, 2022

VIA ELECTRONIC MAIL

U.S. Department of Education
Office of the Executive Secretariat
FOIA Service Center
400 Maryland Ave. SW, LBJ 7W106A
Washington, D.C. 20202-4536
EDFOIAManager@ed.gov
ATTN: FOIA Public Liaison

Re: FOIA Request: Records Regarding the Involvement of the Network for Public Education Action in ED's Charter School Program Proposed Rulemaking
(DFI FOIA No. 100-22-22)

Dear FOIA Public Liaison:

The Defense of Freedom Institute for Policy Studies, Inc. (“DFI”) is a 501(c)(3) nonprofit, nonpartisan organization dedicated to defending and advancing freedom and opportunity for every American family, student, entrepreneur, and worker and to protecting civil and constitutional rights at schools and in the workplace. For the benefit of the public, DFI’s mission includes obtaining records related to the consideration and implementation of policies imposed by the federal government and its officials on the American people.

ED’s proposed changes to the Charter School Program

On March 14, 2022, the U.S. Department of Education’s (“ED”) Office of Elementary and Secondary Education (“OESE”) published a notice concerning proposed priorities, requirements, definitions, and grant selection criteria relating to the award of federal grants to applicants in its Charter School Program (“CSP”).¹ The notice provided a thirty-day public comment period, which ED extended by an additional five days on April 11, 2022. The CSP notice received a large volume of public comments (ultimately totaling 26,588),² considerable media attention, and stakeholder concern about the lack of consultation³ with charter school administrators, teachers, and other

¹ See <https://www.federalregister.gov/documents/2022/03/14/2022-05463/proposed-priorities-requirements-definitions-and-selection-criteria-expanding-opportunity-through>.

² See <https://www.regulations.gov/docket/ED-2022-OESE-0006>.

³ Christy Wolfe, “When It Comes To The Charter Schools Program, Little Details Can Have Big Impact,” NATIONAL ALLIANCE FOR PUBLIC CHARTER SCHOOLS (May 10, 2022), <https://www.publiccharters.org/latest-news/2022/05/10/when-it-comes-charter-schools-program-little-details-can-have-big-impact>.



individuals, as required by Sec. 4307 of the Elementary and Secondary Education Act of 1965 (as amended).⁴

The changes proposed by ED would profoundly impact the operation of America’s charter schools, which continue to outperform traditional public schools.⁵ ED’s proposed rulemaking, provided with minimal opportunity for public comment, occurred despite the demonstrable success of charter schools – particularly among minority students – and historically strong bipartisan support.

With its pending rulemaking, ED proposes priorities, requirements, definitions, and grant selection criteria that would discourage charter school grant applications⁶, require charter school sponsorship by a traditional public school, require community impact analyses designed to undermine the ability of underserved students to attend charter schools, institute grant selection criteria designed to favor awards to less innovative charter schools, and severely diminish the role of States in the control and administration of their own charter school programs. The proposed priorities, requirements, definitions, and grant selection criteria would place undue burdens on State education agencies (“SEAs”), other State entities, subgrantees, and other charter grant applicants, and it would replace important statutory oversight of subgrantees by SEAs and other State entities with ED’s new centralized grant applicant requirements.

Each of the proposed priorities, requirements, definitions, and grant selection criteria appears counter to Congress’s unambiguous statutory requirements for ED’s administration of the CSP. The proposed priorities, requirements, definitions, and grant selection criteria constitute impermissible rulemaking by attempting to remake CSP laws through the insertion of its own policy goals (where no statutory ambiguity was present and the proposed rule runs counter to the CSP laws). In addition, the proposed priorities, requirements, definitions, and grant selection criteria fail to realistically project likely burdens on States, subgrantees (charter schools), and other CSP grant applicants.

ED’s proposed priorities, requirements, definitions, and grant selection criteria appear designed to diminish the role of charter schools at a time when “American public education is broken”⁷ and

⁴ 20 U.S.C § 7221f (“Solicitation of Input from Charter School Operators”).

⁵ “U.S. News Unveils 2022 Best High Schools Rankings,” U.S. NEWS & WORLD REPORT (April 26, 2022), <https://www.usnews.com/info/blogs/press-room/articles/2022-04-26/u-s-news-unveils-2022-best-high-schools-rankings>.

⁶ Editorial Board, “Opinion: The Biden administration’s sneak attack on charter schools,” THE WASHINGTON POST (April 2, 2022), <https://www.washingtonpost.com/opinions/2022/04/02/biden-administrations-sneak-attack-charter-schools/>.

⁷ Michael R. Bloomberg, “Why I’m Backing Charter Schools: The public school system is failing. My philanthropy will give \$750 million to a proven alternative,” THE WALL STREET JOURNAL (December 1, 2021), <https://www.wsj.com/articles/michael-bloomberg-why-im-backing-charter-schools-covid-19-learning-loss-teachers-union-11638371324>.



the National Assessment of Educational Progress continues to show steady declines in key academic measurements among students in traditional public schools.⁸

The Charter School Program has strong bipartisan support

Presidents of both parties, beginning with President Bill Clinton,⁹ have been vocal supporters of the Charter School Program. President Barack Obama was a strong supporter of charter schools as an alternative to failing public schools for low-income families. In his 2008 campaign, he called for doubling funding for the CSP and “prioritizing” states most successfully supporting the expansion of charter schools.¹⁰ In his 2016 National Charter Schools Week proclamation, President Obama praised charter schools as “play[ing] an important role” in “[s]upporting some of our Nation’s underserved communities,” while noting that his “Administration’s commitment of resources to the growth of charter schools has enabled a significant expansion of educational opportunity, enabling tens of thousands of children to attend high-quality public charter schools.”¹¹ Indeed, support for charter schools was, until now, reflective of a “bipartisan drive for accountability” and offered an option to “children of color from low-income families – assigned to low-performing schools.”¹²

ED’s proposed priorities, requirements, definitions, and grant selection criteria were published just days after bipartisan Congressional passage of the Fiscal Year (“FY”) 2022 Omnibus Appropriations Bill.¹³ That law provided level funding of \$440 million for the Charter Schools Program, even as a 7% increase in charter school enrollment occurred nationwide during the 2020-2021 school year.¹⁴

The Charter School Program has benefitted lower-income and minority students

⁸ See <https://nces.ed.gov/nationsreportcard/>.

⁹ See <https://clintonwhitehouse5.archives.gov/WH/Accomplishments/eightyears-05.html>.

¹⁰ See <https://www.politifact.com/truth-o-meter/promises/obameter/promise/246/double-funding-for-federal-charter-school-program-/>.

¹¹ See <https://obamawhitehouse.archives.gov/the-press-office/2016/04/29/presidential-proclamation-national-charter-schools-week-2016>.

¹² Laura Meckler, “Democrats abandon charter schools as ‘reform’ agenda falls from favor,” THE WASHINGTON POST (June 25, 2019), https://www.washingtonpost.com/local/education/democrats-abandon-charter-schools-as-reform-agenda-falls-from-favor/2019/06/25/3cf4817e-904e-11e9-aadb-74e6b2b46f6a_story.html.

¹³ Tony Romm, “Senate passes bill to avert shutdown, extend \$14 billion in Ukraine aid,” THE WASHINGTON POST (March 10, 2022), <https://www.washingtonpost.com/us-policy/2022/03/10/senate-vote-funding-ukraine-russia/>.

¹⁴ Debbie Veney and Drew Jacobs, “Voting With Their Feet: A State-Level Analysis of Public Charter School and District Public School Trends,” NATIONAL ALLIANCE FOR PUBLIC CHARTER SCHOOLS (September 2021), https://www.publiccharters.org/sites/default/files/documents/2021-09/napcs_voting_feet_rd6.pdf.



Charter schools tripled in nationwide enrollment between 2005 and 2017, with the “biggest gains [in student performance] for African Americans and for students of low socioeconomic status.”¹⁵ Other studies have revealed that charter schools “benefit disadvantaged students who attend them as well as the students who don’t” and “substantial gains in academic achievement, especially for lower-income and minority students, amounting to weeks, or even months, of additional classroom learning each year.”¹⁶

Shavar Jeffries, president of Democrats for Education Reform and Education Reform Now, reports that “communities of color want a variety of public school choice options, including public charter schools – with 86 percent of African-American and 67 percent of Latino voters in support.”¹⁷ Charter schools have provided those very options for minority students.

In New York City, “. . . charter school students are predominantly black and Hispanic and live in low-income neighborhoods. In 2019, most students in the city’s public schools failed to pass the statewide tests in mathematics and English. But most of the city’s charter school students passed in both subjects The success of New York City’s charter schools is not only a threat to educational dogmas. Competition from charter schools is [also] an existential threat to traditional public schools in low-income minority communities, which tend to have even lower educational outcomes than traditional public schools as a whole.”¹⁸

Involvement of the Network for Public Education Action

In response to a reporter’s recent request to speak with an ED official regarding its proposed rulemaking, ED spokesperson Luke Jackson¹⁹ referred the reporter to the “Network for Public

¹⁵ M. Danish Shakeel and Paul E. Peterson, “Charter Schools Show Steeper Upward Trend in Student Achievement than District Schools: First nationwide study of trends shows large gains for African Americans at charters,” EDUCATION NEXT (Winter 2021), <https://www.educationnext.org/charter-schools-show-steeper-upward-trend-student-achievement-first-nationwide-study/>.

¹⁶ Max Eden, “Issues 2020: Charter Schools Boost Results for Disadvantaged Students and Everyone Else,” MANHATTAN INSTITUTE (January 28, 2020), <https://www.manhattan-institute.org/issues-2020-charter-schools-benefits-for-low-income-minority-students>.

¹⁷ See <https://www.the74million.org/article/jeffries-warrens-plan-to-end-charter-school-program-rejects-obamas-legacy-and-undercuts-opportunity-for-underserved-students/>.

¹⁸ Thomas Sowell, “Charter Schools’ Enemies Block Black Success: Teachers unions are gaining in their fight to stop students and resources from moving toward what works,” THE WALL STREET JOURNAL (June 18, 2020), <https://www.wsj.com/articles/charter-schools-enemies-block-black-success-11592520626>.

¹⁹ According to ED, Jackson is a Senior Advisor in the Office of Communications and Outreach. See <https://www2.ed.gov/news/staff/appointees.html#g>.



Education [Action]” (“NPE”) and its executive director, Carol Burris, for further comment.²⁰

NPE describes itself as “an advocacy group whose whose [sic] mission is to fight to preserve, promote, improve and strengthen our public school system” and to “network groups and organizations with similar missions” and to “share information regarding policies and legislation that affect public schools.”²¹

Jackson’s referral to NPE and Burris for comment on ED’s proposed rulemaking indicates the direct involvement of NPE and Burris in ED’s rulemaking (concerning the CSP, announced on March 14, 2022 (Agency/Docket Number: ED-2022-OESE-0006)). The public is entitled to know about the involvement of NPE and Burris (and other NPE-affiliated individuals) in the creation and development of ED’s proposed changes to the Charter School Program, which involvement is of particular note given ED’s apparent failure to appropriately consult with “administrators, teachers, and other individuals directly involved in the operation of charter schools” in the development of the proposed regulations, as required by federal law.²²

DFI thus seeks records and information related to the involvement of NPE, Burris, and other NPE associates related to the formation of ED’s Charter Schools Program proposed priorities, requirements, definitions, and grant selection criteria and related policies since January 20, 2021.

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.* and the implementing regulations of ED, 34 C.F.R. Part 5 (“Availability of Information to the Public”), DFI makes the following request for records within your possession and/or control:

Requested Records

DFI requests that ED produce the following records within twenty (20) business days:

1. All records, including but not limited to electronic mail (“email”), texts, letters, memoranda, and other documentation from the following entity and associated individuals *to ED officials* (see “Custodians” *infra*), from January 20, 2021, through the date the search is conducted, which reference “Charter Schools Program” or “Public Charter Schools” or “Charter Schools” or “Public Charters” or “Charters” or “CSP” or “CMO applicants” or “SE applicants” or “SE grants” or “SEA subgrantees” or “Developer Grants” or “SE subgrant applicants” or “Title X, Part C” or “20 USC 7221” or “20 USC 7221b” or “20 USC 7221b(f)(2)” or “20 USC 7221i” or “Proposed Application Requirement(s)” or “charter school community engagement” or “grant

²⁰ Matt Barnum, “Why the latest fight about charter rules matters – for schools and education politics,” CHALKBEAT (May 9, 2022), <https://www.chalkbeat.org/2022/5/9/23064344/biden-cardona-charter-school-rules-regulations>.

²¹ See <https://npeaction.org/about-network-for-public-education/>.

²² 20 U.S.C § 7221f (“Solicitation of Input from Charter School Operators”).



applicant community engagement” or “Proposed Priority 1” or “community asset requirement” or “collaboration with traditional public school” or “collaboration with school district” or “charter management organizations” or “CMO(s)” or “for-profit education management organizations” or “EMO(s)” or “CMO conflict of interest” or “EMO conflict of interest” or “conflict of interest requirement” or “substantial control” or “community impact” or “community impact requirement” or “Proposed Priority 2” or “collaborative culture” or “Proposed Requirement 6” or “selection criteria” or “community-centered approach(es)” or “additional criteria” or “statutory criteria” or “20 USC 7221b(g)(1)”:

- a. Network for Public Education Action (NPE Action)
 - b. Carol Burris, Executive Director
 - c. Darcie Cimarusti, Communications Director
 - d. Diane Ravitch, President & Co-founder
 - e. Anthony Cody, Treasurer & Co-founder
 - f. Tina Andres, Secretary
 - g. Dountonia Batts, Director
 - h. Jitu Brown, Director
 - i. Gloria Evans Nolan, Director
 - j. Dan Greenberg, Director
 - k. Sue Legg, Director
 - l. Julian Vasquez-Heilig
2. All records, including but not limited to electronic mail (“email”), texts, letters, memoranda, and other documentation *from ED officials* (see “Custodians” *infra*), to the entity and associated individuals listed in Item 1 from January 20, 2021, through the date the search is conducted, which reference “Charter Schools Program” or “Public Charter Schools” or “Charter Schools” or “Public Charters” or “Charters” or “CSP” or “CMO applicants” or “SE applicants” or “SE grants” or “SEA subgrantees” or “Developer Grants” or “SE subgrant applicants” or “Title X, Part C” or “20 USC 7221” or “20 USC 7221b” or “20 USC 7221b(f)(2)” or “20 USC 7221i” or “Proposed Application Requirement(s)” or “charter school community engagement” or “grant applicant community engagement” or “Proposed Priority 1” or “community asset requirement” or “collaboration with traditional public school” or “collaboration with school district” or “charter management organizations” or “CMO(s)” or “for-profit education management organizations” or “EMO(s)” or “CMO conflict of interest” or “EMO conflict of interest” or “conflict of interest requirement” or “substantial control” or “community impact” or “community impact requirement” or “Proposed Priority 2” or “collaborative culture” or “Proposed Requirement 6” or “selection criteria” or “community-centered approach(es)” or “additional criteria” or “statutory criteria” or “20 USC 7221b(g)(1)”.



Custodians

The search for records described in Items 1 and 2 should be limited to “ED officials” within the Office of the Secretary, Office of the Deputy Secretary, Office of Elementary & Secondary Education, and Office of Communications and Outreach who are classified as any of the following or referenced with the following job title:

- a. “PAS” (Presidential Appointments Requiring Senate Confirmation)
- b. “PA” (Presidential Appointments Not Requiring Senate Confirmation)
- c. “NC-SES” (Non-Career Senior Executive Service)
- d. “SES” (Career Senior Executive Service)
- e. “SC” (Schedule C Confidential or Policymaking Positions)
- f. Director, Charter School Programs, Office of Discretionary Grants and Support Services, Office of Elementary and Secondary Education
- g. Any employee in Charter School Programs, Office of Discretionary Grants and Support Services, OESE

Definitions

Absent contrary statutory directives, words and phrases contained herein should be accorded their usual, plain, and ordinary meaning. Please note the following statutory definition:

“**Records**” are defined at 44 U.S.C. § 3301(a)(1-2) as including “all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them” and further “includes all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form, such as emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voice mail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.

Identification and Production of the Requested Records

FOIA imposes a burden on ED, as a covered agency under 5 U.S.C. § 551(1), to timely disclose requested agency records to the requestor²³ if ED (1) created or obtained the requested materials, and, (2) is “in control of the requested materials at the time the FOIA request [was] made.”²⁴ Upon

²³ FOIA requires the disclosure of nonexempt agency records to any person, which includes an individual, partnership, corporation, association, or public or private organization other than an agency. 5 U.S.C. § 551(2).

²⁴ *Department of Justice (DOJ) v. Tax Analysts*, 492 U.S. 136 at 144-45 (1989).



request, ED must “promptly” make the requested records available to the requester.²⁵ Notably, covered agency records include materials provided to ED by both private and governmental organizations.²⁶ Upon receipt of a FOIA request that “reasonably” describes the records sought and is in compliance with ED’s published rules regarding the time, place, any fees, and procedures to be followed,²⁷ ED must conduct a search calculated to find responsive records in ED’s control at the time of the request.²⁸ In addition, the records produced by ED are required to be provided in “any form or format requested . . . if the record is readily reproducible by the agency in that form or format.”²⁹

Upon receipt of this request, ED has twenty business days to “determine . . . whether to comply with [the] request” and “shall immediately notify” the requester of its determination and the reasons therefor,” the right to seek assistance from the agency’s FOIA public liaison, and the requester’s right to appeal any “adverse determination” by ED.³⁰

Consistent with FOIA guidelines, DFI requests the following regarding the provision of the requested records:

- ED should immediately act to protect and preserve all records potentially responsive to this request, notifying any and all responsible officials of this preservation request and verifying full compliance with the preservation request. This matter may be subject to litigation, making the immediate initiation of a litigation hold on the requested materials necessary.
- ED should search all record systems that may contain responsive records, promptly consulting with its information technology (IT) officials to ensure the completeness of the records search by using the full range of ED’s IT capabilities to conduct the search. To constitute an adequate search for responsive records, ED should not rely solely on a search of a likely custodian’s files by the custodian or representations by that likely custodian, but should conduct the search with applicable IT search tools enabling a full search of relevant agency records, including archived records, without reliance on a likely custodian’s possible deletion or modification of responsive records.
- ED should search all relevant records and information retention systems (including archived recorded information systems) which may contain records regarding ED’s business operations. Responsive records include official business conducted on unofficial systems which may be stored outside of official recording systems and are subject to FOIA. **ED should directly inquire, as part of its search, if likely custodians have conducted**

²⁵ 5 U.S.C. § 552(a)(3)(A).

²⁶ *Id.* at 144.

²⁷ 5 U.S.C. § 552(a)(3)(A)(i).

²⁸ *Wilbur v. C.I.A.*, 355 F.3d 675, 678 (D.C. Cir. 2004).

²⁹ 5 U.S.C. § 552(a)(3)(B).

³⁰ 5 U.S.C. § 552(a)(6)(A)(i).



any such official business on unofficial systems and should promptly and fully acquire and preserve those records as ED’s official records. Such unofficial systems include, but are not limited to, governmental business conducted by employees using personal emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voice mail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack. Failure to identify and produce records responsive to this request from such unofficial systems would constitute a knowing concealment by ED calculated to deflect its compliance with FOIA’s requirements.

- ED should timely provide entire records responsive to this request, broadly construing what information may constitute a “record” and avoiding unnecessarily omitting portions of potentially responsive records as they may provide important context for the requested records (*e.g.*, if a particular email is clearly responsive to this request, the response to the request should include all other emails forming the email chain, to include any attachments accompanying the emails).
- ED should narrowly construe and precisely identify the statutory basis for any constraint which it believes may prevent disclosure.
- If ED determines that any portions of otherwise responsive records are statutorily exempt from disclosure, DFI requests that ED disclose reasonably segregable portions of the records.
- For any responsive records withheld in whole or part by ED, ED should provide a clear and precise enumeration of those records in index form presented with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA”³¹ and provide a sufficiently detailed justification and rationale for each non-disclosure and the statutory exemption upon which the non-disclosure relies.
- Please provide responsive records in electronic format by email, native format by mail, or PDF or TIH format on a USB drive. If it helps speed production and eases ED’s administrative burden, DFI welcomes provision of the records on a rolling basis. Responsive records sent by mail should be addressed to the Defense of Freedom Institute for Policy Studies, 1455 Pennsylvania Avenue NW, Suite 400, Washington, D.C. 20004.

³¹ *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).



Fee Waiver Request

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. § 5.33 and 34 C.F.R. § 5.32(b)(1)(ii), DFI requests a waiver of all fees associated with this FOIA request for agency records.

Disclosure of the requested records is in the public interest.

Disclosure of the requested records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and because disclosure of the information contained within the requested records is not primarily in the commercial interests of DFI.

The disclosed materials are likely to contribute significant information to the public's understanding of ED's proposed Charter School Program rulemaking and policies, which ED has indicated are about to undergo significant revisions and which policies are highly relevant to the interests of students, families, and taxpayers. Disclosure of the requested materials will illuminate ED's Charter School Program policies and planning (*e.g.*, rulemaking and enforcement decisions). Further, the requested information does not otherwise appear to be in the public domain (in duplicative or substantially identical form).

Provision of the requested records will not commercially benefit DFI (a nonprofit, nonpartisan organization interested in the transparency of ED operations and governance), but will benefit the general public and other groups and entities with non-commercial interests in ED's operations and governance.

DFI will review and analyze the requested records and make the records and analyses available to the general public and other interested groups through publication on DFI's website and social media platforms such as Facebook and Twitter (distribution functions it has already demonstrated a capacity to provide since its formation in September 2021, including a detailed news story on ED policies widely distributed by one of the nation's largest news providers in February 2022 and more recently, a March 2022 analysis of DOJ policies distributed by a leading news magazine. DFI personnel have also offered commentary and analyses on radio news programs and in various public forums).

Federal law makes clear that when the disclosure is in the public interest and the information contained within the disclosed records is not primarily in the commercial interests of the requester (here, DFI), statutory fee waiver is appropriate.

DFI is a representative of the news media.

In addition to the fee waiver request based upon the public interest, DFI also requests a fee waiver on the basis that DFI is a **representative of the news media**, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. § 5.32(b)(1)(ii).



FOIA (as amended) provides that a representative of the news media is “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that to an audience.”³² DFI provides exactly this service to the general public and other audiences with an interest in those materials and analyses. Upon receipt of the requested materials from ED, DFI will review and analyze those materials and will extract and otherwise distill particularly useful information from those materials for the benefit of the general public and other interested audiences.

DFI will provide its analyses to the general public and other interested audiences through publication on DFI’s website and social media platforms such as Facebook and Twitter (distribution functions it has already demonstrated a capacity to provide since its formation in September 2021, including a detailed news story on ED policies widely distributed by one of the nation’s largest news providers in February 2022 and more recently, a March 2022 analysis of DOJ policies distributed by a leading news magazine. DFI personnel have also offered commentary and analyses on radio news programs and in various public forums).

As a qualified non-commercial public education and news media requester with demonstrated ability to review and analyze publicly-available information and to provide insight regarding that information, DFI is thus entitled to a fee waiver under FOIA as a representative of the news media.

Conclusion

The subject of this request regards identifiable operations and activities of ED and, more specifically, the input of a specific outside interest group and individuals associated with that group regarding ED’s proposed Charter School Program Rulemaking (Agency/Docket Number: ED-2022-OESE-0006). Provision of the requested records will meaningfully inform the general public about significant developments in ED’s CSP policies and proposed rulemaking, which affect millions of American students, their families, and taxpayers. These are significant issues with tremendous impact on the general public and worthy of transparency in service of the public’s right to know.

DFI is an independent 501(c)(3) nonprofit organization without a commercial purpose primarily engaged in the dissemination of information about government policies to the public. DFI is engaged in the collection, analysis, and dissemination of information to educate the public about government policies that impact the civil and constitutional rights of American families, students, entrepreneurs, and workers. DFI actively publishes information and related analyses on its public website and promotes access to that information and analyses on social media platforms, including but not limited to distribution via Facebook and Twitter.

³² See *Cause of Action v. FTC*, 799 F.3d 1108, at 1115-16 (D.C. Cir. 2015).



DFI appreciates ED's prompt attention to this request for records pursuant to FOIA, which will provide important information to the American people regarding ED's Charter School Program policies and proposed rulemaking, which policies and rules are of tremendous interest to students, families, and taxpayers.

Please contact me immediately if DFI's request for a fee waiver is not granted in full.

If you have any questions or I can further clarify DFI's request, please contact me at your earliest convenience at paul.moore@dfipolicy.org.

Sincerely yours,

/s/ Paul R. Moore

Paul R. Moore, Senior Counsel

Defense of Freedom Institute for Policy Studies, Inc.