

PETITION EXHIBIT E

From: Westfall, Rebecca <rebecca.westfall@doe.virginia.gov>
Sent: 2/3/2022 11:41:44 AM
To: "Williams, Susan B." <SWilliams@oag.state.va.us>
Cc:
Subject: Re: FOIA request - CRT emails

Attachments: [image001.jpg](#), [image002.jpg](#), [image003.jpg](#)

Good morning, Susan:

Thank you for your patience as I looked into this. I was able to confirm that Jillian was blind copied on the original email from the Governor's Office that she then forwarded to the other two individuals.

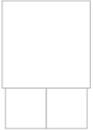
I hope this helps!

Best,
Rebecca

On Wed, Feb 2, 2022 at 5:19 PM Williams, Susan B. <SWilliams@oag.state.va.us> wrote:

Sounds good!

Susan B. Williams
Senior Assistant Attorney General
Office of the Attorney General
202 North 9th Street
Richmond, Virginia 23219
(804) 371-8721 Office
SWilliams@oag.state.va.us
<http://www.ag.virginia.gov>



From: Westfall, Rebecca <rebecca.westfall@doe.virginia.gov>
Sent: Wednesday, February 2, 2022 5:16 PM
To: Williams, Susan B. <SWilliams@oag.state.va.us>
Subject: Re: FOIA request - CRT emails

Thank you, Susan! I'll reach out to my colleagues to see if I can gather more information on this. I'll get back with you as soon as possible.

Best,
Rebecca

On Wed, Feb 2, 2022 at 5:13 PM Williams, Susan B. <SWilliams@oag.state.va.us> wrote:

No worries. I was thinking perhaps the Governor's CRT email tip line was being staffed by VDOE. I too am curious as to how Jillian received the email. Perhaps there was an email in between or she (and others) were blind copied on the email from the Governor's office? Any intel you are able to uncover and provide would be greatly appreciated!

Thank you!

Susan

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From: Westfall, Rebecca <rebecca.westfall@doe.virginia.gov>

Sent: Wednesday, February 2, 2022 5:07 PM
To: Williams, Susan B. <SWilliams@oag.state.va.us>
Subject: Re: FOIA request - CRT emails

Thank you, Susan. Glad you were able to access the attachment. I'm going to have to look into this part. My colleague initially handled the response for this and she's currently out on personal leave. My understanding was that VDOE conducted an agency-wide search for potentially responsive emails in Jillian Balow or Elizabeth Schultz's email accounts, for which this email was retrieved. VDOE does not have a CRT inbox. I am unable to ascertain how Jillian obtained the email from the Governor's Office, since it doesn't look like she was listed as an initial recipient on the forwarded email. I'm sorry I'm not able to provide more info on this piece.

On Wed, Feb 2, 2022 at 4:57 PM Williams, Susan B. <SWilliams@oag.state.va.us> wrote:

Hello again. I was able to save the attachment so I have it now. Still curious as to how this email was in CRT inbox/if that's the case?

Thanks!

Susan

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(804) 371-8721 Office
SWilliams@oag.state.va.us
<http://www.ag.virginia.gov>



From: Westfall, Rebecca <rebecca.westfall@doe.virginia.gov>
Sent: Wednesday, February 2, 2022 4:47 PM
To: Williams, Susan B. <SWilliams@oag.state.va.us>
Subject: Re: FOIA request - CRT emails

Thank you very much, Susan! I'm attaching the email in question. You should be able to click on the attachment directly in the email, but please let me know if you have issues opening it and I will send it separately.

Have a good evening.

Best,
Rebecca

On Wed, Feb 2, 2022 at 4:43 PM Williams, Susan B. <SWilliams@oag.state.va.us> wrote:

Hi Rebecca. It is nice to meet you.

Yes, please forward the email and attachment, and I will run it up chain here at OAG. Thanks!

Susan

Susan B. Williams
Senior Assistant Attorney General
Office of the Attorney General
202 North 9th Street
Richmond, Virginia 23219
(804) 371-8721 Office
SWilliams@oag.state.va.us
<http://www.ag.virginia.gov>



From: Westfall, Rebecca <rebecca.westfall@doe.virginia.gov>
Sent: Wednesday, February 2, 2022 4:35 PM
To: Williams, Susan B. <SWilliams@oag.state.va.us>
Subject: Fwd: FOIA request - CRT emails

Good afternoon, Ms. Williams:

I hope this message finds you well. By way of introduction, I am the Agency Compliance and FOIA Specialist with VDOE's Office of Policy. Our office recently responded to a FOIA request from the below reporter, in which an email attachment was withheld in accordance with Va. Code § 2.2-3705.7(2) as the attachment was marked as "Confidential Working Papers of the Governor." The requesting party is now contesting the legal basis for the withholding and is asserting that the document is no longer protected under the Working Papers exemption because it was forwarded to outside of the Executive Branch to VDOE. The requesting party has cited Va. FOIA Council Advisory Opinions to support his challenge to the withholding.

At this time, we are seeking further guidance on the application of this statutory exemption under Va. FOIA as it relates to this request before we respond back to the requesting party. If you believe you are the appropriate office to provide further guidance and are able to do so, I'm happy to forward the email and attachment in question for your review. Alternatively, please advise if you believe this should be forwarded to the Governor's Office for review.

Thank you in advance for your assistance. I hope you have a great evening.

Best regards,

Rebecca

----- Forwarded message -----

From: FOIA, rr <foia@doe.virginia.gov>
Date: Wed, Feb 2, 2022 at 3:36 PM
Subject: Fwd: FOIA request - CRT emails
To: Rebecca Westfall <rebecca.westfall@doe.virginia.gov>

----- Forwarded message -----

From: Ben Paviour <bpaviour@vpm.org>
Date: Wed, Feb 2, 2022 at 12:17 PM
Subject: Re: FOIA request - CRT emails
To: FOIA, rr <foia@doe.virginia.gov>
Cc: Charles Pyle <charles.pyle@doe.virginia.gov>

Hi Rebecca,

Thanks for getting back to me. I would challenge your citation of the working paper exemption. There have been several FOI Advisory Council Opinions relating to documents that leave the Executive Branch. The EA_Instructions document that was withheld is no longer in the Executive Branch because it was sent to DOE officials.

I would point you toward this 2016 [advisory](#), for example: "In summary, it appears that while the list may have been a Governor's working paper when it was first created, it would no longer be a working paper after being disseminated to the Department for the Department's use."

Please turn over the document since it clearly does not fit the criteria you're citing under state law.

Best,

Ben

Ben Paviour
State Politics Reporter
Phone 434.282.9472

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From: FOIA, rr <foia@doe.virginia.gov>
Sent: Tuesday, February 1, 2022 9:18 AM
To: Ben Paviour <bpaviour@vpm.org>
Cc: Charles Pyle <charles.pyle@doe.virginia.gov>
Subject: Re: FOIA request - CRT emails

Good morning, Mr. Paviour:

This email is in response to your FOIA request. All responsive records are attached.

Please be advised that some records were withheld pursuant to Section 2.2-3705.7(2) related to the Governor's Confidential Working Papers. There is no cost associated with this request.

Sincerely,
Rebecca S. Askew
FOIA Officer

On Tue, Jan 25, 2022 at 5:12 PM FOIA, rr <foia@doe.virginia.gov> wrote:

Good afternoon, Mr. Paviour

This email is in response to your FOIA request. We anticipate that it will not be practically possible to provide the requested records within the five-work-day period allowed by FOIA due to an issue with our technology; therefore we are invoking the additional seven working days allowed by Section 2.2-3704 B.4 of the Virginia FOIA.

Sincerely,
Rebecca S. Askew

On Tue, Jan 18, 2022 at 6:16 PM FOIA, rr <foia@doe.virginia.gov> wrote:

Good evening,

The VDOE is in receipt of your FOIA request and is in the process of processing it.

In your FOIA request, you indicated that you were seeking records "from 1/13/22 to the date this request is fulfilled." Under the Virginia Freedom of Information Act, you may request records up to the present date, not a future date. Therefore, the VDOE will search for records up to close of business 1/18/22, the date that we received your request.

Also, please be advised that both Jillian Balow or Elizabeth Schultz were sworn in on Saturday, January 15, 2022, chances are their Virginia Department of Education email accounts were activated on that day.

I will notify you in advance if there is a cost associated with this request. In the meantime, please let me know if you have any questions.

Sincerely,
Rebecca S. Askew
FOIA Officer
804-225-2775

On Tue, Jan 18, 2022 at 2:42 PM Ben Paviour <bpaviour@vpm.org> wrote:

Hi Rebecca,

I'd like to request the following records:

1. Copies of any emails in the accounts of both Jillian Balow or Elizabeth Schultz containing the phrase "Critical Race Theory" or "divisive concepts" from 1/13/22 to the date this request is fulfilled.

I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest.

That said, please let me know if there will be any costs associated with this request or if you have any questions.

Best,
Ben

Ben Paviour

State Politics Reporter
Phone 434.282.9472

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Email Header:

MIME-Version: 1.0
Date: Thu, 3 Feb 2022 11:41:44 -0500
Message-ID: <CAEu0E19_Tfoew_rb_m5Y9UpPQQBPYDTFjFqd5S55QT4BT+Mjka@mail.gmail.com>
Content-Type: multipart/mixed;
boundary="-----80609040101060202050406"
X-Priority: Normal
From 1723760907155559121-dafcd538-b622-489e-8f84-b467fd745988.mbox@xxx Thu Feb 03 04: 41:44 2022
References: <MN2PR13MB400573751E40A344FB3D53EBC15898MN2PR13MB4005.namprd13.prod.outlook.com> <CANDqfw2m_MFbW-6TY-AYXcbQSF-JAgnqs82Mm-Kp4MS12F3aLw@mail.gmail.c
In-Reply-To: <MN2PR09MB57695A9469625073EAF0DC9EA0279@MN2PR09MB5769.namprd09.prod.outlook.com>
To: "Williams, Susan B." <SWilliams@oag.state.va.us>
From: "Westfall, Rebecca" <rebecca.westfall@doe.virginia.gov>
CKX-Bounce-Address: rebecca.westfall@doe.virginia.gov
Subject: Re: FOIA request - CRT emails