



Case No. 2023-00004-FOIA-OS

August 31, 2023

Sent via email:

Mr. Maxford Nelsen
Director of Labor Policy
Freedom Foundation
P.O. Box 552
Olympia, WA 98507
mnelsen@freedomfoundation.com

Dear Mr. Nelsen:

This letter is the final response to your January 3, 2022, Freedom of Information Act (FOIA) request. On October 3, 2022, the Centers for Disease Control and Prevention (CDC) referred 17 pages of responsive records to our agency for direct response. Specifically, you requested the following records:

- "1. All emails sent to or received from any of the following email domains on or after June 1, 2021, by the CDC employees listed in item No. 3: a. @aft.org, b. @nea.org.*
- 2. All emails sent or received on or after June 1, 2021, by the CDC employees listed in item No.3 that reference any of the following terms: a. American Federation of Teachers, b. AFT, c. National Education Association, d. NEA, e. Weingarten, f. Pringle, g. Teachers union.*
- 3. Covered CDC employees, a. Rochelle Walensky, b. Anne Schuchat, c. Debra Houry, d. John Auerbach, e. Robin Ikeda, f. Richard Puddy, g. Jay Butler, h. John Howard, i. Frank Hearl, j. Lore Jackson Lee, k. Sherri Berger, l. Abbigail Tumpey, m. Angela Fisher, n. Jeff Reczeko. Anstice Brand Kenefick, p. Martin Klingbeil, q. Christina Serna, r. Annina Burns, s. Cristi Schwarcz, t. Dori Salcido."*

The Office of the Secretary (OS) conducted a search and located 17 pages of responsive records. After a careful review of these pages, I am releasing seven pages to you in their entirety. I have found that it is reasonably foreseeable that disclosure would harm an interest protected by one or more of the exemptions to the FOIA's general rule of disclosure and/or that disclosure is prohibited by law; therefore, I am further withholding 10 pages in part, with portions redacted, pursuant to Exemptions (b)(5) and (b)(6) of the FOIA (5 U.S.C. §552).

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-

client privilege, and the attorney work-product privilege. In this instance, the deliberative process privilege applies.

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in “personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” The definition of “similar files” has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term "similar files" to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public’s interest in disclosure.

If you believe the information withheld should not be exempt from disclosure, or this response constitutes 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.

Please mark the correspondence, “Freedom of Information Act Appeal.” Your appeal must be transmitted within 90 days from the date of receipt of this letter to:

William H. Holzerland
Deputy Agency Chief FOIA Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
HHS.ACFO@hhs.gov

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 HHS FOIA Public Liaison for assistance at:

HHS FOIA/PA Public Liaison
FOI/Privacy Acts Division
Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)
U.S. Department of Health and Human Services (HHS)
Telephone: (202) 690-7453
E-mail: HHS_FOIA_Public_Liaison@hhs.gov

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
Telephone: 202-741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov

There are no charges in this instance because the billable costs are less than our threshold of \$25.

Sincerely yours,

Kris Zadronitz for

Arianne Perkins
Director, Initial FOIA Requests
FOI/Privacy Acts Division

Enclosure(s)

From: Lubar, Debra (CDC/DDID/NCEZID/OD)
Sent: Thu, 12 Aug 2021 16:40:01 +0000
To: Berger, Sherri (CDC/OCOO/OD)
Subject: Re: embargoed: Important Updated NEA Statement on Vaccines

Wish they'd say it for students!

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From: Berger, Sherri (CDC/OCOO/OD) <sob8@cdc.gov>
Sent: Thursday, August 12, 2021 11:43:26 AM
To: Lubar, Debra (CDC/DDID/NCEZID/OD) <dpl9@cdc.gov>
Subject: FW: embargoed: Important Updated NEA Statement on Vaccines

From: "Bilal-Threats, Daaiyah [NEA]" <DBilal@nea.org>
Date: August 12, 2021 at 10:04:27 AM EDT
To: "Wall, Mary C. EOP/WHO" <(b)(6)>, Montserrat.Garibay@ed.gov,
 Sheila.Nix@ed.gov, "Sargrad, Scott" <Scott.Sargrad@ed.gov>, "Pugh, Carrie (OS/IEA)"
 <Carrie.Pugh@hhs.gov>, "Tracey-Mooney, Maureen EOP/WHO" <(b)(6)>
 <(b)(6)>

Subject: embargoed: Important Updated NEA Statement on Vaccines

Embargoed til noon.



FOR IMMEDIATE RELEASE CONTACT: Celeste Busser, NEA
August 12, 2021 202-262-0589 cell, cfbusser@nea.org

NEA Announces Support for Educator Vaccine and Testing Requirement
90 percent of NEA members report they are already vaccinated

WASHINGTON - National Education Association President Becky Pringle issued the following statement today announcing NEA's support for requirements that all educators receive a COVID-19 vaccination or submit to regular COVID-19 testing.

"No one wants to be back in the classroom with their students more than educators, and student safety is our number one priority. NEA has said from the beginning that we need to follow the science, and evidence shows that COVID-19 vaccines, combined with other safety measures, are the most powerful weapon we have against the pandemic. Educators' belief in the essential role vaccines play in the safety of our school communities is evidenced by the nearly 90 percent of NEA members who report that they are fully vaccinated.

“As we enter a new school year amidst a rapidly spreading Delta variant and lagging public vaccination rates, it is clear that the vaccination of those eligible is one of the most effective ways to keep schools safe, and they must be coupled with other proven mitigation strategies. Appropriate employee accommodations must be provided, and paid leave and readily available sites should be available for vaccinations. Employee input, including collective bargaining where applicable, is critical.

“We also support regular COVID-19 testing in lieu of vaccination for those not yet vaccinated or those for whom vaccination is not medically appropriate or effective. We believe that such vaccine requirements and accommodations are an appropriate, responsible, and necessary step to ensure the safety of our school communities and to protect our students.

“In order to ensure that students and educators are able to enjoy safe, uninterrupted, in-person education, educators must have a voice in how vaccine requirements are implemented. Educators must also continue to play an active role in developing other mitigation systems—including testing, tracing, masking, distancing, hand washing, ventilation, cleaning, and disinfection.”

Visit www.nea.org/vaxtoschool for information and resources to help educators and parents make an informed decision about how best to protect our students.

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The National Education Association is the nation's largest professional employee organization, representing more than 3 million elementary and secondary teachers, higher education faculty, education support professionals, school administrators, retired educators and students preparing to become teachers. Learn more at nea.org.