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14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Barry Goldwater Institute for Public Policy
17 Research,

18 Plaintiff,

19 v.

20 United States Department of Education,

21 Defendant.

No. 2:24-cv-00314-SMM

**DEFENDANT’S REPLY IN SUPPORT
OF CROSS-MOTION FOR
SUMMARY JUDGMENT**

22 Defendant United States Department of Education, by and through undersigned
23 counsel, hereby files this Reply in Support of its Cross-Motion for Summary Judgment.
24 Doc. 22.

25 **I. SUMMARY OF ARGUMENT**

26 Plaintiff, the Barry Goldwater Institute for Public Policy Research, seeks review of
27 Defendant’s response to Plaintiff’s request under the Freedom of Information Act
28 (“FOIA”), 5 U.S.C. § 552. Doc. 14. Plaintiff’s December 2023 FOIA request sought
records concerning the Department’s investigation into Grand Canyon University (“GCU”) for violations of the Higher Education Act and/or federal regulations, as well as GCU’s Provisional Program Participation Agreement. Doc. 1-1 at 1. Defendant dutifully searched

for and produced all responsive documents subject to FOIA Exemption 5, 5 U.S.C. § 552(b)(5), which protects disclosure of intra- and inter-agency records protected by, among other civil discovery privileges, the deliberative process privilege, attorney-client privilege, and attorney work-product privilege, and FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A), which protects disclosure of records “compiled for law enforcement purposes . . . [that] could reasonably be expected to interfere with enforcement proceedings.” As demonstrated by the declarations of Christopher Madaio and Joanna L. Torres, and the *Vaughn* index describing the information withheld, there is no genuine issue of material fact regarding the propriety of Defendant’s withholdings under FOIA Exemptions 5 and 7(A), and Defendant is entitled to judgment as a matter of law. Doc. 23-1; Doc. 23-2; Doc. 23-3.

II. ARGUMENT

A. Plaintiff is Not Entitled to Declaratory Relief for Defendant’s Failure to Respond to Plaintiff’s FOIA Request Within the Statutory Time Period.

Plaintiff alleges that Defendant failed to respond to Plaintiff’s FOIA request within the statutory period. Doc. 18 at 6. Although it was unclear from Plaintiff’s Motion for Summary Judgment what relief Plaintiff requests for Defendant’s failure to respond within the statutory period (Doc. 18 at 6-8), Plaintiff now requests in its Reply that the Court order “a declaration regarding the Department’s FOIA violation on that issue” (Doc. 26 at 3). Defendant again denies that Plaintiff is entitled to any relief for Defendant’s failure to respond within the statutory period.

The Ninth Circuit has recognized two separate claims that a FOIA requester can bring against an agency under FOIA. *Hajro v. U.S. Citizenship & Immigr. Servs.*, 811 F.3d 1086, 1102-03 (9th Cir. 2016). The first is known as a “specific FOIA request claim,” wherein “a plaintiff attacks a specific agency action for (1) ‘improperly’ (2) ‘withheld’ (3) ‘agency records.’” *Id.* at 1103 (quoting *Kissinger v. Reporters Comm. for Freedom of the Press*, 445 U.S. 136, 150 (1980)). A FOIA requester may also assert that an agency has engaged in a “pattern or practice” of violating the FOIA time limits. *Id.* at 1103.

1 In a “pattern or practice” claim, the FOIA requester alleges that “an agency policy or
2 practice will impair the party’s lawful access to information in the future.” *Id.* at 1103
3 (quoting *Payne Enters., Inc. v. U.S.*, 837 F.2d 486, 491 (D.C. Cir. 1988)).

4 Here, neither Plaintiff’s Amended Complaint nor Plaintiff’s Motion for Summary
5 Judgment allege a pattern or practice violation. Doc. 14; Doc 18. Despite this, Plaintiff
6 alleges in its Reply—for the first time—that Defendant “has engaged in a pattern or
7 practice of violating FOIA’s time limits.” Doc. 26 at 3. Accordingly, Plaintiff’s pattern or
8 practice claim is not properly before the Court, and fails. *See Earth Island Inst. v. U.S.*
9 *Forest Serv.*, 87 F. 4th 1054, 1073 (9th Cir. 2023) (“Since [plaintiff] did not plead this
10 claim in its complaint, it was not properly before the district court, and fails.”); *Quick v.*
11 *U.S. Dep’t of Commerce, Nat’l Inst. of Standards and Tech.*, 775 F. Supp. 2d 174, 183
12 (D.D.C. 2011) (explaining that plaintiff’s “pattern or practice” claim “fails at the outset for
13 the simple reason that nothing even remotely resembling a ‘pattern or practice’ claim
14 appears within the four corners of [plaintiff’s] Complaint”).

15 Plaintiff alleges only a specific FOIA request claim—that Defendant improperly
16 withheld agency records. Doc. 14 at 1. Plaintiff contends that Defendant’s production of
17 the documents does not moot Plaintiff’s request for declaratory relief. Doc. 26 at 3.
18 However, the cases Plaintiff cites in support of this assertion are inapposite. Doc. 26 at
19 3-5.

20 The case *Muckrock, LLC v. CIA*, 300 F. Supp. 3d 108, 135-36 (D.D.C. 2018) is
21 distinguishable because the plaintiff in *Muckrock* alleged a policy or practice claim and the
22 court granted declaratory relief noting that the “CIA’s email policy violates the FOIA.”
23 Likewise, *Owen v. U.S. Immigr. & Customs Enf’t*, No. CV 22-0550-DSF (AFMX), 2023
24 WL 9470904, at *8 (C.D. Cal. Jan. 12, 2023), which Plaintiff cites for the proposition that
25 “declaratory judgment is an appropriate way to address FOIA delays” (Doc. 26 at 5), is
26 also distinguishable because there, the court specified that “[c]ourts grant declaratory
27 judgment in the FOIA context only where there is a *practice or policy* of delayed disclosure
28 that seems likely to repeat itself – rather than an isolated incident.” 2023 WL 9470904, at

1 *8 (emphasis added). The court in *Owen* therefore denied plaintiff's request for declaratory
 2 relief against the agency because the agency's "behavior has not formed a pattern sufficient
 3 to warrant declaratory relief." *Id.*

4 Lastly, Plaintiff cites *Transgender Law Center v. Immigr. & Customs Enf't*, 46 F.4th
 5 771, 778 (9th Cir. 2022), for the proposition that declaratory relief is appropriate where the
 6 agency fails to timely respond to a FOIA request (Doc. 26 at 3). However, in that case the
 7 plaintiff appealed the district court's grant of summary judgment to the agencies on the
 8 issues of compliance with plaintiff's FOIA request, adequacy of the search and *Vaughn*
 9 indices, and application of exemptions to the documents at issue. *Id.* The issue of the
 10 district court's grant of declaratory relief in favor of plaintiff was not before the Court of
 11 Appeals, which, consequently, offered no guidance on whether such relief was appropriate.
 12 *Id.*

13 Accordingly, because Defendant produced all non-exempt documents (Doc. 22 at
 14 2-6), Plaintiff's FOIA action is moot. *See Hajro*, 811 F.3d at 1092, 1103; *Papa v. United*
 15 *States*, 281 F.3d 1004, 1013 & n.42 (9th Cir. 2002) ("[T]he production of all nonexempt
 16 material, 'however belatedly,' moots FOIA claims." (quoting *Perry v. Block*, 684 F.2d 121,
 17 125 (D.C. Cir. 1982))). Moreover, because Plaintiff has not alleged a pattern or practice
 18 claim, declaratory relief is inappropriate. *See Owen*, 2023 WL 9470904, at *8; *Shapiro v.*
 19 *U.S. Dep't of Just.*, 507 F. Supp. 3d 283, 336 (D.D.C. 2020) ("Courts in this circuit grant
 20 declaratory relief when they find that an agency has a policy or practice that violates FOIA,
 21 so long as there is at least some chance that the agency might continue to apply the policy
 22 in the future."); *Navigators Ins. Co. v. U.S. Dep't of Just.*, 155 F. Supp. 3d 157, 168 (D.
 23 Conn. 2016) ("[I]n the FOIA context, courts have granted declaratory judgments where a
 24 plaintiff has shown that an agency engaged in a pattern or practice of delayed disclosure
 25 and that it is possible the violations will recur with respect to the same requesters."). The
 26 Court should deny Plaintiff's request for declaratory relief.

27 **B. Defendant Properly Withheld Records Under the FOIA Exemptions.**

28 **1. Defendant Properly Withheld Records Under Exemption 5.**

1 Defendant withheld, pursuant to 5 U.S.C. § 552(b)(5), portions of documents that
 2 contain investigative and other internal communications, internal memoranda,
 3 communications with attorneys representing Defendant, and attorney work-product. Doc.
 4 23 at ¶¶ 16-24.

5 FOIA Exemption 5 protects from disclosure “inter-agency or intra-agency
 6 memorandums or letters which would not be available by law to a party other than an
 7 agency in litigation with the agency.” 5 U.S.C. § 552(b)(5). Exemption 5 “entitles an
 8 agency to withhold from the public ‘documents which a private party could not discover
 9 in litigation with the agency.’” *Maricopa Audubon Soc’y v. U.S. Forest Serv.*, 108 F.3d
 10 1089, 1092 (9th Cir. 1997) (quoting *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 148
 11 (1975)). It therefore covers the deliberative process privilege, attorney-client privilege,
 12 and attorney work-product privilege. *Id.*

13 First, Plaintiff argues that Exemption 5 does not apply to information related to the
 14 decision to initiate a monetary fine against GCU because it was not a “policy decision.”
 15 Doc. 26 at 6-7. However, as Plaintiff correctly notes in its Reply (Doc. 26 at 6), the
 16 deliberative process privilege covers “documents reflecting advisory opinions,
 17 recommendations, and deliberations that are part of a process by which government
 18 *decisions* and policies are formulated.” *Reps. Comm. for Freedom of the Press v. FBI*, 3
 19 F.4th 350, 361 (D.C. Cir. 2021) (emphasis added) (citation omitted). Exemption 5
 20 therefore applies to records related to the Department’s decision to initiate a fine action
 21 against GCU.

22 Second, Plaintiff argues Exemption 5 does not apply to documents that contain
 23 “facts relayed by agency counsel.” Doc. 26 at 7. However, factual material is protected
 24 under the deliberative process privilege “[w]here either the disclosure of the manner of
 25 selecting or presenting facts would expose the deliberative process, or where facts are
 26 ‘inextricably intertwined’ with ‘policy-making processes.’” *Nat’l Wildlife Fed. v. U.S.*
 27 *Forest Serv.*, 861 F.2d 1114, 1119 (9th Cir. 1988) (quoting *Ryan v. Dep’t of Justice*, 617
 28 F.2d 781, 790 (D.C. Cir. 1980)). “Factual materials . . . would likewise be exempt from

disclosure to the extent that they reveal the mental processes of decisionmakers.” *Id.*

As explained in the Department’s *Vaughn* index (Doc. 23-3), many of the documents at issue contain: (1) mental impressions and summary of relevant facts related to the GCU investigation, the disclosure of which would expose the deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation (FOIA Docs. Nos. 4, 7); (2) recommendations on Department action which include selective facts to support such recommendations, the disclosure of which would expose the deliberative process in investigating and taking enforcement action (FOIA Docs. Nos. 6, 39, 112); (3) legal conclusions by Department attorneys which include selective facts to support such legal conclusions and recommendations, the disclosure of which would expose the deliberative process by providing insights into the attorneys’ decision-making processes (FOIA Docs. Nos. 50, 54, 113); and (4) agency officials’ summary and impressions of, among other things, certain events in the investigation, the disclosure of which would expose the deliberative process by revealing such officials’ predecisional views on the investigation (FOIA Docs. Nos. 96, 98).

Third, Plaintiff argues the Department applied Exemption 5 to “communications with outside parties,” and that such communications are not covered by the deliberative process privilege, attorney-client privilege, or attorney work-product privilege. Doc. 26 at 7-8. As shown in the *Vaughn* index, the Department withheld portions of internal emails between Department employees, which were not exchanged with non-Executive branch individuals/entities. Doc. 23-3, FOIA Docs. Nos. 29, 32, 69, 70, 72, 73, 75, 82-86, 88, 91, 121-122, 124, 126, 130. The emails at issue are email threads—that is, they are a series of emails grouped together in a single conversation, with the most recent email appearing at the top of the thread. Although these email threads may contain copies (i.e., forwards) of emails exchanged with non-executive branch personnel, the emails at issue are wholly internal, that is, solely between Department employees or other executive branch individuals/entities. Additionally, the Department withheld under Exemption 5 Madaio’s summary and mental impressions of certain phone calls or communications with GCU’s

1 counsel, the disclosure of which would discourage Department employees from sharing
2 their impressions of communications with external parties in the decision-making process.
3 Doc. 23-3, FOIA Docs. Nos. 108, 120. Lastly, Plaintiff misidentifies the following
4 documents as having been withheld under Exemption 5: 103, 131-138.

5 Fourth, Plaintiff argues that records related to the Department's press activities
6 should be released, arguing they are not policy decisions covered by Exemption 5. Doc.
7 26 at 8. In *Transgender Law Center*, the Ninth Circuit remanded to direct the release of
8 certain draft press statements where "the agencies withheld draft statements without
9 adequately explaining how they reveal a deliberative process." 46 F.4th at 783. By
10 contrast, here, as explained in the *Vaughn* index, some of the documents Plaintiff identifies
11 were emails to the then-Chief Operating Officer of FSA containing items for his approval
12 and read-ahead materials, which contained, among other things, "recommendations
13 concerning a variety of policy issues" and "informational updates on ongoing policy work."
14 Doc. 23-3, FOIA Docs. Nos. 1-3. Further, other documents, or portions thereof, were
15 withheld because they contain "strategic information concerning the status of" or "strategic
16 discussions" on the GCU investigation. Doc. 23-3, FOIA Docs. Nos. 61, 101, 128. Such
17 materials are distinguishable from those documents in *Transgender Law Center* because
18 they are not simply "deliberations regarding how best to address public relations matters
19 or possible responses to an inquiry received from an outside entity." 46 F. 4th at 783
20 (citation omitted). Instead, they are part and parcel of the Department's internal
21 deliberations on decisions to be made in GCU investigation and fine action—such
22 communications were therefore not merely responsive to outside inquires or deliberations
23 on how to best address the public. *See id.*

24 Regardless of whether the deliberative process privilege applies to the majority of
25 emails in FOIA Doc. No. 94, such emails were withheld under the attorney-client privilege
26 (Doc. 23-3, FOIA Doc. No. 94); as such, the withheld materials need not be related to a
27 "policy decision." Although the Department does not concede that the emails in FOIA
28 Doc. 94 are not protected by the deliberative process privilege, the Department is no longer

1 withholding under the deliberative process privilege most of the emails relating to the draft
 2 press statements withheld under Exemption 5 in FOIA Doc. No. 94. Instead, such emails
 3 are only being withheld under the attorney-client privilege. However, the Department is
 4 still withholding the October 9, 2023, emails of Benjamin Miller and Christopher Madaio
 5 in FOIA Doc. No. 94 under the deliberative process privilege.¹ See Exhibit 1, Revised
 6 *Vaughn* index (revisions in redline), FOIA Doc. No. 94.

7 Fifth, Plaintiff argues the subject lines of emails should be produced because they
 8 are “not draft documents.” Doc. 26 at 8. The Department did not withhold the subject
 9 lines of emails because they are “draft documents.” Rather, as explained in the
 10 Department’s *Vaughn* index, the Department withheld the subject lines of certain emails
 11 because they would reveal deliberative material, attorney-client communications, and/or
 12 attorney-work product, including: (1) specific recommendations and/or strategy under
 13 discussion; (2) specific aspects of the GCU investigation being discussed by agency
 14 attorneys; (3) the nature of the issues for which FSA sought legal advice; and (4) the nature
 15 of the strategic discussions. Doc. 23-3, FOIA Docs. Nos. 5, 11-12, 15, 19, 20-24, 26-27,
 16 31, 33, 35, 37, 42, 45-46, 48, 58, 60, 68, 76-79, 99, 119, 125, 128.

17 Sixth, Plaintiff argues the Department applied Exemption 5 to post-decisional
 18 documents. Doc. 26 at 8. Although the then-Chief Operating Officer of FSA, Richard
 19 Corday, approved the initiation of a fine action against GCU on October 22, 2023, “[t]he
 20 October 31, 2023, letter that initiated the fine action against GCU represents the
 21 Department’s final decision to initiate the fine action and the amount of the initiated fine,
 22 as well as the Department’s formal, final reasoning for initiating the fine action.” Doc.
 23 23-2 at ¶ 13. Therefore, as explained in the Department’s *Vaughn* index, the emails at issue
 24 are not post-decisional because they predate the Department’s October 31, 2023, letter
 25 which represents the final agency decision. Doc. 23-3, FOIA Docs. Nos. 118-120, 123-
 26

27
 28 ¹ The October 9, 2023, emails of Miller and Madaio in FOIA Doc. No. 94 are on the page
 Bates stamped “REVISED ED 24-00550-F (Apr. 15, 2024)_000420”.

1 130. Additionally, Plaintiff has misidentified many of the emails as concerning the fine
 2 action when instead they concern condition B of GCU's PPPA, specifically, deliberations
 3 about a letter received from GCU's counsel, and how to respond to it (FOIA Docs. Nos.
 4 121-122, 124, 126). Finally, many portions of the documents at issue were also withheld
 5 under the attorney-client privilege and/or attorney-work product privilege; as such, the
 6 withheld material need not be "predecisional."

7 Finally, Plaintiff raises no arguments disputing the Department's withholdings
 8 under the attorney-client privilege and attorney work-product privilege. As explained in
 9 the Department's *Vaughn* index, various documents, or portions thereof, were withheld
 10 under the attorney-client privilege and/or attorney work-product privilege in addition to the
 11 deliberative process privilege. Doc. 23-3.

12 **2. Defendant Properly Withheld Records Under Exemption 7(A).**

13 FOIA Exemption 7(A) authorizes the withholding of "records or information
 14 compiled for law enforcement purposes, but only to the extent that production of such law
 15 enforcement records or information . . . could reasonably be expected to interfere with
 16 enforcement proceedings." 5 U.S.C. § 552(b)(7)(A).

17 First, Plaintiff again contends that the Department's "investigation is no longer
 18 open." Doc. 26 at 9. Plaintiff is incorrect. The Department's investigation into GCU
 19 remains open as GCU's fine is on appeal (Doc. 23 at ¶¶ 11-13). *See Kansí v. U.S. Dep't of*
 20 *Just.*, 11 F. Supp. 2d 42, 44 (D.D.C. 1998) (finding plaintiff's pending motion for new a
 21 trial "a pending law enforcement proceeding for purposes of FOIA").

22 Citing a Ninth Circuit case involving the Court's review of a § 1983 claim, Plaintiff
 23 alleges that the release of the Department's investigatory materials would not harm the
 24 Department's position in the hearing requested by GCU before the Office of Hearings and
 25 Appeals because "new evidence is not permitted on appeal" (Doc. 26 at 9) (citing *Tucker*
 26 *v. Seattle Hous. Auth.*, 670 F. App'x 488, 489 (9th Cir. 2016)).

27 But courts examining the application of Exemption 7(A) have agreed that
 28 "[b]ecause the potential for interference remains even when a case is on appeal, [an agency]

1 is permitted to withhold law enforcement records until all reasonably foreseeable
2 proceedings stemming from that investigation are closed.” *Stein v. S.E.C.*, 358 F. Supp.
3 3d 30, 34-35 (D.D.C. 2019); *see also Pawlowski v. United States*, No. CV 19-3740 (TJK),
4 2023 WL 8272203, at *3 (D.D.C. Nov. 14, 2023) (finding potential for harm where
5 plaintiff did not dispute that he sought the documents to impact an appellate proceeding);
6 *Basey v. Dep’t of the Army*, No. 4:16-CV-00038-TMB, 2018 WL 8798586, at *9 (D.
7 Alaska May 14, 2018) (“Although Plaintiff’s trial has concluded and Plaintiff is currently
8 awaiting sentencing, the Court finds that Exemption 7(A) remains applicable at least
9 pending the conclusion of sentencing and the statutory period for a notice of appeal.”).

10 And as noted in the Department’s Motion for Summary Judgment, Plaintiff seems
11 to seek these documents to impact the administrative proceeding, as Plaintiff alleged in
12 multiple press releases that the Department “coordinate[d] [with] various federal agencies”
13 to “intentionally target[] [GCU] . . . based on extraordinarily thin allegations” (Doc 22 at
14 16; Doc. 23 at ¶ 15). But courts have held that Exemption 7(A) applies even if the
15 requestor’s purpose is to exonerate it. *See Pawlowski*, 2023 WL 8272203, at *3 (finding
16 Exemption 7(A) applicable where the plaintiff sought documents to “‘exonerate’ himself
17 through his appeal”). Even if Plaintiff does not seek the documents through FOIA to
18 exonerate GCU on appeal, release of the information to Plaintiff is considered a release to
19 all, and there is no mechanism available to contain the harm. *See Nat’l Archives & Records*
20 *Admin. v. Favish*, 541 U.S. 157, 174 (2004) (“It must be remembered that once there is
21 disclosure, the information belongs to the general public.”). Defendant therefore properly
22 invoked Exemption 7(A).

23 Second, Plaintiff contends the Department applied Exemption 7(A) to “several
24 records without any justification,” citing only FOIA Doc. No. 30. Doc. 26 at 10. However,
25 the Department described the basis for withholding FOIA Doc. No. 30 and similar
26 documents in paragraph 31 of the Declaration of Christopher Madaio. Doc. 23-1 at ¶ 31.

27 Third, Plaintiff argues that the Department applied Exemption 7(A) to
28 communications with the FTC, and that the “Department cannot claim Exemption 7(A) on

1 behalf of another agency . . . on the basis that disclosure of the records might interfere with
 2 that agency’s separate investigation.” Doc. 26 at 10. As described in *Vaughn* index, the
 3 Department withheld emails between Christopher Madaio and an FTC attorney regarding
 4 FSA’s GCU investigation because it contains strategic discussions related to *both*
 5 investigations. Doc. 23-3, FOIA Docs. Nos. 12, 35, 62.

6 And as explained in the Declaration of Christopher Madaio, the Department also
 7 withheld a document under Exemption 7(A) because the release of such document could
 8 “interfere with the Investigation Group’s ability to fully and fairly consider potential
 9 liabilities that, if imposed, could result in money being repaid to the Department” in a
 10 separate, unrelated investigation, not because of any interference with the GCU
 11 investigation. Doc. 23-1 at ¶ 31; Doc. 23-3, FOIA Doc. No. 30.

12 The Department is removing the Exemption 7(A) redactions from the March 5,
 13 2023, email of Christopher Madaio contained in FOIA Doc. No. 13,² because that email
 14 relates to enforcement work against an institution unrelated to GCU, and such enforcement
 15 work is neither ongoing nor related to the GCU investigation. *See* Exhibit 1, Revised
 16 *Vaughn* index (revisions in redline), FOIA Doc. No. 13.

17 **V. CONCLUSION**

18 For the foregoing reasons, Defendant respectfully requests that Plaintiff’s Motion
 19 for Summary Judgment be denied, that Defendant’s Cross-Motion for Summary Judgment
 20 be granted, and that judgment be entered in Defendant’s favor.

21 RESPECTFULLY SUBMITTED October 18, 2024.

22 GARY M. RESTAINO
 23 United States Attorney
 24 District of Arizona

25 /s/ Victoria H. Gray
 26 VICTORIA H. GRAY

27
 28 ² The March 5, 2023, email of Madaio in FOIA Doc. No. 13 is on the page Bates stamped
 “REVISED ED 24-00550-F (Apr. 15, 2024)_000042.”

Assistant United States Attorney
Attorneys for the United States

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EXHIBIT 1

Goldwater Institute v. U.S. Department of Education (2:24-cv-00314) | Vaughn Index***Commonly Referenced Names, Acronyms, and Abbreviations in the Vaughn Index*****Acronyms and Abbreviations**

- ED/Department: U.S. Department of Education
- FSA: Federal Student Aid, a principal operating component within the U.S. Department of Education.
- OGC: Office of the General Counsel, a principal operating component within the U.S. Department of Education.
- OUS: Office of the Under Secretary, a principal operating component within the U.S. Department of Education.
- OHA: Office of Hearings and Appeals, an office within the Office of Finance and Operations (a principal operating component within the U.S. Department of Education), which, among other things, adjudicates hearings of fines, limitations, and termination actions taken by FSA against an institution of higher education under the HEA and issues initial decisions as a result of such hearings.
- FSA Enforcement: FSA's Partner Enforcement and Consumer Protection Directorate
- AAASG: Administrative Actions and Appeals Service Group, a group in FSA's Partner Enforcement and Consumer Protection Directorate.
- SEOSG: School Eligibility and Oversight Services Group, a group in FSA's Partner Eligibility and Oversight Services Directorate.
- HEA: The Higher Education Act of 1965, as amended
- PPA/PPPA: Program Participation Agreement/Provisional Program Participation Agreement
- GCU: Grand Canyon University
- GCU investigation: FSA Enforcement's investigation of, and fine action against, GCU for substantial misrepresentations about the cost of GCU's doctoral programs

ED Employees*FSA*

- Richard Cordray: At all times relevant to this FOIA litigation, Cordray was the Chief Operating Officer (COO) of FSA.
- Chris Farr: Farr is a member of FSA's "Front Office".
- Hunter Wiggins: Wiggins is a Senior Advisor in FSA.
- Kristen Donoghue: Donoghue is the Chief Enforcement Officer of FSA.
- Colleen Nevin: Nevin is Deputy Chief Enforcement Officer of FSA.
- Dawn Bilodeau: Bilodeau is an advisor in FSA Enforcement.
- Christopher Madaio: Madaio is the Director of the Investigations Group in FSA's Partner Enforcement and Consumer Protection Directorate. Madaio is an attorney.
- Kathryn Johnson: Johnson is an attorney in FSA's Investigations Group.
- Sarah Angilello: Angilello is an attorney in FSA's Investigations Group.
- Edward Groves: Groves is an attorney in FSA's Investigations Group.
- Dawn Leget: Leget is an attorney in FSA's Investigations Group.
- Susan Crim: Crim is the Director of AAASG.
- Lauren Pope: At all times relevant to this FOIA litigation, Pope was a staff member in AAASG.
- Tara Sikora: At all times relevant to this FOIA litigation, Sikora was a staff member in AAASG.
- Martina Fernandez-Rosario: Fernandez-Rosario is the Director of SEOSG.
- Michael Frola: Frola is the Division Chief for the Multi-Regional and Foreign Schools Participation Division in SEOSG.
- Jane Eldred: Eldred is a staff member in SEOSG.

OUS

- Brad Middleton: Middleton is FSA Enforcement's senior advisor for strategy. Middleton is currently detailed to the Office of the Under Secretary and was detailed to that position in the summer or fall of 2023.
- Benjamin Miller: Miller is the Deputy Under Secretary in ED's Office of the Under Secretary.

OGC

- Lisa Brown: Brown is the General Counsel for ED.
- Toby Merrill: Merrill is the Deputy General Counsel for Postsecondary Education in OGC (DPE).
- John Bailey: Bailey is a Senior Counsel in OGC.
- Matthew Robinson: Robinson is a Senior Counsel in OGC.
- Donna Mangold: Mangold is Deputy Assistant General Counsel for OGC's Division of Postsecondary Education (DPE).
- Christle Sheppard Southall: Sheppard Southall is an attorney in OGC-DPE.

- Denise Morelli: Morelli is an attorney in OGC-DPE.

Production: April 15, 2024, Interim Response – As Revised August 28, 2024

File Name: “24-00550-F Responsive Records_Revised 04.15.2024 Production_Password Protected.pdf”

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
1	REVISED ED 24-00550-F (Apr. 15, 2024)_000001 – REVISED ED 24-00550-F (Apr. 15, 2024)_000002	2	<ol style="list-style-type: none"> Email from Wayne Sullivan of FSA to Richard Cordray, copying FSA Integration, Sartaj Alag, Colleen McGinnis, Quasette Crowner, Kristen Donoghue, Hunter Wiggins, Ashley Harrington, Bonnie Latreille, Chris Farr, LaToya Tribue, Elizabeth King, Amanda Yates, Terri Flow, April Jordan, and Mark Abueg, Regarding Chief Action Items and Read Ahead Prep Materials for February 24 Email from Cordray to Sullivan, copying FSA Integration, Alag, McGinnis, Crowner, Donoghue, Wiggins, Harrington, Latreille, Farr, Tribue, King, Yates, Flow, Jordan, Abueg, Wendy Bhagat, and Bridget Sellers, Regarding Chief Action Items and Read Ahead Prep Materials for February 24 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld an email from Wayne Sullivan to Richard Cordray containing items for Cordray’s approval and read-ahead materials, except for the first sentence of that email and certain information related to an Information Sharing Agreement (ISA) between FSA and FTC concerning investigations of GCU.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The withheld portion of the email contains recommendations concerning a variety of policy issues; informational updates on ongoing policy work and congressional inquiries; and notes for upcoming briefings and meetings. One withheld portion of the email also relays legal advice from OGC on a specific issue. This material is part of the internal deliberative process of FSA and the disclosure of this information would chill FSA employees’ frank policy discussions with and recommendations to the Chief Operating Officer. The disclosure of this information also could create confusion about FSA’s publicly announced policy decisions regarding Federal student aid-related issues to the extent the information does not reflect such final decisions. Additionally, the disclosure of certain information contained in the email could prematurely reveal policy decisions or discussions of which the public is not aware.</p>
2	REVISED ED 24-00550-F (Apr. 15, 2024)_000011 – REVISED ED 24-00550-F_000013	3	<ol style="list-style-type: none"> Email from Wayne Sullivan of FSA to Richard Cordray, copying FSA Integration, Sartaj Alag, Colleen McGinnis, Quasette Crowner, Kristen Donoghue, Hunter Wiggins, Ashley Harrington, Bonnie Latreille, Chris Farr, LaToya Tribue, Elizabeth King, Amanda Yates, Terri Flow, April Jordan, Mark Abueg, and Lesjanusar Peterson, Regarding Chief Action Items and Read Ahead Prep Materials for Wednesday, March 9 Date: Mar. 8, 2022, 7:07pm Email from Cordray to Sullivan, copying FSA Integration, Alag, McGinnis, Crowner, Donoghue, Wiggins, Harrington, Latreille, Farr, Tribue, King, Yates, Flow, Jordan, Abueg, Peterson, and Richard J. Lucas, Regarding Chief Action Items and Read Ahead Prep Materials for Wednesday, March 9 Date: Mar. 8, 2022, 8:14pm 	(b)(5)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld all but the first sentence of an email from Wayne Sullivan to Richard Cordray containing items for Cordray’s approval and read-ahead materials.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The email contains recommendations concerning a variety of policy issues; informational updates on ongoing policy work; and notes for upcoming briefings and meetings. This material is part of the internal deliberative process of FSA and the disclosure of this information would chill FSA employees’ frank policy discussions with and recommendations to the Chief Operating Officer. The disclosure of this information also could create confusion about FSA’s publicly announced policy decisions regarding Federal student aid-related issues to the extent the information does not reflect such final decisions. Additionally, the disclosure of certain information contained in the email could prematurely reveal policy decisions or discussions of which the public is not aware.</p>
3	REVISED ED 24-00550-F (Apr. 15, 2024)_000016 – REVISED ED 24-00550-F (Apr. 15, 2024)_000019	4	<ol style="list-style-type: none"> Email from Wayne Sullivan of FSA to Richard Cordray, copying FSA Integration, Sartaj Alag, Colleen McGinnis, Quasette Crowner, Kristen Donoghue, Hunter Wiggins, Ashley Harrington, Bonnie Latreille, Chris Farr, LaToya Tribue, Elizabeth King, Amanda Yates, Terri Flow, April Jordan, Mark Abueg, and Lesjanusar Peterson, Regarding Chief Action Items 	(b)(5)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld all but the first sentence of an email from Wayne Sullivan to Richard Cordray containing items for Cordray’s approval and read-ahead materials. ED also withheld the second sentence of Cordray’s email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The email from Sullivan to Cordray contains recommendations concerning a variety of policy issues; informational updates on ongoing policy work and congressional inquiries; information on enforcement matters; and notes for upcoming briefings and meetings. This material is part of the internal deliberative process of FSA and the disclosure of this information would chill FSA employees’ frank policy discussions with and</p>

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			and Read Ahead Prep Materials for Tuesday, April 12 Date: Apr. 11, 2022, 6:11pm 2. Email from Cordray to Sullivan, copying FSA Integration, Alag, McGinnis, Crowner, Donoghue, Wiggins, Harrington, Latreille, Farr, Tribue, King, Yates, Flow, Jordan, Abueg, Peterson, Greene, Piccolo, and Campbell, Regarding Chief Action Items and Read Ahead Prep Materials for Tuesday, April 12 Date: Apr. 11, 2022, 6:59pm		recommendations to the Chief Operating Officer. The disclosure of this information also could create confusion about FSA's publicly announced policy decisions regarding Federal student aid-related issues to the extent the information does not reflect such final decisions. Additionally, the disclosure of certain information contained in the email could prematurely reveal policy decisions or discussions of which the public is not aware. The second sentence of Cordray's email was withheld because it contains a recommendation to FSA staff to consider in carrying out their duties.
4	REVISED ED 24-00550-F (Apr. 15, 2024)_000020	1	Email from Christopher Madaio to Kristen Donoghue Regarding the GCU Investigation Date: July 12, 2022	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of an email from Madaio to Donoghue. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – The email was withheld because it contains Madaio's mental impressions and summary of relevant facts related to the GCU investigation. The emails are part of the Department's internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. This email is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU. <i>Justification – Exemption 7(A):</i> The email was withheld because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
5	REVISED ED 24-00550-F (Apr. 15, 2024)_000021 – REVISED ED 24-00550-F (Apr. 15, 2024)_000023	3	1. Email from Dawn Bilodeau to Kristen Donoghue Regarding Draft Responses to a GAO Inquiry Date: Aug. 12, 2022 2. Email from Donoghue Regarding Draft Responses to a GAO Inquiry Date: Aug. 14, 2022 3. Email from Christopher Madaio to Donoghue, copying Bilodeau, Kathryn Johnson, Phil Rosenfelt, Tony Magro, and Kala Surprenant Date: Aug. 14, 2022 (Note: Rosenfelt is a Deputy General Counsel in OGC. Surprenant is a senior attorney in OGC. Magro is an FSA official.)	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5:</i> ED withheld emails sent by Bilodeau and Donoghue containing and discussing draft responses to inquiries from the Government Accountability Office (GAO) concerning certain open investigations being conducted by FSA, including the GCU investigation. ED also withheld a portion of the subject line of the emails that indicates the specific GAO questions to which the draft responses pertained. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails between Bilodeau and Donoghue exchange feedback and supporting information to be used in drafting responses to a GAO inquiry. The draft responses are antecedent to the Department's response to GAO and are part of the deliberative process of finalizing a response to GAO. Disclosure of this information would have a chilling effect on frank discussions and coordination concerning FSA investigations and oversight activities, which could diminish the quality and accuracy of responses provided to oversight bodies. ED withheld a portion of the subject line of the emails that indicates the specific GAO questions to which the draft responses pertained because this information could be used to reveal the deliberative discussion in the emails. <i>Portion Withheld – Exemption 7(A):</i> ED withheld the emails sent by Bilodeau and Donoghue under Exemption 7(A) because they discuss privileged information concerning open FSA investigations and related matters, with the exception of one portion of Bilodeau's email that contains information on a closed FSA investigation (and which, as a result, is not withheld under Exemption 7(A)).

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					<i>Justification – Exemption 7(A):</i> As noted above, ED withheld material under Exemption 7(A) because the withheld material discusses privileged information concerning several open FSA investigations and related matters. The disclosure of information about these investigations could interfere with FSA’s ability to investigate and take action and, with respect to the GCU investigation, to defend its position in an ongoing hearing with GCU concerning the investigation. ED also withheld the name of an attachment to Madaio’s email under Exemption 7(A), as the attachment name identifies the subject of an investigation and the investigation’s existence has not been disclosed to the public; disclosure of this information could interfere with FSA’s ability to conduct a fair, thorough investigation. See the Declaration of Christopher Madaio for greater detail.
6	REVISED ED 24-000550-F (Apr. 15, 2024)_000024 – REVISED ED 24-00550-F (Apr. 15, 2024)_000026	3	Amended Opening Memorandum for an FSA Enforcement Investigation (Unrelated to GCU Investigation)	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 7(A):</i> ED withheld in full, aside from the title and page numbers, an amended opening memorandum for an FSA investigation unrelated to the GCU investigation.</p> <p><i>Portion Withheld – Exemption 5:</i> ED withheld portions of an amended opening memorandum for an FSA investigation unrelated to the GCU investigation (specifically, on the first and second pages of the memorandum).</p> <p><i>Justification – Exemption 7(A):</i> The existence of an ongoing FSA enforcement investigation into the institution of higher education that is the subject of the investigation has not been made publicly available; thus, the disclosure of this memorandum could interfere with FSA’s ability to conduct a fair, thorough investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld under Exemption 5 certain portions of the opening memorandum that contain the recommendations, and selective facts and legal analysis to support those recommendations, of the Investigations Group to the Chief Enforcement Officer regarding the FSA investigation. The withheld information is part of the Department’s internal deliberative process in investigating and, as appropriate, taking enforcement action because of potential violations of the laws FSA enforces. Disclosure of this information would have a chilling effect on frank investigative discussions concerning FSA investigations. Such discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Attorney-Client Privilege –</i> ED also withheld under Exemption 5 certain portions of the opening memorandum that contain legal analysis and legal recommendations from the attorneys of the Investigations Group to the Chief Enforcement Officer regarding this FSA investigation. Release of this information would have a chilling effect on Department attorneys advising their clients, in writing, on legal matters.</p>
7	REVISED ED 24-00550-F (Apr. 15, 2024)_000027 – REVISED ED 24-00550-F (Apr. 15, 2024)_000028	2	<p>Emails from Christopher Madaio to Kristen Donoghue, copying Kathryn Johnson and Brad Middleton, Regarding the GCU Investigation and Recertification of GCU’s PPA</p> <p>Date: Nov. 28, 2022</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the majority of the contents of two emails from Madaio to Donoghue concerning the GCU investigation and GCU’s recertification of its PPA, as well as selective supporting facts concerning related matters.</p> <p><i>Portion Withheld – Exemption 7(A) Only:</i> In addition to the withheld material discussed above, ED withheld under Exemption 7(A) factual information related to GCU.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld under Exemption 5 certain contents of two emails from Madaio to Donoghue because the emails contain his mental impressions and recommendations concerning the GCU investigation and GCU’s recertification of its PPA, as well as selective supporting facts. The emails are part of the Department’s internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation, and in making a decision on recertification of GCU’s PPA. Disclosure of this information would have a chilling effect on frank investigative discussions concerning FSA investigations and could lead to confusion about the Department’s investigative decisions in the GCU investigation. Such discussions are central to FSA performing the core function of investigating and ensuring institutions’ compliance with the HEA. Disclosure also could lead to confusion about the Department’s decision with respect</p>

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					<p>to offering GCU a PPPA. This email is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU, the issuance of the fine action against GCU, and the Department's offer of a PPPA to GCU containing certain conditions. <u>Attorney-Client Privilege</u> – These also constitute attorney-client communications, as it contains legal advice and pertinent facts from Madaio, an attorney, to Donoghue, the Chief Enforcement Officer. Disclosure of this information would have a chilling effect on the attorney-client relationship between the Investigations Group and the Chief Enforcement Officer, which are central to FSA performing the core function of investigating and ensuring institutions' compliance with the HEA.</p> <p><i>Justification - Exemption 7(A):</i> ED withheld material under Exemption 7(A) because the GCU investigation remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
8	REVISED ED 24-00550-F (Apr. 15, 2024)_000029 – REVISED ED 24-00550-F (Apr. 15, 2024)_000030	2	<p>Emails Between Christoper Madaio, Kristen Donoghue, and Kathryn Johnson Concerning the GCU Investigation and a GCU Summary Memorandum</p> <p>Date: Dec. 5, 2022</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails between Madaio, Donoghue, and Johnson discussing strategies for work on the GCU investigation and information on another matter involving GCU. The emails also discuss revisions to a document about the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails are part of the Department's internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. This email is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU. The email from Johnson also discuss another matter involving GCU and make recommendations to the Chief Enforcement Officer regarding such matter as it relates to the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> The emails pertain to the GCU investigation and another matter as it relates to the GCU investigation. The GCU investigation remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
9	REVISED ED 24-00550-F (Apr. 15, 2024)_000036	1	<p>Emails Between Christopher Madaio and Kristen Donoghue Regarding the GCU Investigation</p> <p>Date: Dec. 5, 2022</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails between Madaio and Donoghue discussing strategies for work on the GCU investigation and information on other matters involving GCU as they related to the investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails described above are part of the Department's internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation, as well as in another matter involving GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. This email is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU.</p> <p><i>Justification – Exemption 7(A):</i> The withheld materials pertain to the GCU investigation. The GCU investigation remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

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10	REVISED ED 24-00550-F (Apr. 15, 2024)_000037	1	<p>Emails Between Christopher Madaio and Kristen Donoghue Regarding the GCU Investigation</p> <p>Date: Dec. 5, 2022</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails between Madaio and Donoghue discussing strategies for work on the GCU investigation and information on other matters involving GCU as they related to the investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails described above are part of the Department’s internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation, as well as in another matter involving GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. This email is antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU.</p> <p><i>Justification – Exemption 7(A):</i> The withheld materials pertain to the GCU investigation. The GCU investigation remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
11	REVISED ED 24-00550-F (Apr. 15, 2024)_000038 – REVISED ED 24-00550-F (Apr. 15, 2024)_000039	2	<ol style="list-style-type: none"> 1. Email from Christopher Madaio Regarding the GCU Investigation Date: Dec. 5, 2022 2. Email from Kristen Donoghue to Madaio, copying Michael Frola, Michael Marion, Martina Fernandez-Rosario, Deborah Harry, Benjamin Miller, Tariq Habash, Richard Cordray, Pam Eliadis, Hunter Wiggins, David Musser, Donna Mangold, Colleen McGinnis, Susan Crim, Colleen Nevin, Dawn Bilodeau, Nina Schichor, Denise Morelli, Brad Middleton, Samantha Shusterman, and Kathryn Johnson, Regarding the GCU Investigation Date: Dec. 5, 2022 3. Email from Donoghue to Harry, Marion, Frola, Fernandez-Rosario, Madaio, and Eliadis Regarding the GCU Investigation Date: Dec. 6, 2022, 7:12am 4. Email from Madaio to Donoghue Date: Dec. 6, 2022, 7:15am 5. Email from Donoghue to Madaio Date: Dec. 6, 2022, 7:16am 6. Email from Madaio to Donoghue Date: Dec. 6, 2022, 7:18am 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails from Madaio and Donoghue to other FSA officials, OGC attorneys, other ED officials, and each other that contain strategic discussions of the GCU investigation. They also discuss another FSA matter involving GCU, particularly as it related to the GCU investigation. ED also withheld a portion of the subject line of each email in this email thread.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of the referenced emails because they contain strategic discussions of the GCU investigation, as well as deliberative discussions of another matter involving GCU as it related to the GCU investigation. ED also withheld a portion of the subject line of the emails that could reveal the reason for the strategic discussions concerning the GCU investigation. Additionally, Madaio’s December 5, 2022 email contains preliminary conclusions and recommendations from FSA’s Investigations Group. These emails are part of the Department’s internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. These emails are antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department’s decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld this material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
12	REVISED ED 24-00550-F (Apr. 15, 2024)_000040 – REVISED ED 24-00550-F (Apr. 15, 2024)_000041	2	<p>Emails Between Christopher Madaio and Michael Tankersley, copying Kathryn Johnson, Sarah Angilello, and Naomi Takagi (on Tankersley’s email), Regarding FSA’s and FTC’s Investigations of GCU</p> <p>(Note: Tankersley and Takagi are attorneys for the FTC.)</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails between Madaio and an FTC attorney regarding FSA’s GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld this material because the emails contain strategic discussions of FSA’s GCU investigation and FTC’s separate investigation of GCU. ED withheld a portion of the subject lines of these emails, and the name of the document sent by Tankersley to Madaio, because the disclosure of such information would reveal the specific recommendation/strategy under discussion between FSA and FTC. The emails are part of the Department’s and the FTC’s deliberative process on their respective GCU investigations. Disclosure</p>

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			Date: Jan. 9 and 11, 2023		<p>of this information would have a chilling effect on frank intra- and inter-agency investigative discussions and coordination concerning law enforcement investigations. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. These emails are antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld this material because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing. ED also withheld this information because it pertains to an ongoing FTC enforcement proceeding – its lawsuit against GCU – and could interfere with the same.</p>
13	REVISED ED 24-00550-F (Apr. 15, 2024)_000042 – REVISED ED 24-00550-F (Apr. 15, 2024)_000044	3	<ol style="list-style-type: none"> 1. Email from Martina Fernandez-Rosario Regarding Collaboration Meetings (and GCU Investigation and Another, Unrelated Investigation) Date: Mar. 3, 2023 2. Email from Sarah Angilello to Fernandez-Rosario, copying Jan Brandow, Regarding Collaboration Meetings (and GCU Investigation and Another, Unrelated Investigation) Date: Mar. 3, 2023 3. Email from Fernandez-Rosario to Angilello, copying Jan Brandow Date: Mar. 3, 2023 4. Email from Angilello to Christopher Madaio and Brad Middleton Date: Mar. 3, 2023 5. Email from Madaio to Kristen Donoghue, copying Middleton, Colleen Nevin, Angilello, and Kathryn Johnson, Regarding Meeting Request from SEOSG (and GCU Investigation and Another, Unrelated Investigation) Date: Mar. 4, 2023 6. Email from Donoghue to Madaio, copying Middleton, Colleen Nevin, Angilello, and Kathryn Johnson Date: Mar. 5, 2023 7. Email from Madaio to Donoghue, copying Middleton, Colleen Nevin, Angilello, and Kathryn Johnson Date: Mar. 5, 2023 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld emails between Fernandez-Rosario and Angilello and between Madaio and Donoghue that contain strategic discussions about the GCU investigation and about enforcement work involving another institution, unrelated to GCU, in connection with an SEOSG meeting on other FSA matters relating to GCU and the other institution.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld portions of Fernandez-Rosario's emails to Angilello and Angilello's reply, as well as portions of Madaio's March 4 email to Donoghue and Donoghue's reply that contain discussion of the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> As noted above, ED withheld emails between Fernandez-Rosario and Angilello and between Madaio and Donoghue that contain strategic discussions about the GCU investigation and about enforcement work involving another institution, unrelated to GCU, in connection with an SEOSG meeting on other FSA matters relating to GCU and the other institution. The emails contain discussion of strategy and preliminary recommendations on the GCU investigation, as well as preliminary discussions, recommendations, and opinions concerning other FSA matters relating to GCU and the other institution. All of the emails are part of the Department's deliberative process in determining what, if any, actions to take as a result of the GCU investigation and the enforcement work involving another institution, as well as the other FSA matters relating to GCU and the other institution. The withheld material is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating the fine against GCU. The release of this information would have a chilling effect on the exchange of frank views and recommendations concerning ongoing FSA investigations and other FSA matters between FSA employees. Such discussions are central to FSA performing the core function of investigating and enforcing institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – Fernandez-Rosario's March 3 emails and Madaio's March 4 email identify areas for legal consultation with OGC on the aforementioned matters; for this reason, they constitute attorney-client communications. Release of this material would discourage non-attorneys from discussing with each other areas on which legal advice should or will be sought. Additionally, Madaio's March 4 email constitutes an attorney-client communication to Donoghue, the Chief Enforcement Officer, as it contains recommendations concerning the GCU investigation and another Investigations Group matter.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

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14	REVISED ED 24-00550-F (Apr. 15, 2024)_000045	1	Email from Christopher Madaio to Susan Crim, copying Sarah Angilello and Kathryn Johnson, Concerning the GCU Investigation Date: March 17, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld strategic discussions about the GCU investigation between Madaio and Crim, as it related to another FSA matter involving GCU. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – As noted above, ED withheld strategic discussions about the GCU investigation between Madaio and Crim, as it related to another FSA matter involving GCU. These discussions are antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. The withheld material is part of FSA’s deliberative process of investigating GCU and determining what, if any, action to recommend against GCU. The release of this information would have a chilling effect on frank investigative discussions concerning ongoing FSA investigations between FSA employees. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Justification – Exemption 7(A):</i> ED withheld material because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
15	REVISED ED 24-00550-F (Apr. 15, 2024)_000046 – REVISED ED 24-00550-F (Apr. 15, 2024)_000047	2	Emails to and from Christopher Madaio and Kristen Donoghue, copying Sarah Angilello and Kathryn Johnson, Concerning the GCU Investigation Date: March 21 and 22, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of email from Madaio to Donoghue that contain strategic discussions about the GCU investigation. ED also withheld portions of the subject lines of the emails. <i>Portion Withheld – Exemption 7(A) Only:</i> ED also withheld an email from Donoghue to Madaio, and Madaio’s response, that contains information pertaining to the GCU investigation. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld this material because it contains strategic discussions about the GCU investigation, or, with respect to the subject lines of the emails, would reveal the nature of the strategic discussion. The withheld material is part of FSA’s deliberative process of investigating GCU and determining what, if any, action to recommend against GCU. This email is antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. The release of this information would have a chilling effect on frank investigative strategy discussions concerning ongoing FSA investigations between FSA employees. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
16	REVISED ED 24-00550-F (Apr. 15, 2024)_000048	1	Emails to and from Christopher Madaio and Kristen Donoghue, copying Sarah Angilello, providing an update on the GCU investigation Date: April 4 and 5, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld an email from Madaio to Donoghue. <i>Portion Withheld – Exemption 7(A) Only:</i> ED withheld (other than the material referenced above) an email from Madaio to Donoghue and Donoghue’s response that contain discussions of the GCU investigation and a related matter. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld Madaio’s first email to Donoghue because it contains discussion of a question to Madaio, and Madaio’s recommendation, related to the GCU investigation and another FSA matter involving GCU. The withheld material is part of FSA’s deliberative process of investigating GCU and determining what, if any, action to

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					<p>recommend against GCU. The release of this information would have a chilling effect on frank investigative discussions concerning ongoing FSA investigations between FSA employees.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
17	REVISED ED 24-00550-F (Apr. 15, 2024)_000049	1	<p>Emails to and from Christopher Madaio and Kristen Donoghue, concerning the GCU investigation, including a draft status memorandum on the investigation</p> <p>Date: Apr. 5 and 6, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld under Exemptions 5 and 7(A) Madaio’s email to Donoghue and the majority of Donoghue’s response to Madaio.</p> <p><i>Portion Withheld – Exemption 7(A) Only:</i> In addition to the material described above, ED withheld under Exemption 7(A) the final line of Donoghue’s email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of emails between Madaio and Donoghue that contain strategic discussions about the GCU investigation, including discussion of a draft status memorandum. These emails are antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. The withheld material is part of FSA’s deliberative process of investigating GCU and determining what, if any, action to recommend against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. The release of this information would have a chilling effect on frank investigative discussions concerning ongoing FSA investigations between FSA employees. Such discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Attorney-Client Privilege</i> – Madaio’s email to Donoghue also constitutes an attorney-client communication as it transmits to Donoghue, the Chief Enforcement Officer, a draft status memorandum with explanation for the contents of the memorandum.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
18	REVISED ED 24-00550-F (Apr. 15, 2024)_000050 – REVISED ED 24-00550-F (Apr. 15, 2024)_000052	3	<ol style="list-style-type: none"> 1. Email from Christopher Madaio to Martina Fernandez-Rosario, Michael Frola, Adam Quinn, Jane Eldred, Kerry O’Brien, Susan Crim, Christina Fredrick, Donna Mangold, John Bailey, and Christle Sheppard Southall, copying Sarah Angilello, Kathryn Johnson, Colleen Nevin, Brad Middleton, and Kristen Donoghue, Regarding a Status Update Memorandum in the GCU Investigation Date: Apr. 7, 2023 2. Email from Fernandez-Rosario to Madaio, copying Angilello, Donoghue, Johnson, Nevin, Middleton, Frola, Quinn, Eldred, O’Brien, Crim, Fredrick, 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld under Exemption 5 the following emails, or portions thereof, because they contain strategic discussion on actions to take in the GCU investigation and another FSA matter involving GCU: Fernandez-Rosario’s April 7, 2023, 4:46pm email; Madaio’s April 10, 5:59am email; Fernandez-Rosario’s April 10, 2023, 11:18am email; Donoghue’s April 10, 2023, 3:21pm email; and Madaio’s April 10, 2023, 3:34pm email.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED also withheld the foregoing emails, as well a portion of Madaio’s April 7, 2023, 1:35pm email, Fernandez-Rosario’s April 10, 2023, 6:23am email, and Madaio’s April 10, 2023, 11:26am email, under Exemption 7(A).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – As noted above ED withheld the identified emails under Exemption 5 because they contain strategic discussion on actions to take in the GCU investigation, as well as deliberative discussions related to another FSA matter involving GCU. These emails are part of the Department’s internal deliberative process related to the GCU investigation and another FSA matter involving GCU. These discussions are antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of these emails would have a chilling effect on</p>

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			<p>Mangold, Bailey, and Sheppard Southall Date: Apr. 7, 2023</p> <p>3. Email from Madaio to Fernandez-Rosario, copying Angilello, Donoghue, Johnson, Nevin, Middleton, Frola, Quinn, Eldred, O'Brien, Crim, Fredrick, Mangold, Bailey, and Sheppard Southall Date: Apr. 10, 2023</p> <p>4. Email from Fernandez-Rosario to Madaio Date: Apr. 10, 2023, 6:23am</p> <p>5. Email from Fernandez-Rosario to Madaio Date: Apr. 10, 2023, 11:18am</p> <p>6. Email from Madaio to Donoghue, copying Angilello Date: Apr. 10, 2023, 11:26am</p> <p>7. Email from Donoghue to Madaio, copying Angilello Date: Apr. 10, 2023, 3:21pm</p> <p>8. Email from Madaio to Donoghue, copying Angilello Date: Apr. 10, 2023, 3:34pm</p>		<p>frank investigative discussions among Department staff concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA, and discussion of other matters is key to ensuring FSA carries out its duties to ensure compliance with the HEA and other Federal laws affecting title IV programs.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains information concerning, or that connected to, the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
19	REVISED ED 24-00550-F (Apr. 15, 2024)_000053	1	<p>Email from Christopher Madaio to Kristen Donoghue Regarding the GCU Investigation, Which Forwards an Email from Donna Mangold to Madaio Concerning GCU</p> <p>Date: May 5 and 7, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld the final sentence of Madaio's email.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld the contents of Madaio's email to Donoghue, as well as a portion of the subject line and the name of file attached to the email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld the final sentence of Madaio's email as it contains strategic discussion of a matter relevant to the GCU investigation. Disclosure of this information would have a chilling effect on frank discussions among Department staff of matters relevant to FSA investigations. Such discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) as it pertains to factual information of a matter relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. (The material withheld under Exemption 7(A) only is factual in nature.) The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
20	REVISED ED 24-00550-F (Apr. 15, 2024)_000054	1	<p>Email from Christopher Madaio to Kristen Donoghue Regarding the GCU Investigation, Which Forwards an Email from Donna Mangold to Madaio Concerning GCU</p> <p>Date: May 5 and 7, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld the final sentence of Madaio's email.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld the contents of Madaio's email to Donoghue, as well as a portion of the subject line and the name of file attached to the email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld the final sentence of Madaio's email as it contains strategic discussion of a matter relevant to the GCU investigation. Disclosure of this information would have a chilling effect on frank discussions among Department staff of matters relevant to FSA investigations. Such discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p>

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					<i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) as it pertains to factual information of a matter relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. (The material withheld under Exemption 7(A) only is factual in nature.) The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
21	REVISED ED 24-00550-F (Apr. 15, 2024)_000055	1	<p>Emails Between Christopher Madaio and Kristen Donoghue Regarding the GCU Investigation, Including a Forwarded Email from Donna Mangold to Madaio Concerning GCU</p> <p>Date: May 5 and 7, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld the final sentence of Madaio’s email. ED also withheld the final sentence of Donoghue’s email.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld the contents of Madaio’s email to Donoghue and Donoghue’s email to Madaio, as well as a portion of the subject line of each email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld the final sentence of Madaio’s email and the final sentence of Donoghue’s email as they contain strategic discussion of a matter relevant to the GCU investigation. Disclosure of this information would have a chilling effect on frank discussions among Department staff of matters relevant to FSA investigations. Such discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) as it pertains to information of a matter relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. (The material withheld under Exemption 7(A) only is factual in nature.) The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
22	REVISED ED 24-00550-F (Apr. 15, 2024)_000056	1	<p>Emails Between Christopher Madaio and Kristen Donoghue Regarding the GCU Investigation, Including a Forwarded Email from Donna Mangold to Madaio Concerning GCU</p> <p>Date: May 5 and 7, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld the final sentence of Madaio’s email. ED also withheld the final sentence of Donoghue’s email.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld the contents of Madaio’s email to Donoghue and Donoghue’s email to Madaio, as well as a portion of the subject line of each email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld the final sentence of Madaio’s email and the final sentence of Donoghue’s email as they contain strategic discussion of a matter relevant to the GCU investigation. Disclosure of this information would have a chilling effect on frank discussions among Department staff of matters relevant to FSA investigations. Such discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) as it pertains to information of a matter relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. (The material withheld under Exemption 7(A) only is factual in nature.) The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
23	REVISED ED 24-00550-F (Apr. 15, 2024)_000057 – REVISED ED 24-00550-F (Apr. 15, 2024)_000059	3	<p>1. Email from Christopher Madaio to Christle Sheppard Southall, Donna Mangold, and John Bailey Regarding the GCU Investigation</p> <p>Date: Apr. 28, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld almost in full emails between Madaio and OGC attorneys and between Madaio and Donoghue, as well as portion of the subject line of each email.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege -</i> ED withheld emails between Madaio and OGC attorneys because they solicit and provide legal advice concerning the GCU investigation, and which discuss the process for providing that advice. ED also withheld Madaio’s May 7, 2023, 8:20pm</p>

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			<ol style="list-style-type: none"> Email from Mangold to Madaio, copying Christle Sheppard Southall Date: May 4, 2023, 8:56pm Email from Madaio to Mangold, copying Sheppard Southall Date: May 4, 2023, 9:01pm Email from Mangold to Madaio, copying Sheppard Southall Date: May 4, 2023, 9:05pm Email from Madaio to Mangold, copying Sheppard Southall Date: May 4, 2023, 9:07pm Email from Mangold to Madaio, copying Sheppard Southall Date: May 5, 2023, 5:21pm Email from Madaio to Donoghue Date: May 6, 2023 Email from Donoghue Date: May 7, 2023 Email from Madaio to Donoghue Date: May 7, 2023, 8:20pm 		<p>email to Donoghue which discusses OGC's advice concerning the GCU investigation and contains Madaio's impressions on implementing such advice. The emails constitute attorney-client communications. Disclosure would have a chilling effect on communications between FSA attorneys and their clients and between FSA officials and OGC attorneys seeking or providing legal advice. <u>Deliberative Process Privilege</u> – The emails between Madaio and OGC are also part of the Department's internal deliberative process on the GCU investigation, as they solicit and contain recommendations regarding the GCU investigation and the process for providing such recommendations. ED also withheld emails between Madaio and Donoghue discussing OGC's advice concerning the GCU investigation and additional strategic discussions regarding the GCU investigation. The emails are also part of the Department's internal deliberative process on the GCU investigation. ED also withheld a portion of the subject line of each of the emails in this email thread, as the disclosure of this information would reveal the specific aspect of the GCU investigation being discussed by FSA and OGC attorneys. Disclosure of this information would have a chilling effect on frank investigative discussions among Department staff on FSA investigations. Such discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
24	REVISED ED 24-00550-F (Apr. 15, 2024)_000060 – REVISED ED 24-00550-F (Apr. 15, 2024)_000062	3	<ol style="list-style-type: none"> Email from Christopher Madaio to Christle Sheppard Southall, Donna Mangold, and John Bailey, copying Kristen Donoghue, Sarah Angilello, and Kathryn Johnson, Regarding the GCU Investigation Date: Apr. 28, 2023 Email from Mangold to Madaio, copying Sheppard Southall Date: May 4, 2023, 8:56pm Email from Madaio to Mangold, copying Sheppard Southall Date: May 4, 2023, 9:01pm Email from Mangold to Madaio, copying Sheppard Southall Date: May 4, 2023, 9:05pm Email from Madaio to Mangold, copying Sheppard Southall Date: May 4, 2023, 9:07pm Email from Mangold to Madaio, copying Sheppard Southall Date: May 5, 2023, 5:21pm Email from Madaio to Donoghue Date: May 6, 2023 Email from Donoghue Date: May 7, 2023 Email from Madaio to Donoghue Date: May 7, 2023, 8:20pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld almost in full emails between Madaio and OGC attorneys and between Madaio and Donoghue, as well as portion of the subject line of each email.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> - ED withheld emails between Madaio and OGC attorneys because they solicit and provide legal advice concerning the GCU investigation, and which discuss the process for providing that advice. ED also withheld Madaio's May 7, 2023, 8:20pm email to Donoghue which discusses OGC's advice concerning the GCU investigation and contains Madaio's impressions on implementing such advice. The emails constitute attorney-client communications. Disclosure would have a chilling effect on communications between FSA attorneys and their clients and between FSA officials and OGC attorneys seeking or providing legal advice. <u>Deliberative Process Privilege</u> – The emails between Madaio and OGC are also part of the Department's internal deliberative process on the GCU investigation, as they solicit and contain recommendations regarding the GCU investigation and the process for providing such recommendations. ED also withheld emails between Madaio and Donoghue discussing OGC's advice concerning the GCU investigation and additional strategic discussions regarding the GCU investigation. The emails are also part of the Department's internal deliberative process on the GCU investigation. ED also withheld a portion of the subject line of each of the emails in this email thread, as the disclosure of this information would reveal the specific aspect of the GCU investigation being discussed by FSA and OGC attorneys. Disclosure of this information would have a chilling effect on frank investigative discussions among Department staff on FSA investigations. Such discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

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25	REVISED ED 24-00550-F (Apr. 15, 2024)_000063 – REVISED ED 24-00550-F (Apr. 15, 2024)_000067	5	<ol style="list-style-type: none"> 1. Email from Donna Mangold to Christopher Madaio Regarding GCU Date: May 5, 2023 2. Email from Madaio to Frola Regarding GCU Date: May 7, 2023 3. Email from Frola to Madaio, Kristen Donoghue, and Sarah Angilello Date: May 8, 2023, 10:00am 4. Email from Madaio to Frola, Donoghue, and Angilello Date: May 8, 2023, 3:59pm 5. Email from Frola to Madaio, Donoghue, Angilello, and Mangold Date: May 8, 2023, 4:49pm 6. Email from Donoghue to Frola, Madaio, Angilello and Mangold Date: May 8, 2023, 4:52pm 7. Email from Frola to Donoghue, Madaio, Angilello, and Mangold Date: May 8, 2023, 5:00pm 8. Email from Donoghue to Frola, Madaio, Angilello, and Mangold Date: May 8, 2023, 7:40pm 9. Email from Frola to Donoghue, Madaio, Angilello, Mangold, and Martina Fernandez-Rosario Date: May 9, 2023, 7:06am 10. Email from Madaio to Frola, Donoghue, Angilello, Mangold, and Fernandez-Rosario Date: May 9, 2023, 7:08am 11. Email from Donoghue Date: May 9, 2023, 8:18am 12. Email from Madaio to Donoghue Date: May 9, 2023, 8:27am 13. Email from Donoghue Date: May 9, 2023, 8:27am 14. Email from Madaio to Donoghue Date: May 9, 2023, 8:34am 15. Email from Donoghue to Madaio Date: May 9, 2023, 10:08am 16. Email from Madaio; to Donoghue Date: May 9, 2023, 11:02am 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld emails between Frola, Madaio, and Donoghue concerning the GCU investigation and GCU’s recertification (as well as a program review involving GCU) that contain strategic discussion of the GCU investigation, and pre-decisional, deliberative discussions regarding recertification.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED also withheld under Exemption 7(A) portions of Donoghue’s May 8, 2023, 7:40pm email and May 9, 2023, 8:18am email, Madaio’s May 9, 2023, 7:08am and 8:27am emails, and Frola’s May 9, 7:06am email, which contain coordinating discussions on the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld emails between Frola, Madaio, and Donoghue concerning the GCU investigation and GCU’s recertification (as well as a program review involving GCU) because the emails contain strategic discussion of the GCU investigation, and pre-decisional, deliberative discussions regarding recertification. This email is antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU, and to the Department’s issuance of a PPPA to GCU containing certain conditions. The emails are part of the Department’s internal deliberative process on the GCU investigation, and GCU’s recertification. Disclosure of this information would have a chilling effect on frank discussions between FSA employees concerning ongoing FSA investigations, and regarding recertification, particularly where those matters may be pertinent to one another. ED withheld emails between Madaio and Donoghue because they contain strategic discussion of the GCU investigation, specifically as it relates to the process for certain aspects of the GCU investigation, as well as the Investigations Group’s investigations more generally. The emails are part of the Department’s internal deliberative process on the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions between FSA employees concerning ongoing FSA investigations.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld under Exemption 7(A) portions of Donoghue’s May 8, 2023, 7:40pm email and May 9, 2023, 8:18am email, Madaio’s May 9, 2023, 7:08am and 8:27am emails, and Frola’s May 9, 7:06am email because the emails contain coordinating discussions on the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
26	REVISED ED 24-00550-F (Apr. 15, 2024)_000068 – REVISED ED 24-00550-F (Apr. 15, 2024)_000070	3	<p>Emails Between Christopher Madaio and Kristen Donoghue, copying Sarah Angilello, Regarding a Notice Letter to GCU</p> <p>Date: May 9, 10, 11, and 12, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails between Madaio and Donoghue regarding a notice letter to be sent to GCU in the GCU investigation. ED also withheld a portion of the subject lines of the emails between Madaio and Donoghue.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld emails between Madaio and Donoghue regarding a notice letter to be sent to GCU in the GCU investigation because the emails contain strategic discussions of and recommendations regarding the contents of the notice</p>

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					<p>letter, which had not yet been issued to GCU. ED also withheld a portion of the subject line of each email in the thread as this information would reveal the specific nature of the discussion between Madaio and Donoghue on the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions between FSA employees concerning ongoing FSA investigations, and such discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. Specifically, release would discourage the Investigations Group and Chief Enforcement Officer from exchanging their views on and recommendations regarding communications with the subjects of investigations, which hinder the quality and accuracy of such communications. <u>Attorney-Client Communications</u> – The emails between Madaio and Donoghue also constitute attorney-client communications because Madaio provided legal advice and information on the draft letter to Donoghue and answered questions from Donoghue regarding the same; Donoghue's email provides feedback on the letter based on Madaio's emails and the letter itself (which was drafted by the Investigations Group) prior to finalization. Release of such information would have a chilling effect on the attorney-client relationship between Investigations Group attorneys and the Chief Enforcement Officer, as attorneys may be less willing to share their advice and draft documents if they will be made public.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
27	REVISED ED 24-00550-F (Apr. 15, 2024)_000071	1	<p>Email from Christopher Madaio to Michael Tankersley, an FTC attorney, copying Sarah Angilello, Forwarding an Email Regarding FSA's GCU Investigation</p> <p>Date: May 12, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld an email, which forwarded another email, from Madaio to an FTC attorney concerning FSA's GCU investigation, as well as the email's subject line and the name of an attachment.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the aforementioned content because the disclosure of this information would reveal the nature of specific issue in the GCU investigation about which FSA engaged in deliberations with FTC attorneys. The email is part of the Department's deliberative process on the GCU investigation. Disclosure of this information would have a chilling effect on frank intra- and inter-agency investigative discussions and coordination concerning FSA investigations; would reveal communications between attorneys related to the ongoing GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing. ED also withheld this information because it pertains to an ongoing FTC enforcement proceeding – its lawsuit against GCU – and could interfere with the same.</p>
28	REVISED ED 24-00550-F (Apr. 15, 2024)_000072	1	<p>1. Email from Christopher Madaio to Maria Rodriguez and Nina Schichor, copying Kristen Donoghue, Sarah Angilello, Kathryn Johnson, Colleen Nevin, and Susan Crim, Regarding the GCU Investigation</p> <p>Date: May 15, 2023</p> <p>(Note: At the time of the email, Rodriguez was Director of the Resolution and Referral</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails from Madaio to Rodriguez and Schichor and from Donoghue to Cordray.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the emails from Madaio and Donoghue because they contain strategic discussion of the GCU investigation and contains Madaio's selective summary of pertinent information. This discussion was antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. These emails are part of the Department's internal deliberative process on the GCU investigation. Disclosure of this information would have a chilling effect on frank discussions between FSA employees concerning ongoing FSA investigations,</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			Management Group and Schichor worked in FSA Enforcement.) 2. Email from Donoghue to Richard Cordray Regarding the GCU Investigation Date: May 17, 2023		including keeping the Chief Operating Officer informed of pertinent information in advance of asking the Chief Operating Officer to make decisions regarding such investigations. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
29	REVISED ED 24-00550-F (Apr. 15, 2024)_000073 – REVISED ED 24-00550-F (Apr. 15, 2024)_000074	2	1. Email from David Obuchowicz, counsel for GCU, to Christopher Madaio, copying Steve Chema and Steven Gombos, counsel for GCU, Regarding the GCU Investigation Date: May 17, 2023 2. Email from Madaio to Kristen Donoghue, Donna Mangold, and Christle Sheppard Southall, copying Sarah Angilello and Kathryn Johnson, Regarding the GCU Investigation Date: May 17, 2023, 5:15pm 3. Email from Donoghue to Madaio, Mangold, and Sheppard Southall, copying Angilello and Johnson Date: May 17, 2023, 8:25pm 4. Email from Madaio to Donoghue, copying Angilello and Johnson Date: May 17, 2023, 9:24pm	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld an email from Madaio to other FSA attorneys and OGC attorneys, Donoghue’s response, and Madaio’s email to Donoghue (copying Angilello and Johnson). <i>Portion Withheld – Exemption 7(A) Only:</i> ED also withheld the name of an attachment that Madaio circulated to other FSA Enforcement officials. <i>Justification – Exemption 5: Attorney Work-Product Privilege</i> – ED withheld an email from Madaio to other FSA attorneys and OGC attorneys because they describe Madaio’s mental impressions and conclusions regarding the GCU investigation and strategy recommendations about which Madaio solicited other attorneys’ and the Chief Enforcement Officer’s feedback. The email was sent in reasonable anticipation of litigation with GCU regarding the investigation. ED similarly withheld Madaio’s email to Donoghue (copying Angilello and Johnson) because it describes Madaio’s mental impressions and conclusions regarding the GCU investigation and potential strategy. <u>Deliberative Process Privilege</u> – ED withheld the aforementioned emails because they contain strategic discussions and recommendations, or request advice on, the GCU investigation. The emails are part of the Department’s internal deliberative process on the GCU investigation and the discussions were antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing. ED also withheld the name of an attachment that Madaio circulated to other FSA Enforcement officials because it could reveal information upon which FSA relied in the GCU investigation and the release of such information could interfere with the Department’s ability to defend itself an ongoing hearing about the GCU fine.
30	REVISED ED 24-00550-F (Apr. 15, 2024)_000075 – REVISED ED 24-00550-F (Apr. 15, 2024)_000076	2	Letter from Christopher Madaio to the Subject of an FSA Investigation Unrelated to the GCU Investigation Date: Oct. 27, 2022	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld in full a copy of correspondence sent to the subject of an FSA investigation unrelated to the GCU investigation. <i>Justification – Exemption 7(A):</i> The disclosure of this information reasonably could interfere with that investigation.
31	REVISED ED 24-00550-F (Apr. 15, 2024)_000077	1	Email from Christopher Madaio to Susan Crim, copying Kathryn Johnson, Regarding the GCU Investigation Date: June 15, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a portion of Madaio’s email to Crim, as well as portion of the subject line of the email, that described a specific issue related to the GCU investigation that FSA wanted to discuss with OGC. <i>Justification – Exemption 5: Attorney-Client Privilege</i> – Disclosure of this information would reveal the nature of the issue about which FSA intended to seek OGC’s legal advice, which would have a chilling effect on the attorney-client relationship between OGC and FSA. <u>Deliberative Process</u>

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					<p><u>Privilege</u> – Disclosure of this information would also have a chilling effect on frank discussions between FSA employees concerning ongoing FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. This email is antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
32	REVISED ED 24-00550-F (Apr. 15, 2024)_000078	1	<ol style="list-style-type: none"> 1. Email from David Obuchowicz, counsel for GCU, to Christopher Madaio, copying Steven Gombos and Kendra Guiry, counsel for GCU, Regarding the GCU Investigation Date: June 21, 2023 2. Email from Christopher Madaio to Susan Crim, Kerry O’Brien, and Christina Fredrick, copying Sarah Angilello, Regarding the GCU Investigation Date: June 22, 2023 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld Madaio’s email to Crim, O’Brien, and Fredrick. ED also withheld the name of attachments to that email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld Madaio’s email because it contains strategic discussion of the GCU investigation and contains description of FSA’s strategy with respect to the GCU investigation. The Department also withheld the names of attachments sent by Madaio to Crim, O’Brien, and Fredrick as it would reveal the nature of the strategic discussion and strategy in Madaio’s email. This email is antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU. This email is part of the Department’s internal deliberative process on the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions between FSA employees concerning ongoing FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
33	REVISED ED 24-00550-F (Apr. 15, 2024)_000079 – REVISED ED 24-00550-F (Apr. 15, 2024)_000080	2	<p>Emails Between Christopher Madaio and Kristen Donoghue Concerning the GCU Investigation Following a Meeting with OGC</p> <p>Date: June 22, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of Madaio’s June 22, 2023, 5:01pm email to Donoghue, as well as portion of the subject line of each email between Madaio and Donoghue.</p> <p><i>Justification – Exemption 5: Attorney Work-Product Privilege</i> – ED withheld the referenced email because it describes an attorney’s, Madaio’s, mental impressions and conclusions regarding the GCU investigation and strategy recommendations presented by Madaio to Donoghue, the Chief Enforcement Officer, for feedback. The email was sent in reasonable anticipation of litigation with GCU regarding the investigation. A portion of the subject line of each email was withheld to prevent the reveal of the specific subject on which Madaio was providing his thoughts and recommendations. <u>Deliberative Process Privilege</u> - This email, which contains discussions antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU, is part of the Department’s internal deliberative process on the GCU investigation. A portion of the subject line of each email was withheld to prevent the reveal of the specific subject on which Madaio was providing his thoughts and recommendations. Disclosure of this information would have a chilling effect on frank investigative discussions between FSA employees concerning ongoing FSA investigations, and such discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine</p>

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					initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
34	REVISED ED 24-00550-F (Apr. 15, 2024)_000081 – REVISED ED 24-00550-F (Apr. 15, 2024)_000083	3	Emails Between Christopher Madaio and Susan Crim, copying Sarah Angilello and Kathryn Johnson, Regarding Potential Conditions for GCU's PPPA and the GCU Investigation Date: June 25 and 29, 2023	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld the contents of Madaio's June 25, 2023, 5:16pm email, and almost all of Crim's June 29, 12:04pm email and Madaio's June 29, 1:19pm email, under Exemption 5.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld portions of the contents Madaio's June 25, 2023, 5:16pm email, and almost all of the contents of Crim's June 29, 12:04pm email and Madaio's June 29, 1:19pm email under Exemption 7(A).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> - ED withheld emails between Madaio and Crim concerning potential conditions for GCU's PPPA because the emails contain discussions of conditions that FSA was contemplating, but had not yet finalized, and views on those conditions as a result of FSA's work to that point on the GCU investigation. These discussions are part of the Department's internal deliberative process on GCU's PPPA, and also contain discussion, antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU, on the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. Additionally, disclosure would have a chilling effect on frank discussions and exchange of views and recommendations regarding institutions' PPAs and could lead to confusion about the Department's decisions with respect to GCU's PPPA. <i>Attorney-Client Privilege</i> – Crim's June 29, 12:04pm email and Madaio's June 29, 1:19pm email identify some areas on which FSA indicated they were likely to consult with OGC for legal advice, and thus contain material protected by the attorney-client privilege. Disclosure would have a chilling effect on Department employees that would deter them from identifying, in emails, areas that may benefit from OGC legal advice.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing</p>
35	REVISED ED 24-00550-F (Apr. 15, 2024)_000084 – REVISED ED 24-00550-F (Apr. 15, 2024)_000087	4	Emails Between Christopher Madaio, Sarah Angilello, and Michael Tankersley and Naomi Takagi, FTC attorneys, Concerning FSA's GCU Investigation Date: May 22 and June 20, 26, 27, and 29, 2023	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails between Madaio, Angilello, and Tankersley (and, in some emails, Takagi). ED also withheld a portion of the subject line of each of the emails in this exchange.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld portions of emails between Madaio and Angilello and FTC attorneys because they contain strategic discussions regarding FSA's GCU investigation and the FTC's separate investigation of GCU. ED also withheld a portion of the subject line of each of the emails in this exchange because the release of that information would reveal the specific issue about which FSA attorneys contacted FTC attorneys concerning the GCU investigation. The emails are part of the Department's and the FTC's deliberative process on their respective GCU investigations. These emails are antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank intra- and inter-agency investigative discussions and coordination concerning FSA investigations, which would reduce the sharing of potentially relevant investigative information and recommendations, leading to less effective enforcement of Federal law. Such investigative discussions are key to FSA effectively performing the core function of investigating institutions' compliance with the HEA.</p>

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					<i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing. ED also withheld this information because it pertains to an ongoing FTC enforcement proceeding – its lawsuit against GCU – and could interfere with the same.
36	REVISED ED 24-00550-F (Apr. 15, 2024)_000088	1	Emails between Christopher Madaio and Kristen Donoghue Regarding the GCU Investigation Date: July 5, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails between Madaio and Donoghue. <i>Justification – Exemption 5: Deliberative Process Privilege</i> - ED withheld emails between Christopher Madaio and Kristen Donoghue because they contain strategic discussions of the GCU investigation and reflect their thoughts regarding the GCU investigation. The emails are part of the Department’s internal deliberative process on the GCU investigation and are antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. The emails also make reference to an update on work in another matter involving an unrelated institution, as well. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
37	REVISED ED 24-00550-F (Apr. 15, 2024)_000089	1	Emails between Christopher Madaio and Kristen Donoghue Regarding the GCU Investigation Date: July 9 and 10, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails between Madaio and Donoghue and a portion of the subject line of each email in the exchange. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld emails between Madaio and Donoghue because they contain strategic discussions of the GCU investigation and reflect their thoughts regarding the GCU investigation. ED also withheld a portion of the subject line of each of the emails in this exchange because the release of that information would reveal the specific issue that Madaio and Donoghue were discussing. The emails are part of the Department’s internal deliberative process on the GCU investigation and are antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney Work-Product Privilege</u> – Madaio’s emails are also attorney work-product, as the emails were drafted in reasonable anticipation of litigation with GCU regarding the investigation, and convey Madaio’s views pertaining to the GCU investigation. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
38	REVISED ED 24-00550-F (Apr. 15, 2024)_000090	1	1. Email from Martina Fernandez-Rosario to Christopher Madaio, Sarah Angilello, and	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of an email from Fernandez-Rosario to Madaio, Angilello, and Middleton.

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Brad Middleton, copying Michael Frola and Shein Dossa, Regarding GCU's Recertification Application Date: July 27, 2023 (Note: Dossa works in SEOSG.)</p> <p>2. Email from Madaio to Kristen Donoghue forwarding Fernandez-Rosario's email Date: July 27, 2023</p>		<p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of an email from Fernandez-Rosario to Madaio, Angilello, and Middleton because it contains deliberative discussions of GCU's recertification application and its intersection with the GCU investigation. The email is part of the Department's internal deliberative process on the GCU investigation and GCU's recertification application. The release of this document would have a chilling effect on frank investigative discussions among Department employees on FSA investigations and other FSA matters, including recertification, to the extent they may intersect. Such discussions are central to FSA performing the core function of investigating and ensuring institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
39	REVISED ED 24-00550-F (Apr. 15, 2024)_000091 – REVISED ED 24-00550-F (Apr. 15, 2024)_000093	3	FSA Recertification Meeting Agenda for August 2, 2023	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld in full the agenda for an FSA recertification (of program participation agreement) and change in ownership (CIO) meeting.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld the first page of the aforementioned agenda under Exemption 7(A).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full the agenda for an FSA recertification and CIO meeting because it identifies recertification and CIO cases that required internal discussion, including GCU's PPA recertification, and contains recommendations and selective facts regarding those cases. The agenda also contains information on and strategic discussion of the GCU investigation. This document is part of the Department's internal deliberative process on recertification and CIO cases as well as the GCU investigation. The disclosure of this document would have a chilling effect on frank discussions among FSA employees regarding recertification and CIO matters, as well as FSA investigations, before final decisions are issued in such matters. Such frank discussions are key to FSA's mission of ensuring compliance with the Federal laws related to title IV programs and ensuring such programs are administered appropriately.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld one page of the agenda under Exemption 7(A) (in addition to Exemption 5) because it contains discussion of an open program review involving GCU and it contains strategic discussions of the GCU investigation, which remains open and is currently the subject of an ongoing appeal before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing. The release of such material while a program review of GCU remains ongoing reasonably could interfere with the Department's ability to complete a fair, thorough program review.</p>
40	REVISED ED 24-00550-F (Apr. 15, 2024)_000094 – REVISED ED 24-00550-F (Apr. 15, 2024)_000095	2	<p>1. Email from Christopher Madaio to Martina Fernandez-Rosario and Michael Frola, copying Kristen Donoghue, Sarah Angilello, and Brad Middleton, Regarding Draft Recommendation Memorandum in the GCU Investigation Date: July 28, 2023, 10:12am</p> <p>2. Email from Fernandez-Rosario to Madaio, copying Donoghue, Angilello, Middleton, and Frola Date: July 28, 2023, 4:26pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails between Madaio and Fernandez-Rosario.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> - ED withheld portions of emails between Madaio and Fernandez-Rosario because they contain strategic discussions about the GCU investigation, as well as discussion of other FSA matters involving GCU. This discussion is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU, and is part of the Department's internal deliberative process on the GCU investigation and other FSA matters. Disclosure of this material would also have a chilling effect on frank investigative discussions concerning ongoing FSA investigations between FSA and other ED employees. Such investigative discussions are central to</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<ol style="list-style-type: none"> Email from Madaio to Fernandez-Rosario, copying Donoghue, Angilello, Middleton, and Frola Date: July 28, 2023, 1:36pm Email from Fernandez-Rosario to Madaio, copying Donoghue, Angilello, Middleton, and Frola Date: July 28, 2023, 4:41pm Email from Madaio to Fernandez-Rosario, copying Donoghue, Angilello, Middleton, and Frola Date: July 28, 2023, 4:44pm 		<p>FSA performing the core function of investigating institutions' compliance with the HEA. Disclosure would also have a chilling effect on FSA and other ED employees' discussion of recommendations and preliminary information that relate to other FSA matters, particularly if those matters have any connection to ongoing FSA investigations. <u>Attorney-Client Privilege</u> – The Department withheld a portion of Madaio's July 28, 2023, 10:12am email and Fernandez's July 28, 2023, 4:26pm email as they discuss areas on which OGC's legal advice had been or potentially would be sought. Disclosure would have a chilling effect on FSA employees that would deter them from identifying, in emails, areas that may benefit from OGC legal advice.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
41	REVISED ED 24-00550-F (Apr. 15, 2024)_000096	1	<ol style="list-style-type: none"> Email from Christopher Madaio to Donna Mangold and Kristen Donoghue, copying Christle Sheppard Southall, Regarding the GCU Investigation Date: July 28, 2023, 11:35am Email from Mangold to Madaio and Donoghue, copying Sheppard Southall Date: July 28, 2023, 11:30pm Email from Madaio to Hunter Wiggins and Colleen Nevin, copying Donoghue Date: July 29, 2023, 4:11pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a portion of a sentence in Madaio's July 29, 2023, 4:11pm email to Wiggins and Nevin (copying Donoghue).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> - ED withheld a portion of a sentence in Madaio's email to Wiggins and Nevin that reveals the specific issue about which Madaio was scheduling a meeting in the GCU investigation. This information would reveal information about the Department's internal deliberations concerning the GCU investigation and the nature of the issue about which Madaio was scheduling a meeting to obtain OGC's legal advice. Release of the redacted information would reveal pre-decisional discussions regarding the GCU investigation, which would have a chilling effect on frank investigative discussions concerning ongoing FSA investigations between FSA and other ED employees. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – As stated previously, ED withheld information that would reveal information about the nature of the issue about which Madaio intended to obtain OGC's legal advice, which implicates the attorney-client privilege. Disclosure of the information would have a chilling effect on Department employees that would deter them from identifying, in emails, areas that may benefit from OGC legal advice.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
42	REVISED ED 24-00550-F (Apr. 15, 2024)_000097 – REVISED ED 24-00550-F (Apr. 15, 2024)_000098	2	<ol style="list-style-type: none"> Email from Susan Crim to Colleen Nevin, Donna Mangold, and Tara Sikora Regarding the GCU Investigation Date: July 30, 2023 Email from Susan Crim to John Bailey, Hunter Wiggins, and Kristen Donoghue Date: July 31, 2023 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld the contents of Crim's July 30, 2023 email. ED also withheld a portion of the subject line of the emails in the exchange and a portion of the names of the files attached to Crim's July 31, 2023 email.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld under Exemption 7(A) portions of Crim's July 30, 2023 email, as well as a portion of the subject line of the emails in the exchange and a portion of the names of the files attached to Crim's July 31, 2023 email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> - ED withheld the contents of Crim's July 30, 2023 email because it contains internal deliberations regarding next steps, including recommendations, concerning the GCU investigation, which has not been formally closed because the fine initiated against GCU is the subject of an ongoing appeal before ED's OHA, and another FSA matter involving an unrelated institution. ED withheld the subject line of the emails and a portion of the names of files attached to the July 31, 2023 email from Susan Crim because the redacted material would reveal the specific topics of discussion concerning the GCU (and another FSA matter</p>

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					<p>involving an unrelated institution). Release of the redacted information would reveal pre-decisional discussions regarding the GCU investigation and another matter involving an unrelated institution. This would have a chilling effect on frank discussions concerning ongoing FSA investigations between FSA and other ED employees, as well as frank discussions regarding other FSA matters that concern compliance with the laws FSA enforces. Such discussions are central to FSA performing the core function of investigating and ensuring institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – Crim's July 30, 2023 email also relays advice provided by OGC concerning the unrelated FSA matter and identifies areas for discussion with OGC to seek OGC's legal advice. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA, thus making OGC less likely to provide advice to FSA and FSA less likely to seek such advice – and then communicate that advice (or the need for advice) to others in FSA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
43	REVISED ED 24-00550-F (Apr. 15, 2024)_000099 – REVISED ED 24-00550-F (Apr. 15, 2024)_000110	12	Draft FSA Internal Document	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full a draft internal document related to FSA investigations.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the draft internal document related to FSA investigations, which contains comments and edits, in redline, from Department employees, because it contains strategic, but preliminary, discussions on issues related to FSA investigations. The release of this document would have a chilling effect on frank discussions among Department employees on FSA investigations and certain other matters that concern compliance with the laws FSA enforces and could lead to confusion about Department practices. Such discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld the document under Exemption 7(A) because the document was circulated among Department staff in connection with the GCU investigation. The GCU investigation remains open and is currently the subject of an ongoing appeal before the OHA. The release of such a document while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
44	REVISED ED 24-00550-F (Apr. 15, 2024)_000111 – REVISED ED 24-00550-F (Apr. 15, 2024)_000114	4	Draft Document Related to the GCU Investigation and Another FSA Matter Related to Another Institution	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld in full the draft document under Exemption 5.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld under Exemption 7(A) the pages of the draft document that contain strategic discussion of the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full a draft document related to the GCU investigation (and another FSA matter related to another institution), which contains comments and edits, in redline, from Department employees, because it contains strategic discussions and recommendations related to the GCU investigation and another FSA matter. The release of this document would have a chilling effect on frank discussions among Department employees on FSA investigations and certain other matters that concern compliance with the laws FSA enforces and could lead to confusion about the Department's publicly available decisions in the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of</p>

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					such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
45	REVISED ED 24-00550-F (Apr. 15, 2024)_000115 – REVISED ED 24-00550-F (Apr. 15, 2024)_000116	2	<p>Emails Between Christopher Madaio and Donna Mangold, John Bailey, Christle Sheppard Southall, and Toby Merrill Regarding the GCU Investigation</p> <p>(Note: Madaio's July 28, 2023 email also copied Kristen Donoghue, Colleen Nevin, Sarah Angilello, Brad Middleton, and Susan Crim.)</p> <p>Date: July 28 and 31 and Aug. 1, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails, and part of the subject line of emails, between Madaio and Mangold as well as between Madaio and others within ED that concern legal advice being solicited and provided in connection with the GCU investigation. ED also withheld two portions of the subject lines of emails in the exchange.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – As noted above, ED withheld the contents of emails, and part of the subject line of emails, between Madaio and Mangold that concern a draft recommendation by FSA's Investigations Group. The discussion is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. The emails are part of the Department's internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> – The emails constitute attorney work-product and attorney-client communications, as they reflect advice solicited from and provided by Department attorneys and were drafted in reasonable anticipation of litigation with GCU regarding the investigation. Disclosure of this information would have a chilling effect on communications between FSA and OGC attorneys that exchange and seek legal advice regarding FSA enforcement matters, which would make it more difficult for FSA to effectively and accurately carry out its enforcement duties.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
46	REVISED ED 24-00550-F (Apr. 15, 2024)_000117	1	<p>Emails Between Christopher Madaio and Kristen Donoghue Regarding a Draft Recommendation From FSA's Investigations Group in the GCU Investigation</p> <p>Date: Aug. 1, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails, and part of the subject line of ED withheld the contents of emails, and part of the subject line of emails, between Madaio and Donoghue that concern a draft recommendation by FSA's Investigations Group.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – As noted above, the withheld emails discuss a draft recommendation that is antecedent to the Chief Operating Officer's approval of findings and a fine action against GCU. The emails are part of the Department's internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. The emails constitute attorney-client communications, as they discuss legal strategy in connection with the investigation. Disclosure of this information would have a chilling effect on the exchange of advice between Investigations Group attorneys and the Chief Enforcement Officer.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

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47	REVISED ED 24-00550-F (Apr. 15, 2024)_000118	1	Email from Christopher Madaio to Kristen Donoghue Regarding a Memo in the GCU Investigation Date: Aug. 1, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the majority of an email from Madaio to Donoghue discussing a memorandum in the GCU investigation. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in part an email between Madaio and Donoghue discussing a memorandum in the GCU investigation. The email, and the draft memo under discussion, predate to the Chief Operating Officer’s approval of findings and a fine action against GCU. The emails are part of the Department’s internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> - The email constitutes attorney work-product, as it contains Madaio’s mental impressions and advice and was drafted in reasonable anticipation of litigation with GCU regarding the investigation, and an attorney-client communication as it provides recommendations and solicits additional guidance from the Chief Enforcement Officer. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
48	REVISED ED 24-00550-F (Apr. 15, 2024)_000119 – REVISED ED 24-00550-F (Apr. 15, 2024)_000121	3	1. Email from Christopher Madaio to John Bailey, Donna Mangold, and Christle Sheppard Southall, copying Kristen Donoghue, Regarding the GCU Investigation Date: Aug. 2, 2023, 12:11pm 2. Email from Mangold to Madaio, Bailey, and Sheppard Southall, copying Donoghue Date: Aug. 2, 2023, 12:29pm 3. Email from Madaio to Mangold, Bailey, and Sheppard Southall, copying Donoghue Date: Aug. 2, 2023, 4:17pm	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails between Madaio and OGC attorneys, and portions of the subject line of each of the emails in this email thread, concerning the GCU investigation. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld this material because the emails solicit and provide legal advice and contain strategic investigative discussions concerning the GCU investigation. The emails are antecedent to the Chief Operating Officer’s approval of findings and a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. The emails are part of the Department’s internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> – Because the emails solicit and provide legal advice between OGC attorneys and Madaio, an FSA attorney, they constitute attorney-client communications. They also constitute attorney work product, as they contain attorneys’ mental impressions and were drafted in reasonable anticipation of litigation with GCU over the investigation. Release of the redacted portions of the subject lines of the emails would reveal the issue about which Madaio solicited legal advice from OGC. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
49	REVISED ED 24-00550-F (Apr. 15, 2024)_000122 – REVISED ED 24-00550-F (Apr. 15, 2024)_000123	2	1. Email from Christopher Madaio to Richard Cordray, FSA Integration, and Wayne Sullivan, Director of Corporate Operations for FSA, copying Kristen Donoghue,	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a portion of Madaio’s August 3, 2023 email to Cordray, FSA Integration, and Sullivan that discussed legal advice provided by OGC to FSA concerning the GCU investigation. ED withheld portions of Farr’s August 4, 2023 email relaying Cordray’s approval of FSA’s Investigations Group recommendation in the GCU investigation.

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			<p>Hunter Wiggins, Colleen Nevin, Donna Mangold, Sarah Angilello, Kathryn Johnson, Christle Sheppard Southall, John Bailey, and Toby Merrill, Regarding FSA's Investigations Group's Recommendation in the GC Investigation Date: Aug. 3, 2023, 4:54pm</p> <p>2. Email from Chris Farr to Madaio, Cordray, FSA Integration, and Sullivan, copying Donoghue, Wiggins, Nevin, Mangold, Angilello, Johnson, Sheppard Southall, Bailey, and Merrill Date: Aug. 4, 2023, 7:43am</p> <p>3. Email from Madaio to Kristen Donoghue Date: Aug. 4, 2023, 7:49am</p>		<p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld material in Madaio's August 3, 2023 email, relaying advice from OGC regarding the GCU investigation. With respect to Farr's August 4, 2023 email, the withheld portions contain Cordray's views on both the recommendation and his recommendation related to strategy for the GCU investigation. ED also withheld Madaio's August 4, 2023 email to Donoghue, which provides an update on the GCU investigation and requests guidance from Donoghue on the investigation. All of this material is part of the Department's internal deliberative process on the GCU investigation in determining the appropriate actions to take and how to carry out such actions. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <i>Attorney-Client Privilege and Attorney Work-Product Privilege</i> – ED withheld a portion of Madaio's August 3, 2023 email, because it discusses legal advice provided by OGC and passed along by Madaio, an FSA attorney, to the Chief Operating Officer, and thus is an attorney-client communication. It also is attorney work product, as it was drafted and reflects legal advice provided in reasonable anticipation of litigation with GCU. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA and between FSA attorneys and FSA leadership.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
50	REVISED ED 24-00550-F (Apr. 15, 2024)_000124 – REVISED ED 24-00550-F (Apr. 15, 2024)_000125	2	<p>Decision Memorandum re: Grand Canyon University Investigation from Christopher Madaio, through Kristen Donoghue, to Richard Cordray</p> <p>Date: August 3, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the summary and recommendation sections of a decision memorandum regarding the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege, Attorney-Client Privilege, and Attorney Work-Product Privilege</i> – The summary contains the legal conclusions of Madaio and selective facts to support that conclusion. The recommendation constitutes both legal advice and an investigative recommendation from Madaio to Cordray regarding the GCU investigation, and the document was drafted in reasonable anticipation of litigation with GCU regarding the investigation. Disclosure of this information would have a chilling effect on the communication of frank recommendations by FSA staff to FSA leadership and the attorney-client relationship between FSA attorneys and FSA leadership. Such discussions, and such relationship, are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
51	REVISED ED 24-00550-F (Apr. 15, 2024)_000126 – REVISED ED 24-00550-F (Apr. 15, 2024)_000157	32	<p>Recommendation Memorandum from FSA's Investigations Group to FSA's Chief Operating Officer and Chief Enforcement Officer Regarding the GCU Investigation</p> <p>Date: August 3, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full a recommendation memorandum related to the GCU investigation, aside from title matter.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The memorandum contains strategic discussions and recommendations related to the GCU investigation, as well as discussion of factual conclusions to support the recommendations. The memorandum is part of the Department's internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. It was drafted and provided to the then-Chief Operating Officer prior to his decision to issue findings and initiate an enforcement action against GCU, to inform such decision. Disclosure of</p>

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					<p>this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> – The memorandum was authored by FSA's Investigations Group, which is comprised of attorneys and investigative staff that work with attorneys. The memorandum constitutes legal advice provided by the attorneys of FSA's Investigations Group to FSA's Chief Operating Officer and Chief Enforcement Officer. The memorandum also was drafted in reasonable anticipation of litigation with GCU concerning the investigation. Disclosure of this information would have a chilling effect on FSA attorneys providing advice to FSA leadership.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
52	REVISED ED 24-00550-F (Apr. 15, 2024)_000158 – REVISED ED 24-00550-F (Apr. 15, 2024)_000160	3	<p>Table of Contents for Grand Canyon University Recommendation and Summary of Exhibits</p> <p>Note: This may have been two separate documents.</p>	(b)(5) (b)(7)(A)	<p><i>Portions Withheld – Exemption 5 and 7(A):</i> ED withheld all but the title of the table of contents. ED also withheld a summary of exhibits from GCU's June 21, 2023 response letter to FSA.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege, Attorney-Client Privilege, and Attorney Work-Product Privilege</i> – ED withheld this material under Exemption 5 because the disclosure of the specific headings within the table of contents would reveal the legal advice and conclusions and investigative recommendations of FSA's Investigations Group to the Chief Operating Officer and Chief Enforcement Officer. The table of contents is part of the Department's internal deliberative process in issuing a finding and determining that, if any, actions to take in the GCU investigation. It was drafted and provided to the then-Chief Operating Officer prior to his decision to issue findings and initiate an enforcement action against GCU, to inform such decision. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. The table of contents was drafted in reasonable anticipation of litigation with GCU concerning the investigation. Disclosure of this information would have a chilling effect on FSA attorneys providing advice to FSA leadership. Because the summary of exhibits consists of FSA attorneys' summary and views on the GCU exhibits and was presented to the then-Chief Operating Officer to inform his decision on findings in the GCU matter, it, for the reasons outlined for the table of contents, is protected by the deliberative process, attorney-client, and attorney work-product privileges.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
53	REVISED ED 24-00550-F (Apr. 15, 2024)_000161	1	<p>Email from Christopher Madaio to Martina Fernandez-Rosario, Michael Frola, and Jane Eldred Regarding the GCU Investigation</p> <p>Date: Aug. 4, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld three sentences from Madaio's email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld a portion of Madaio's email because it contains strategic discussions of the GCU investigation (including by soliciting information from other FSA staff). The email is part of the Department's internal deliberative process in determining the specific actions to take against GCU as a result of the GCU investigation in furtherance of the then-Chief Operating Officer's approval of certain actions against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of</p>

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					<p>investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – The email also constitutes an attorney-client communication as Madaio, an FSA attorney, conveyed information about an issue on which FSA had obtained legal advice from OGC. Disclosure of the withheld information described above would have a chilling effect on the provision of legal advice by OGC to FSA, as OGC attorneys may be concerned about their legal advice being revealed to the public if communicated between FSA staff.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
54	REVISED ED 24-00550-F (Apr. 15, 2024)_000162 – REVISED ED 24-00550-F (Apr. 15, 2024)_000163	2	<p>Decision Memorandum re: Grand Canyon University Investigation from Christopher Madaio, through Kristen Donoghue, to Richard Cordray</p> <p>Date: August 3, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the summary and recommendation sections of a decision memorandum regarding the GCU investigation.</p> <p><i>Justification – Exemption 5: <u>Deliberative Process Privilege, Attorney-Client Privilege, and Attorney Work-Product Privilege</u></i> – The summary contains the legal conclusions of Madaio and selective facts to support that conclusion. The recommendation constitutes both legal advice and an investigative recommendation from Madaio to Cordray regarding the GCU investigation, and the document was drafted in reasonable anticipation of litigation with GCU regarding the investigation. Disclosure of this information would have a chilling effect on the communication of frank recommendations by FSA staff to FSA leadership and the attorney-client relationship between FSA attorneys and FSA leadership. Such discussions, and such relationship, are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
55	REVISED ED 24-00550-F (Apr. 15, 2024)_000164 – REVISED ED 24-00550-F (Apr. 15, 2024)_000195	32	<p>Recommendation Memorandum from FSA's Investigations Group to FSA's Chief Operating Officer and Chief Enforcement Officer Regarding the GCU Investigation</p> <p>Date: August 3, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full a recommendation memorandum related to the GCU investigation, aside from title matter.</p> <p><i>Justification – Exemption 5: <u>Deliberative Process Privilege</u></i> – The memorandum contains strategic discussions and recommendations related to the GCU investigation, as well as discussion of factual conclusions to support the recommendations. The memorandum is part of the Department's internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. It was drafted and provided to the then-Chief Operating Officer prior to his decision to issue findings and initiate an enforcement action against GCU, to inform such decision. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> – The memorandum was authored by FSA's Investigations Group, which is comprised of attorneys and investigative staff that work with attorneys. The memorandum constitutes legal advice provided by the attorneys of FSA's Investigations Group to FSA's Chief Operating Officer and Chief Enforcement Officer. The memorandum also was drafted in reasonable anticipation of litigation with GCU concerning the investigation. Disclosure of this information would have a chilling effect on FSA attorneys providing advice to FSA leadership.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine</p>

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					initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
56	REVISED ED 24-00550-F (Apr. 15, 2024)_000196 – REVISED ED 24-00550-F (Apr. 15, 2024)_000197	2	<ol style="list-style-type: none"> 1. Email from Christopher Madaio to Richard Cordray, FSA Integration, and Wayne Sullivan of FSA, copying Kristen Donoghue, Hunter Wiggins, Colleen Nevin, Kathryn Johnson, Christle Sheppard Southall, John Bailey, and Toby Merrill, Regarding FSA's Investigations Group's Recommendation in the GCU Investigation Date: Aug. 3, 2023, 4:54pm 2. Email from Chris Farr to Madaio, Cordray, FSA Integration, and Sullivan, copying Donoghue, Wiggins, Nevin, Mangold, Angilello, Johnson, Sheppard Southall, Bailey, and Merrill Date: Aug. 4, 2023, 7:43am 3. Email from Madaio to Susan Crim Date: Aug. 4, 2023, 4:25pm 4. Email from Crim to Madaio Date: Aug. 4, 2023, 4:27pm 5. Email from Madaio to Crim Date: Aug. 6, 2023, 3:30pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a portion of Madaio's August 3, 2023 email to Cordray, FSA Integration, and Sullivan that discussed legal advice provided by OGC to FSA concerning the GCU investigation. ED withheld portions of Farr's August 4, 2023 email relaying Cordray's approval of FSA's Investigations Group recommendation in the GCU investigation. ED withheld portions of Madaio's emails to Crim and Crim's response to Madaio.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld material in Madaio's August 3, 2023 email, relaying advice from OGC regarding the GCU investigation. With respect to Farr's August 4, 2023 email, the withheld portions contain Cordray's views on both the recommendation and his preliminary recommendation related to strategy for the GCU investigation. ED also withheld portions of Madaio's emails to Crim because they contain strategic discussions related to the GCU investigation. This information is part of the internal deliberative process of determining the specific actions to take against GCU in furtherance of the then-Chief Operating Officer's approval of certain actions against GCU and to communicating to GCU the Department's findings. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> – ED withheld a portion of Madaio's August 3, 2023 email, because it discusses legal advice provided by OGC and passed along by Madaio, an FSA attorney, to the Chief Operating Officer, and thus is an attorney-client communication. It also is attorney work product, as it was drafted and reflects legal advice provided in reasonable anticipation of litigation with GCU. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA and between FSA attorneys and FSA leadership. <u>Attorney Work-Product Privilege</u> – Additionally, Madaio's emails to Crim contain Madaio's, an attorney's, discussion of strategy with legal implications as it relates to determining the specific actions to take against GCU in furtherance of the then-Chief Operating Officer's approval and to communicating the Department's findings to GCU. These emails constitute attorney work product.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
57	REVISED ED 24-00550-F (Apr. 15, 2024)_000198 – REVISED ED 24-00550-F (Apr. 15, 2024)_000199	2	<p>Emails between Christopher Madaio, Kristen Donoghue, and Brad Middleton re: GCU Conditions for PPPA</p> <p>Date: Aug. 7 and 8, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails between Donoghue, Middleton, and Madaio.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> - ED withheld emails that contain discussions relating to conditions for GCU's PPPA, which were imposed, in part, as a result of the GCU investigation. These discussions predate the final decision regarding the conditions that FSA imposed upon GCU in its PPPA and are part of the Department's internal deliberative process in the GCU investigation, specifically, the specific actions to take in the GCU investigation in furtherance of the then-Chief Operating Officer's approval of certain actions against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions within FSA – such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA – and could create confusion among members of the public about the conditions imposed upon GCU in its PPPA. <u>Attorney-Client Privilege and Attorney Work-Product</u> – ED withheld the emails because they contain discussions between Madaio, an attorney, and Donoghue and Middleton exchanging views on the conditions for GCU's PPPA. Madaio specifically</p>

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					<p>provided some advice on the conditions, as well as solicited feedback from Middleton and Donoghue regarding the conditions. Madaio's emails were drafted in reasonable anticipation of litigation with GCU regarding the investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
58	REVISED ED 24-00550-F (Apr. 15, 2024)_000200 – REVISED ED 24-00550-F (Apr. 15, 2024)_000201	2	<p>Emails between Christopher Madaio and Susan Crim Regarding a Draft Letter to GCU</p> <p>Date: August 8, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails discussing a draft letter to GCU and a portion of the subject line of each email that would reveal the specific contents of the draft letter.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> - ED withheld emails discussing a draft letter to GCU and a portion of the subject line of each email that would reveal the specific contents of the draft letter. The emails are part of the Department's deliberative process in the GCU investigation, specifically deliberations on the draft letter to GCU prior to its issuance. Disclosure of the withheld information described above would have a chilling effect on internal Department deliberations on ongoing FSA enforcement investigations. Such deliberations are central to FSA performing the core function of investigating institutions' compliance with the HEA. <i>Attorney Work-Product Privilege</i> – Madaio's emails contain discussion of the contents of the draft letter to GCU. The work on this draft letter was done in reasonable anticipation of litigation with GCU over the investigation. Disclosure of this information would have a chilling effect on FSA attorneys seeking information from other FSA employees to inform their work and advice.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
59	REVISED ED 24-00550-F (Apr. 15, 2024)_000202 – REVISED ED 24-00550-F (Apr. 15, 2024)_000203	2	<ol style="list-style-type: none"> 1. Email from Christopher Madaio to Donna Mangold, Christle Sheppard Southall, John Bailey, Toby Merrill, Martina Fernandez-Rosario, Michael Frola, Jane Eldred, Hunter Wiggins, Collen Nevin, Kristen Donoghue, and Brad Middleton, copying Sarah Angilello and Kathryn Johnson, Regarding an Update in the GCU Investigation Date: Aug. 7, 2023, 6:47pm 2. Email from Christopher Madaio to Donna Mangold, Christle Sheppard Southall, John Bailey, Toby Merrill, Martina Fernandez-Rosario, Michael Frola, Jane Eldred, Hunter Wiggins, Collen Nevin, Kristen Donoghue, Brad Middleton, and Susan Crim, copying Sarah Angilello and Kathryn Johnson, Regarding an Update in the GCU Investigation Date: Aug. 8, 2023, 1:35pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of the contents of emails from Madaio to OGC attorneys and other FSA staff discussing an update on the GCU investigation and a draft letter to GCU.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The withheld emails are part of the Department's deliberative process in the GCU investigation. These emails predate the issuance of the letter to GCU. Disclosure of the withheld information described above would have a chilling effect on internal Department deliberations on ongoing FSA enforcement investigations. Such deliberations are central to FSA performing the core function of investigating institutions' compliance with the HEA. <i>Attorney-Client Privilege and Attorney Work-Product Privilege</i> – The emails also constitute attorney-client communications, as they solicit advice from OGC attorneys, and attorney work-product, as they reflect an FSA attorney's, Madaio's, discussion of strategy in the GCU investigation and were drafted in reasonable anticipation of litigation with GCU regarding the investigation. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA and on FSA attorneys creating and sharing written work product in FSA investigations.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

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60	REVISED ED 24-00550-F (Apr. 15, 2024)_000204	1	Email thread between Christopher Madaio and Susan Crim Regarding a Draft Letter to GCU Date: Aug. 8, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld emails discussing a draft letter to GCU and a portion of the subject line that would reveal the specific contents of the draft letter. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – As noted above, ED withheld emails that discuss a draft letter to GCU and portion of the subject line that would reveal the specific contents of the letter. The emails are part of the Department’s deliberative process in the GCU investigation, specifically, a letter to GCU regarding the investigation. The emails predate the issuance of the letter to GCU, as well as the Chief Operating Officer’s approval of a fine action against GCU and the issuance of the October 31, 2023 letter initiating a fine against GCU. Disclosure of the withheld information described above would have a chilling effect on internal Department deliberations on ongoing FSA enforcement investigations and could lead to confusion about the Department’s decisions in the GCU investigation (specifically, the final letter to GCU notifying GCU of the Department’s findings and the specific actions taken in furtherance of the Chief Operating Officer’s approval of certain actions against GCU). Such discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
61	REVISED ED 24-00550-F (Apr. 15, 2024)_000205	1	Emails between Christopher Madaio and April Jordan and Melody Cowan, copying Kristen Donoghue, Regarding the GCU Investigation	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of two emails from Madaio to Cowand Jordan concerning the GCU investigation. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of two emails from because the emails convey strategic information concerning the status of the GCU investigation. The emails are part of the Department’s deliberative process in the GCU investigation. Disclosure of the withheld information described above would have a chilling effect on internal Department deliberations on ongoing FSA enforcement investigations and coordination with other program offices regarding such investigations. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
62	REVISED ED 24-00550-F (Apr. 15, 2024)_000206	1	Email from Christopher Madaio to Michael Tankersley and Naomi Takagi, Federal Trade Commission Attorneys, copying Sarah Angilello, Edward Groves, Dawn Leget, and Kristen Donoghue, Regarding the GCU Investigation Date: August 10, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of an email from Madaio to FTC attorneys. ED also withheld a portion of the name of an attachment sent to FTC attorneys by Madaio as the withheld material would reveal the nature of the discussion between Madaio and the FTC attorneys. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of Madaio’s email because it contains discussion of strategic information related to FSA’s investigation of GCU and the FTC’s separate investigation of GCU. ED also withheld a portion of the name of an attachment sent to FTC attorneys by Madaio as the withheld material would reveal the nature of the discussion between Madaio and the FTC attorneys. The email is part of the Department’s and the FTC’s deliberative process on their respective GCU investigations. The release of this information would have a chilling effect on inter-agency deliberations on investigative issues in enforcement matters and coordination on investigations that may be of interest to multiple agencies.

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					<i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing. ED also withheld this information because it pertains to an ongoing FTC enforcement proceeding – its lawsuit against GCU – and could interfere with the same.
63	REVISED ED 24-00550-F (Apr. 15, 2024)_000207 – REVISED ED 24-00550-F (Apr. 15, 2024)_000234	28	Draft Letter from FSA to GCU Concerning the GCU Investigation Date: Undated	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full a draft letter from FSA to GCU and counsel for GCU concerning the GCU investigation. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full an unsigned draft of a letter to GCU, which is part of the Department’s internal deliberative process in determining the specific actions to take in the GCU investigation in furtherance of the Chief Operating Officer’s approval of certain actions against GCU and the means of notifying GCU of such actions. The letter is also antecedent to the Chief Operating Officer’s October 2023 approval of a fine against GCU and the issuance of the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department’s decisions in the GCU investigation, to the extent the draft differs from what was communicated to GCU. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Attorney Work-Product Privilege</i> – ED withheld the document, which was drafted by FSA’s Investigations Group, because it represents the non-final work product of FSA attorneys (and thus their thoughts and strategy) and was drafted in reasonable anticipation of litigation with GCU regarding the investigation. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
64	REVISED ED 24-00550-F (Apr. 15, 2024)_000235 – REVISED ED 24-00550-F (Apr. 15, 2024)_000236	2	1. Email from Kristen Donoghue to Susan Crim, Christopher Madaio, and Nina Schichor Regarding the GCU Investigation Date: Aug. 10, 2023, 4:45pm 2. Email from Crim to Donoghue, Madaio, Schichor, and Colleen Nevin, copying Tara Sikora and Brian Bayne Date: Aug. 10, 2023, 4:50pm 3. Email from Schichor to Crim, Donoghue, Madaio, and Nevin, copying Sikora and Bayne Date: Aug. 10, 2023, 5:37pm 4. Email from Crim to Schichor, Donoghue, Madaio, and Nevin, copying Sikora and Bayne Date: Aug. 10, 2023, 5:38pm 5. Email from Crim to Schichor, Donoghue, Madaio, and Nevin, copying Sikora and Bayne Date: Aug. 10, 2023, 5:44pm	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails between FSA Enforcement staff/officials. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld portions of emails between FSA Enforcement staff/officials because they contain strategic discussions concerning the GCU investigation. This email is antecedent to the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. These emails are part of the Department’s internal deliberative process on the GCU investigation and the specific actions to take against GCU. Disclosure of the withheld information described above would have a chilling effect on internal Department deliberations on ongoing FSA enforcement investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.

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			(Note: Schichor is in FSA Enforcement. Bayne is an attorney in FSA Enforcement's Borrower Defense Group.)		
65	REVISED ED 24-00550-F (Apr. 15, 2024)_000237 – REVISED ED 24-00550-F (Apr. 15, 2024)_000240	4	<ol style="list-style-type: none"> 1. Email from Christopher Madaio to Richard Cordray, FSA Integration, and Wayne Sullivan, Director of Corporate Operations for FSA, copying Kristen Donoghue, Hunter Wiggins, Colleen Nevin, Donna Mangold, Sarah Angilello, Kathryn Johnson, Christle Sheppard Southall, John Bailey, and Toby Merrill, Regarding a Recommendation in the GCU Investigation Date: Aug. 3, 2023, 4:54pm 2. Email from Chris Farr to Madaio, Cordray, FSA Integration, and Sullivan, copying Donoghue, Wiggins, Nevin, Mangold, Angilello, Johnson, Sheppard Southall, Bailey, and Merrill Date: Aug. 4, 2023, 7:43am 3. Email from Donoghue to Benjamin Miller, Bailey, and Mangold, copying Madaio and Susan Crim Date: Aug. 8, 2023, 10:20am 4. Email from Miller to Donoghue, Bailey, and Mangold, copying Madaio and Crim Date: Aug. 8, 2023, 1:59pm 5. Email from Donoghue to Miller, Bailey, and Mangold, copying Madaio and Crim Date: Aug. 8, 2023, 2:02pm 6. Email from Miller to Donoghue, Bailey, and Mangold, copying Madaio and Crim Date: Aug. 8, 2023, 2:27pm 7. Email from Donoghue to Miller Date: Aug. 12, 2023, 3:57pm 8. Email from Miller to Donoghue Date: Aug. 13, 2023, 5:05pm 9. Email from Donoghue to Miller Date: Aug. 14, 2023, 8:14am 10. Email from Miller to Donoghue Date: Aug. 14, 2023, 9:13am 11. Email from Donoghue Date: Aug. 14, 2023, 9:15am 12. Email from Cordray to Donoghue, copying Madaio Date: Aug. 14, 2023, 9:17am 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a portion of Madaio's August 3, 2023 email to Cordray, FSA Integration, and Sullivan that discussed legal advice provided by OGC to FSA concerning the GCU investigation. ED withheld portions of Farr's August 4, 2023 email relaying Cordray's approval of FSA's Investigations Group recommendation in the GCU investigation. ED also withheld portions of emails between Donoghue and Miller and between Donoghue and Cordray.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld material in Madaio's August 3, 2023 email, relaying advice from OGC regarding the GCU investigation. With respect to Farr's August 4, 2023 email, the withheld portions contain Cordray's views on both the recommendation and his preliminary recommendation related to strategy for the GCU investigation. ED also withheld Madaio's August 4, 2023 email to Donoghue, which provides an update on the GCU investigation and requests guidance from Donoghue on the investigation. ED withheld portions of emails between Donoghue and Miller and between Donoghue and Cordray because they contain strategic discussions on the GCU investigation relating to Cordray's approval of the issuance of findings and certain actions against GCU and implementation of that approval. This material is part of the Department's internal deliberative process on the GCU investigation in determining the appropriate actions to take and how to carry out such actions. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> – ED withheld a portion of Madaio's August 3, 2023 email, because it discusses legal advice provided by OGC and passed along by Madaio, an FSA attorney, to the Chief Operating Officer, and thus is an attorney-client communication. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA and between FSA attorneys and FSA leadership. This is also attorney work product, as it was drafted and reflects legal advice provided in reasonable anticipation of litigation with GCU.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
66	REVISED ED 24-00550-F (Apr. 15, 2024)_000241	1	<p>Email from Christopher Madaio to Kristen Donoghue, copying Sarah Angilello, Concerning a Draft Letter to GCU in the GCU Investigation</p> <p>Date: Aug. 16, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of Madaio's email to Donoghue.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the text of Madaio's email because it contains discussion of a draft letter to counsel for GCU concerning the GCU investigation; specifically, a letter communicating the Department's findings and certain actions the Department intended to take against GCU. The emails are part of the Department's internal deliberative process in</p>

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					<p>determining the specific actions to take in the GCU investigation in furtherance of the then-Chief Operating Officer's approval of certain actions against GCU, and in determining how to communicate the Department's findings and actions to GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
67	REVISED ED 24-00550-F (Apr. 15, 2024)_000242 – REVISED ED 24-00550-F (Apr. 15, 2024)_000268	27	<p>Draft, Unsigned Letter to Counsel for GCU from FSA Enforcement Concerning the GCU Investigation</p> <p>Date: August 16, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full an unsigned draft of a letter to counsel for GCU concerning the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> - As a draft document, the draft letter is part of the Department's internal deliberative process in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and the drafting of work product concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions and work product are central to FSA performing the core function of investigating institutions' compliance with the HEA. It could also cause confusion about the Department's investigative decisions to the extent the letter differs from the as-sent version. <i>Attorney Work-Product Privilege</i> – Because the letter was drafted primarily by attorneys in FSA Enforcement but was not yet final, and the letter was drafted in reasonable anticipation of litigation with GCU, it is attorney work-product.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
68	REVISED ED 24-00550-F (Apr. 15, 2024)_000275	1	<p>Emails between Christopher Madaio and Kristen Donoghue, copying Colleen Nevin, Concerning the GCU Investigation</p> <p>Date: Aug. 17 and 18, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails between Madaio and Donoghue. ED also withheld a portion of the subject lines for such emails.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld emails between Madaio and Donoghue concerning the GCU investigation because they contain strategic discussions about the GCU investigation. They are part of the Department's internal deliberative process on the actions to take in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
69	REVISED ED 24-00550-F (Apr. 15, 2024)_000276 – REVISED ED 24-00550-F (Apr. 15, 2024)_000277	2	<p>1. Email from Jacob Shorter, Counsel for GCU, to Susan Crim, Donna Mangold, and Kristen Donoghue, copying Steven Gombos, Counsel for GCU, Regarding the GCU Investigation (Specifically, a Letter from GCU Re: Donoghue's Aug. 16, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld all but the first two emails in this email chain between FSA staff regarding a letter received from GCU in response to the Department's August 16, 2023 letter to GCU.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld these emails because the emails contain FSA Enforcement staff's strategic discussions regarding the GCU investigation and</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Notice of Referral for a Fine Action) Date: Aug. 28, 2023, 11:52am</p> <p>2. Email from Crim to Colleen Nevin and Christopher Madaio, copying Tara Sikora, Mangold, and Donoghue Date: Aug. 28, 2023, 12:02pm</p> <p>3. Email from Madaio to Crim and Nevin, copying Sikora, Mangold, Donoghue, and Hunter Wiggins Date: Aug. 28, 2023, 12:14pm</p> <p>4. Email from Crim to Madaio and Nevin, copying Sikora, Mangold, Donoghue, and Wiggins Date: Aug. 28, 2023, 12:24pm</p> <p>5. Email from Madaio to Crim and Nevin, copying Sikora, Mangold, Donoghue, and Wiggins Date: Aug. 28, 2023, 12:32pm</p> <p>6. Email from Crim to Madaio and Nevin, copying Sikora, Mangold, Donoghue, and Wiggins Date: Aug. 28, 2023, 12:34pm</p>		<p>other FSA matters related to GCU and identify items on which FSA staff sought additional guidance. These withheld emails are part of the Department's internal deliberative process considering actions to take in connection with the GCU investigation and other FSA matters involving GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – Madaio's August 28, 2023, 12:24pm is an attorney-client communication because it implicitly seeks feedback on Madaio's views and questions from, in addition to FSA staff, Mangold, an OGC attorney, as does his second email (though primarily directed toward Crim). Crim's emails identify areas for OGC/Mangold to weigh in with advice. Disclosing this material would have a chilling effect on the attorney-client relationship between FSA and OGC.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
70	REVISED ED 24-00550-F (Apr. 15, 2024)_000278 – REVISED ED 24-00550-F (Apr. 15, 2024)_000280	3	<p>1. Email from Jacob Shorter, Counsel for GCU, to Susan Crim, Donna Mangold, and Kristen Donoghue, copying Steven Gombos, Counsel for GCU, Regarding the GCU Investigation (Specifically, a Letter from GCU Re: Donoghue's Aug. 16, 2023 Notice of Referral for a Fine Action) Date: Aug. 28, 2023, 11:52am</p> <p>2. Email from Crim to Colleen Nevin and Christopher Madaio, copying Tara Sikora, Mangold, and Donoghue Date: Aug. 28, 2023, 12:02pm</p> <p>3. Email from Madaio to Crim and Nevin, copying Sikora, Mangold, Donoghue, and Hunter Wiggins Date: Aug. 28, 2023, 12:14pm</p> <p>4. Email from Mangold to Madaio, Crim, and Nevin, copying Sikora, Donoghue, Wiggins, and John Bailey Date: Aug. 28, 2023, 12:36pm</p> <p>5. Email from Mangold to Madaio, Crim, and Nevin, copying Sikora, Donoghue, Wiggins, and Bailey Date: Aug. 28, 2023, 12:37pm</p> <p>6. Email from Nevin to Mangold and Bailey, copying Sikora, Donoghue, Wiggins, Crim, and Madaio Date: Aug. 28, 2023, 12:44pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld Madaio's August 28, 2023, 12:14pm email, Mangold's August 28, 12:36pm email, Nevin's August 28, 12:44pm email, portions of Madaio's August 28, 1:28pm email, and Donoghue's August 29, 5:02am email regarding the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld certain emails from FSA Enforcement Staff and Mangold, an OGC attorney, because they contain strategic discussions regarding the GCU investigation, and deliberative discussion regarding other FSA matters related to GCU, and identify items on which FSA staff sought additional guidance. The withheld material is part of the Department's internal deliberative process considering actions to take in connection with GCU's PPA, the GCU investigation, and other FSA matters involving GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. Additionally, disclosure of this information could have a chilling effect on discussion of recommendations and issues in connection with other FSA matters. <u>Attorney-Client Privilege</u> – These withheld emails constitute attorney-client communications because they are, at least in part, directed to or from OGC attorneys and seek OGC attorneys' advice on a matter related to the GCU investigation and another matter involving GCU; Donoghue's email to Madaio also identifies an area on which she considered seeking OGC's legal advice. Disclosure of this information would have a chilling effect on Department employees seeking advice from OGC attorneys and providing them with complete information upon which the attorneys may provide advice.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>7. Email from Crim to Nevin, Mangold, and Bailey, copying Sikora, Donoghue, Wiggins, and Madaio Date: Aug. 28, 2023, 12:52pm</p> <p>8. Email from Madaio Date: Aug. 28, 2023, 1:28pm</p> <p>9. Email from Madaio to Crim, Nevin, Mangold, and Bailey, copying Sikora, Donoghue, and Wiggins Date: Aug. 28, 2023, 3:13pm</p> <p>10. Email from Mangold to Madaio, Crim, Nevin and Bailey, copying Sikora, Donoghue, and Wiggins Date: Aug. 28, 2023, 3:34pm</p> <p>11. Email from Madaio Date: Aug. 28, 2023, 9:27pm</p> <p>12. Email from Donoghue to Madaio, copying Mangold, Crim, Nevin, Bailey, Sikora, and Wiggins Date: Aug. 29, 2023, 5:02am</p>		
71	REVISED ED 24-00550-F (Apr. 15, 2024)_000281 – REVISED ED 24-00550-F (Apr. 15, 2024)_000282	2	<p>1. Email from Michael Frola to Christopher Madaio Regarding GCU's PPA Date: Aug. 30, 2023, 11:17am</p> <p>2. Email from Madaio to Hunter Wiggins, Colleen Nevin, and Kristen Donoghue, copying Sarah Angilello and Kathryn Johnson Date: Aug. 30, 2023, 11:25am</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of Frola's and Madaio's emails under Exemption 5 and 7(A).</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld Frola's email to Madaio because it relays in part OGC legal advice on GCU's PPA, including in connection with to the GCU investigation and other FSA matters involving GCU. Madaio's email contains further discussion and analysis of Frola's email and provides his views to Donoghue, Wiggins, and Nevin. These emails constitute attorney-client communications. Disclosure of this information would chill the attorney-client relationship between FSA and OGC and would dissuade FSA employees from sharing OGC advice on matters with other employees in FSA, as well as chill the attorney-client relationship between FSA attorneys and their clients within FSA (e.g., the Chief Enforcement Officer).</p> <p><i>Deliberative Process Privilege</i> – ED also withheld these emails as they contain deliberative discussions of matters related to GCU's PPA and are part of the Department's internal deliberative process considering actions to take in connection with GCU's PPA, the GCU investigation, and other FSA matters involving GCU. The release of the information withheld in this email thread would have a chilling effect on frank discussions within the Department on FSA investigations and, separately, on matters involving institutions' PPAs.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information relating to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing. Additionally, Frola's email contains discussion of an open program review involving GCU; the release of the withheld material reasonably could interfere with the Department's ability to complete a fair, thorough program review.</p>
72	REVISED ED 24-00550-F (Apr. 15, 2024)_000307 – REVISED ED 24-00550-F (Apr. 15, 2024)_000311	5	<p>1. Email from David Obuchowicz, Counsel for GCU, to Kristen Donoghue, copying Steven Gombos and Steve Chema, Counsel for GCU, Regarding the Notice of Fine Referral in the GCU Investigation Date: Aug. 30, 2023, 11:21pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of internal emails (other than Madaio's August 31, 2023, 4:55pm email) concerning the GCU investigation contained within this record.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld an email from Donoghue to other FSA staff and OGC attorneys, as well as responses from and continued discussion with other</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<ol style="list-style-type: none"> 2. Email from Donoghue to Christopher Madaio, Sarah Angilello, Hunter Wiggins, Colleen Nevin, Susan Crim, Michael Frola, Donna Mangold, and John Bailey Date: Aug. 31, 2023, 2:50am 3. Email from Wiggins to Donoghue, Madaio, Angilello, Nevin, Crim, Frola, Mangold, and Bailey Date: Aug. 31, 2023, 9:28am 4. Email from Mangold Date: Aug. 31, 2023, 2:40pm 5. Email from Donoghue to Mangold, copying Wiggins, Madaio, Angilello, Nevin, Crim, Frola, and Bailey Date: Aug. 31, 2023, 3:25pm 6. Email from Madaio Date: Aug. 31, 2023, 2:57pm 7. Email from Wiggins to Madaio, copying Donoghue, Mangold, Angilello, Nevin, Crim, Frola, and Bailey Date: Aug. 31, 2023, 4:04pm 8. Email from Madaio to Wiggins, copying Donoghue, Mangold, Angilello, Nevin, Crim, Frola, and Bailey Date: Aug. 31, 2023, 4:06pm 9. Email from Crim to Madaio and Wiggins, copying Donoghue, Mangold, Angilello, Nevin, Frola, and Bailey Date: Aug. 31, 2023, 4:07pm 10. Email from Madaio to Crim and Wiggins, copying Donoghue, Mangold, Angilello, Nevin, Frola, and Bailey Date: Aug. 31, 2023, 4:09pm 11. Email from Crim Date: Aug. 31, 2023, 3:13pm 12. Email from Wiggins to Crim, copying Madaio, Donoghue, Mangold, Angilello, Nevin, Frola, and Bailey Date: Aug. 31, 2023, 4:15pm 13. Email from Nevin to Wiggins, Crim, and Madaio, copying Donoghue, Mangold, Angilello, Frola, and Bailey Date: Aug. 31, 2023, 4:20pm 14. Email from Madaio to Nevin, Wiggins, and Crim, copying Donoghue, Mangold, Angilello, Frola, and Bailey Date: Aug. 31, 2023, 4:55pm 		<p>FSA staff and OGC attorneys concerning a letter from counsel for GCU related to the GCU investigation. The emails contain strategic discussion about the GCU investigation and are part of the Department's internal deliberative process on the GCU investigation; specifically, responding to GCU's counsel and determining next steps to take in the investigation. The emails solicit and provide guidance on the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – FSA included OGC in all of the internal emails contained in this record regarding the letter from GCU's counsel to provide OGC with information about the investigation and allow OGC, as appropriate, to provide legal advice regarding FSA's proposed actions. OGC – specifically, Mangold – provided such advice in one email. As a result, these emails constitute attorney-client communications. Release of this information could have a chilling effect on the attorney-client relationship between OGC and FSA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
73	REVISED ED 24-00550-F (Apr. 15, 2024)_000312- REVISED ED 24-00550-F (Apr. 15, 2024)_000314	3	<ol style="list-style-type: none"> 1. Email from David Obuchowicz, Counsel for GCU, to Kristen Donoghue, copying Steven Gombos and Steve Chema, Counsel for GCU, Regarding the Notice of Fine 	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of two internal emails from Madaio to others within FSA and the Department.

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Referral in the GCU Investigation Date: Aug. 30, 2023, 11:21pm</p> <p>2. Email from Christopher Madaio to Obuchowicz and Gombos, copying Donoghue Date: Aug. 31, 2023, 4:58pm</p> <p>3. Email from Gomobos to Madaio and Obuchowicz, copying Donoghue Date: Sept. 5, 2023, 2:01pm</p> <p>4. Email from Madaio to Susan Crim, Donna Mangold, Christle Sheppard Southall, Kristen Donoghue, Colleen Nevin, Sarah Angilello, John Bailey, and Hunter Wiggins Date: Sept. 5, 2023, 5:27pm</p> <p>5. Email from Madaio to Crim, Donoghue, Nevin, Wiggins, and Angilello Date: Sept. 5, 2023, 5:30pm</p>		<p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld portions of two emails from Madaio because the withheld material contains strategic discussion of the GCU investigation. The withheld portions of the emails are part of the Department’s internal deliberative process on the GCU investigation. The release of the information withheld in this email thread would have a chilling effect on frank investigative discussions within the Department.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
74	REVISED ED 24-00550-F (Apr. 15, 2024)_000315 – REVISED ED 24-00550-F (Apr. 15, 2024)_000318	4	<p>1. Email from Christopher Madaio to Susan Crim, Colleen Nevin, Kristen Donoghue, Sarah Angilello, Hunter Wiggins, Donna Mangold, and Christle Sheppard Southall Regarding the GCU Investigation Date: Sept. 6, 2023, 4:13pm</p> <p>2. Email from Wiggins Date: Sept. 6, 2023, 5:19pm</p> <p>3. Email from Donoghue to Wiggins, copying Madaio, Crim, Nevin, Angilello, Mangold, and Sheppard Southall Date: Sept. 6, 2023, 9:57pm</p> <p>4. Email from Donoghue to Wiggins, copying Madaio, Crim, Nevin, Angilello, Mangold, and Sheppard Southall Date: Sept. 7, 2023, 12:49pm</p> <p>5. Email from Madaio to Donoghue and Wiggins, copying Crim, Nevin, Angilello, Mangold, and Sheppard Southall Date: Sept. 7, 2023, 12:50pm</p> <p>6. Email from Donoghue to Madaio and Wiggins, copying Crim, Nevin, Angilello, Mangold, and Sheppard Southall Date: Sept. 7, 2023, 12:51pm</p> <p>7. Email from Madaio to Donoghue and Wiggins, copying Crim, Nevin, Angilello, Mangold, and Sheppard Southall Date: Sept. 7, 2023, 5:24pm</p> <p>8. Email from Donoghue to Madaio and Wiggins, copying Crim, Nevin, Angilello, Mangold, and Sheppard Southall Date: Sept. 7, 6:36pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of all internal emails between FSA and OGC officials in this record, with the exception of Mangold’s September 8, 2023, 12:55pm email and Madaio’s September 8, 2023, 3:06pm email (which was withheld only in part).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of emails exchanged between Wiggins, Donoghue, Mangold, and Madaio, which copied other FSA officials and OGC attorneys, because they solicit and provide and solicit advice and recommendations concerning the GCU investigation; specifically, a letter from GCU’s counsel regarding a meeting on the investigation. The emails are part of the Department’s internal deliberative process in determining the specific actions to take in the GCU investigation, and in determining how to respond to GCU’s counsel’s letter. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege</u> – Donoghue’s September 7, 6:36pm email is an attorney-client communication because it identifies an issue on which Donoghue requested OGC’s legal review. Disclosure of this material would have a chilling effect on the attorney-client relationship between OGC and FSA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			9. Email from Madaio to Mangold, copying Sheppard Southall Date: Sept. 8, 2023, 12:51pm 10. Email from Mangold to Madaio, copying Sheppard Southall Date: Sept. 8, 2023, 2:10pm 11. Email from Donoghue to Madaio Date: Sept. 8, 2023, 2:38pm 12. Email from Madaio Date: Sept. 8, 2023, 2:40pm 13. Email from Donoghue to Madaio Date: Sept. 8, 2023, 2:50pm 14. Email from Madaio to Donoghue Date: Sept. 8, 2023, 3:06pm		
75	REVISED ED 24-00550-F (Apr. 15, 2024)_000319 – REVISED ED 24-00550-F (Apr. 15, 2024)_000321	3	1. Email from David Obuchowicz, Counsel for GCU, to Kristen Donoghue, copying Steven Gombos and Steve Chema, Counsel for GCU, Regarding the Notice of Fine Referral in the GCU Investigation Date: Aug. 30, 2023, 11:21pm 2. Email from Christopher Madaio to Obuchowicz and Gombos, copying Donoghue Date: Aug. 31, 2023, 4:58pm 3. Email from Gombos to Obuchowicz and Madaio, copying Donoghue Date: Sept. 8, 2023, 2:14pm 4. Email from Madaio to Mangold, copying Donoghue, Christle Sheppard Southall, Sarah Angilello, Colleen Nevin, and Susan Crim Date: Sept. 8, 2023, 2:40pm 5. Email from Mangold to Madaio, copying Donoghue, Sheppard Southall, Angilello, Nevin, and Crim Date: Sept. 8, 2023, 3:49pm 6. Email from Donoghue to Mangold and Madaio, copying Sheppard Southall, Angilello, Nevin, and Crim Date: Sept. 8, 2023, 3:51pm 7. Email from Madaio to Donoghue and Mangold, copying Sheppard Southall, Angilello, Nevin, and Crim Date: Sept. 8, 2023, 3:52pm 8. Email from Mangold to Madaio and Donoghue, copying Sheppard Southall, Angilello, Nevin, and Crim Date: Sept. 8, 2023, 4:26pm 9. Email from Donoghue to Mangold and Madaio, copying Sheppard Southall, Angilello, Nevin, Crim, and Hunter	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails from Madaio, Donoghue, and Mangold concerning the GCU investigation, which copied other FSA Enforcement officials and OGC attorneys and were internal to the Department</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege and Attorney Work-Product Privilege</i> – ED withheld the contents of emails exchanged between Mangold, Madaio, and Donoghue, which copied other FSA Enforcement officials and OGC attorneys, because they solicit and provide legal advice concerning the GCU investigation. The emails thus are attorney-client communications. The emails from Madaio and Mangold also constitute attorney work product, having been drafted by attorneys in reasonable anticipation of litigation with GCU regarding the investigation. Disclosure of the withheld material would have a chilling effect on FSA seeking and OGC providing advice regarding FSA investigations. <u>Deliberative Process Privilege</u> – These emails also are part of the Department’s internal deliberative process on the GCU investigation, given that they solicit and provide recommendations regarding the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			Wiggins Date: Sept. 8, 2023, 4:55pm		
76	REVISED ED 24-00550-F (Apr. 15, 2024)_000326 – REVISED ED 24-00550-F (Apr. 15, 2024)_000327	2	<ol style="list-style-type: none"> 1. Email from Susan Crim to John Bailey, Kristen Donoghue, Kathryn Johnson, Christopher Madaio, Donna Mangold, Colleen Nevin, Christle Sheppard Southall, Tara Sikora, and Hunter Wiggins Regarding the GCU Investigation Date: July 31, 2023, 12:41pm 2. Email from Nevin to Bailey, copying Crim, Mangold, and Sheppard Southall Date: Sept. 1, 2023, 12:04pm 3. Email from Nevin to Donoghue Date: Sept. 6, 2023, 5:00pm 4. Email from Donoghue to Bailey, Crim, Nevin, Wiggins, Mangold, and Sheppard Southall, copying Dawn Bilodeau and Christopher Madaio Date: Sept. 10, 2023, 2:18pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys concerning the GCU investigation. ED also withheld a portion of the subject lines of each of the emails in the record.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys that contains strategic discussions regarding the GCU investigation. The emails are also part of the Department’s internal deliberative process on the GCU investigation. The discussions were antecedent to the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege</u> – ED also withheld this material because it solicits legal advice from OGC regarding the GCU investigation. The emails constitute attorney-client communications with OGC and FSA attorneys. The release of this information would have a chilling effect on the attorney-client relationship between OGC and FSA. ED also withheld a portion of the subject line of each of the emails in this email thread because the withheld material would reveal the nature of the legal advice sought and strategic discussions regarding the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
77	REVISED ED 24-00550-F (Apr. 15, 2024)_000328 – REVISED ED 24-00550-F (Apr. 15, 2024)_000329	2	<ol style="list-style-type: none"> 1. Email from Susan Crim to John Bailey, Kristen Donoghue, Kathryn Johnson, Christopher Madaio, Donna Mangold, Colleen Nevin, Christle Sheppard Southall, Tara Sikora, and Hunter Wiggins Regarding the GCU Investigation Date: July 31, 2023, 12:41pm 2. Email from Nevin to Bailey, copying Crim, Mangold, and Sheppard Southall Date: Sept. 1, 2023, 12:04pm 3. Email from Nevin to Donoghue Date: Sept. 6, 2023, 5:00pm 4. Email from Donoghue to Bailey, Crim, Nevin, Wiggins, Mangold, and Sheppard Southall, copying Dawn Bilodeau and Christopher Madaio Date: Sept. 10, 2023, 2:18pm 5. Email from Crim to Donoghue Date: Sept. 10, 2023, 2:19pm 6. Email from Donoghue to Crim Date: Sept. 10, 2023, 2:20pm 7. Email from Crim to Donoghue Date: Sept. 10, 2023, 2:21pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys concerning the GCU investigation. ED also withheld a portion of the subject lines of each of the emails in the record.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys that contains strategic discussions regarding the GCU investigation. The emails also part of the Department’s internal deliberative process on the GCU investigation. The discussions were antecedent to the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege</u> – ED also withheld this material because it solicits legal advice from OGC regarding the GCU investigation. The emails constitute attorney-client communications with OGC and FSA attorneys. The release of this information would have a chilling effect on the attorney-client relationship between OGC and FSA. ED also withheld a portion of the subject line of each of the emails in this email thread because the withheld material would reveal the nature of the legal advice sought and strategic discussions regarding the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
78	REVISED ED 24-00550-F (Apr. 15, 2024)_000330 – REVISED ED 24-00550-F (Apr. 15, 2024)_000331	2	<ol style="list-style-type: none"> 1. Email from Susan Crim to John Bailey, Kristen Donoghue, Kathryn Johnson, Christopher Madaio, Donna Mangold, Colleen Nevin, Christle Sheppard Southall, Tara Sikora, and Hunter Wiggins Regarding the GCU Investigation Date: July 31, 2023, 12:41pm 2. Email from Nevin to Bailey, copying Crim, Mangold, and Sheppard Southall Date: Sept. 1, 2023, 12:04pm 3. Email from Nevin to Donoghue Date: Sept. 6, 2023, 5:00pm 4. Email from Donoghue to Bailey, Crim, Nevin, Wiggins, Mangold, and Sheppard Southall, copying Dawn Bilodeau and Christopher Madaio Date: Sept. 10, 2023, 2:18pm 5. Email from Donoghue to Bailey, Crim, Nevin, Wiggins, Mangold, and Sheppard Southall, copying Bilodeau and Madaio Date: Sept. 13, 2023, 5:55pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys concerning the GCU investigation. ED also withheld a portion of the subject lines of each of the emails in the record.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys that contains strategic discussions regarding the GCU investigation. The emails are also part of the Department’s internal deliberative process on the GCU investigation. The emails are antecedent to the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege</u> – ED also withheld this material because it solicits legal advice from OGC regarding the GCU investigation. The emails constitute attorney-client communications with OGC and FSA attorneys. The release of this information would have a chilling effect on the attorney-client relationship between OGC and FSA. ED also withheld a portion of the subject line of each of the emails in this email thread because the withheld material would reveal the nature of the legal advice sought and strategic discussions regarding the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
79	REVISED ED 24-00550-F (Apr. 15, 2024)_000332 – REVISED ED 24-00550-F (Apr. 15, 2024)_000334	3	<ol style="list-style-type: none"> 1. Email from Susan Crim to John Bailey, Kristen Donoghue, Kathryn Johnson, Christopher Madaio, Donna Mangold, Colleen Nevin, Christle Sheppard Southall, Tara Sikora, and Hunter Wiggins Regarding the GCU Investigation Date: July 31, 2023, 12:41pm 2. Email from Nevin to Bailey, copying Crim, Mangold, and Sheppard Southall Date: Sept. 1, 2023, 12:04pm 3. Email from Nevin to Donoghue Date: Sept. 6, 2023, 5:00pm 4. Email from Donoghue to Bailey, Crim, Nevin, Wiggins, Mangold, and Sheppard Southall, copying Dawn Bilodeau and Christopher Madaio Date: Sept. 10, 2023, 2:18pm 5. Email from Donoghue Date: Sept. 13, 2023, 5:55pm 6. Email from Madaio to Donoghue Date: Sept. 13, 2023, 6:01pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys concerning the GCU investigation. ED also withheld a portion of the subject lines of each of the emails in the record, including the email from Madaio to Donoghue (which is not otherwise withheld).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege –</i> ED withheld emails from Crim, Nevin, and Donoghue to other FSA Enforcement officials and OGC attorneys that contains strategic discussions regarding the GCU investigation. The emails are also part of the Department’s internal deliberative process on the GCU investigation. The emails are antecedent to the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege</u> – ED also withheld this material because it solicits legal advice from OGC regarding the GCU investigation. The emails constitute attorney-client communications with OGC and FSA attorneys. The release of this information would have a chilling effect on the attorney-client relationship between OGC and FSA. ED also withheld a portion of the subject line of each of the emails in this email thread because the withheld material would reveal the nature of the legal advice sought and strategic discussions regarding the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
80	REVISED ED 24-00550-F (Apr. 15, 2024)_000335 –	3	<ol style="list-style-type: none"> 1. Email from Kristen Donoghue to Michael Frola, Christopher Madaio, Sarah 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails between Madaio, Frola, Donoghue, and Crim – aside from two lines in Frola’s September 14, 2023, 12:58pm email that</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
	REVISED ED 24-00550-F (Apr. 15, 2024)_000337		<p>Angilello, Edward Groves, Donna Mangold, Christle Sheppard Southall, John Bailey, Susan Crim, and Colleen Nevin, copying Hunter Wiggins, Regarding Legal Advice on the GCU Investigation And Other FSA Matters Related to GCU Date: Sept. 14, 2023, 10:27am</p> <p>2. Email from Frola Date: Sept. 14, 2023, 12:23pm</p> <p>3. Email from Madaio to Frola, copying Donoghue, Angilello, Groves, Mangold, Sheppard Southall, Bailey, Crim, Nevin, and Wiggins Date: Sept. 14, 2023, 12:30pm</p> <p>4. Email from Crim to Madaio and Frola, copying Donoghue, Angilello, Groves, Mangold, Sheppard Southall, Bailey, Nevin, and Wiggins Date: Sept. 14, 2023, 12:52pm</p> <p>5. Email from Frola to Crim and Madaio, copying Donoghue, Angilello, Groves, Mangold, Sheppard Southall, Bailey, Nevin, Wiggins, Martina Fernandez-Rosario, and Jane Eldred Date: Sept. 14, 2023, 12:58pm</p> <p>6. Email from Donoghue to Frola, Crim, and Madaio, copying Angilello, Groves, Mangold, Sheppard Southall, Bailey, Nevin, Wiggins, Fernandez-Rosario, and Eldred Date: Sept. 14, 2023, 1:08pm</p>		<p>are not withheld – regarding GCU’s recertification/PPPA and, relatedly, the GCU investigation and other FSA matters involving GCU. ED also withheld the name of an attachment to Donoghue’s September 14, 10:27am email.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld the emails between Donoghue, Madaio, Frola, and Crim, which included other FSA officials/staff and OGC attorneys, that requested legal guidance on the GCU’s recertification/PPPA, the GCU investigation and other FSA matters involving GCU, and that provide information in response to such requests. GCU’s PPPA contained terms imposed by ED as a result of the GCU investigation. These emails constitute attorney-client communications between FSA and OGC. <i>Deliberative Process Privilege</i> – ED withheld the emails between Donoghue, Madaio, Frola, and Crim because they solicited and provided guidance on issues related to GCU’s recertification/PPPA GCU investigation and other FSA matters involving GCU. The emails are antecedent to the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU, and precede the final PPPA issued to and signed by GCU. These emails are part of the deliberative process regarding the GCU investigation and also the deliberative process regarding other FSA matters involving GCU, including recertification/PPPA. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. Disclosure of this information would also have a chilling effect on discussion of recertification and PPA-related matters, particularly to the extent they relate to ongoing FSA investigations. Such discussions are critical to ensuring institutions’ compliance with title IV program requirements.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
81	REVISED ED 24-00550-F (Apr. 15, 2024)_000338 – REVISED ED 24-00550-F (Apr. 15, 2024)_000341	4	<p>1. Email from Kristen Donoghue to Michael Frola, Christopher Madaio, Sarah Angilello, Edward Groves, Donna Mangold, Christle Sheppard Southall, John Bailey, Susan Crim, and Colleen Nevin, copying Hunter Wiggins, Regarding Legal Advice on the GCU Investigation And Other FSA Matters Related to GCU Date: Sept. 14, 2023, 10:27am</p> <p>2. Email from Frola Date: Sept. 14, 2023, 12:23pm</p> <p>3. Email from Madaio to Frola, copying Donoghue, Angilello, Groves, Mangold, Sheppard Southall, Bailey, Crim, Nevin, and Wiggins Date: Sept. 14, 2023, 12:30pm</p> <p>4. Email from Crim to Madaio and Frola, copying Donoghue, Angilello, Groves, Mangold, Sheppard Southall, Bailey,</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails between Madaio, Frola, Donoghue, and Crim – aside from two lines in Frola’s September 14, 2023, 12:58pm email that are not withheld – regarding GCU’s recertification/PPPA and, relatedly, the GCU investigation and other FSA matters involving GCU. ED also withheld the name of an attachment to Donoghue’s September 14, 10:27am email.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld the emails between Donoghue, Madaio, Frola, and Crim, which included other FSA officials/staff and OGC attorneys, that requested legal guidance on the GCU’s recertification/PPPA, the GCU investigation and other FSA matters involving GCU, and that provide information in response to such requests. GCU’s PPPA contained terms imposed by ED as a result of the GCU investigation. These emails constitute attorney-client communications between FSA and OGC. <i>Deliberative Process Privilege</i> – ED withheld the emails between Donoghue, Madaio, Frola, and Crim because they solicited and provided guidance on issues related to GCU’s recertification/PPPA GCU investigation and other FSA matters involving GCU. The emails are antecedent to the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU, and precede the final PPPA issued to and signed by GCU. These emails are part of the deliberative process regarding the GCU investigation and also the deliberative process regarding other FSA matters involving GCU, including recertification/PPPA. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Nevin, and Wiggins Date: Sept. 14, 2023, 12:52pm</p> <p>5. Email from Frola to Crim and Madaio, copying Donoghue, Angilello, Groves, Mangold, Sheppard Southall, Bailey, Nevin, Wiggins, Martina Fernandez-Rosario, and Jane Eldred Date: Sept. 14, 2023, 12:58pm</p> <p>6. Email from Donoghue Date: Sept. 14, 2023, 1:07pm</p> <p>7. Email from Madaio to Donoghue, copying Frola, Crim, Angilello, Groves, Mangold, Sheppard Southall, Bailey, Nevin, Wiggins, Fernandez-Rosario, and Eldred Date: Sept. 14, 2023, 1:15pm</p>		<p>discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. Disclosure of this information would also have a chilling effect on discussion of recertification and PPA-related matters, particularly to the extent they relate to ongoing FSA investigations. Such discussions are critical to ensuring institutions' compliance with title IV program requirements.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
82	REVISED ED 24-00550-F (Apr. 15, 2024)_000345 – REVISED ED 24-00550-F (Apr. 15, 2024)_000348	4	<p>1. Email from Steve Chema, Counsel for GCU, to Michael Frola, copying Steven Gombos and David Obuchowicz, Regarding an August 30, 2023 Letter from Frola to Gombos About GCU Date: Sept. 15, 2023, 4:08pm</p> <p>2. Email from Frola to Susan Crim, Sarah Angilello, Edward Groves, Donna Mangold, Christle Sheppard Southall, John Bailey, Colleen Nevin, Hunter Wiggins, Martina Fernandez-Rosario, and Jane Eldred Date: Sept. 16, 2023, 8:22am</p> <p>3. Email from Donoghue to Frola, Crim, Angilello, Groves, Mangold, Sheppard Southall, Bailey, Nevin, Wiggins, Fernandez-Rosario, and Eldred Date: Sept. 16, 2023, 10:26am</p> <p>4. Email from Mangold to Donoghue, Frola, Crim, Angilello, Groves, Sheppard Southall, Bailey, Nevin, Wiggins, Fernandez-Rosario, and Eldred Date: Sept. 17, 2023, 8:58pm</p> <p>5. Email from Donoghue to Mangold, Bailey, and Sheppard Southall, copying Christopher Madaio Date: Sept. 18, 2023, 8:42am</p> <p>6. Email from Mangold Date: Sept. 18, 2023, 9:30am</p> <p>7. Email from Madaio to Mangold, copying Donoghue, Bailey, and Sheppard Southall Date: Sept. 18, 2023, 9:34am</p> <p>8. Email from Donoghue to Madaio and Mangold, copying Bailey and Sheppard Southall Date: Sept. 18, 2023, 9:46am</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld under Exemptions 5 and 7(A) the contents of Frola's email to others in the Department. ED also withheld portions of Donoghue's September 16, 2023, and September 18, 8:42am emails and Madaio's September 18, 9:34am email, as well as the full contents of Donoghue's September 18, 9:46am email.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> - ED withheld portions of emails between Kristen Donoghue, Christopher Madaio, Donna Mangold, Christle Sheppard Southall, and John Bailey that solicited legal advice and strategy from OGC attorneys concerning the GCU investigation. These emails constitute attorney-client communications. The release of this material would have a chilling effect on the attorney-client relationship between OGC and FSA. <u>Deliberative Process Privilege</u> – The aforementioned emails between Donoghue, Madaio, and OGC attorneys are part of the Department's internal deliberative process in the GCU investigation. Additionally, ED withheld portions of Frola's and Donoghue's September 16, 2023 emails to other FSA officials/staff and OGC attorneys because they contain strategic discussions of the GCU investigation and other FSA matters, including an open program review involving GCU. These emails are part of the Department's internal deliberative process regarding the GCU investigation and the Department's deliberative process for considering actions in other matters involving GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. Disclosure of this information also would have a chilling effect on discussion of matters related to ensuring compliance with title IV program requirements more generally.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing. Additionally, with respect to Exemption 7(A), the release of information about an open program review also reasonably could interfere with the Department's ability to complete a fair, thorough program review.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			9. Email from Madaio to Sheppard Southall Date: Sept. 18, 2023, 1:16pm		
83	REVISED ED 24-00550-F (Apr. 15, 2024)_000349 – REVISED ED 24-00550-F (Apr. 15, 2024)_000351	3	<ol style="list-style-type: none"> 1. Email from David Obuchowicz, Counsel for GCU, to Christopher Madaio, copying Steven Gombos, Steve Chema, and Kendra Guidry, Counsel for GCU, Regarding Documents Exchanged For a Sept. 19, 2023 Meeting Date: Sept. 18, 2023, 10:47am 2. Email from Madaio Date: Sept. 18, 2023, 6:16pm 3. Email from Gombos to Madaio, copying Obuchowicz, Chema, Guidry, and Sarah Angilello Date: Sept. 18, 2023, 6:50pm 4. Email from Madaio to Kristen Donoghue Date: Sept. 18, 2023, 6:57pm 5. Email from Donoghue to Susan Crim, Colleen Nevin, Denise Morelli, John Bailey, Christle Sheppard Southall, and Donna Mangold, copying Hunter Wiggins Date: Sept. 18, 2023, 7:05pm 6. Email from Sheppard Southall to Donoghue, Crim, Nevin, Morelli, Bailey, and Mangold, copying Wiggins Date: Sept. 18, 2023, 7:20pm 7. Email from Donoghue to Sheppard Southall, Crim, Nevin, Morelli, Bailey, and Mangold, copying Wiggins Date: Sept. 18, 2023, 7:22pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the content of Donoghue’s September 18, 2023, 7:05pm and September 18, 7:22pm emails regarding the GCU investigation, as well as the content – aside from a single word – of Sheppard Southall’s response to Donoghue.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege and Deliberative Process Privilege –</i> ED withheld emails between FSA Enforcement staff/officials and OGC attorneys that contain strategic discussion of an issue in the GCU investigation on which advice and feedback was solicited from and provided by other FSA staff and from OGC attorneys. These discussions are part of the Department’s internal deliberative process on the GCU investigation and determining the appropriate actions to take against GCU. The discussion predates the Chief Operating Officer’s approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. The emails also constitute attorney-client communications, given that they solicit – or provide – legal advice from OGC. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. Disclosure similarly would have a chilling effect on the attorney-client relationship between OGC and FSA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
84	REVISED ED 24-00550-F (Apr. 15, 2024)_000352 – REVISED ED 24-00550-F (Apr. 15, 2024)_000356	5	<ol style="list-style-type: none"> 8. Email from David Obuchowicz, Counsel for GCU, to Christopher Madaio, copying Steven Gombos, Steve Chema, and Kendra Guidry, Counsel for GCU, Regarding Documents Exchanged For a Sept. 19, 2023 Meeting Date: Sept. 18, 2023, 10:47am 9. Email from Madaio Date: Sept. 18, 2023, 6:16pm 10. Email from Gombos to Madaio, copying Obuchowicz, Chema, Guidry, and Sarah Angilello Date: Sept. 18, 2023, 6:50pm 11. Email from Madaio to Kristen Donoghue Date: Sept. 18, 2023, 6:57pm 12. Email from Donoghue Date: Sept. 18, 2023, 7:05pm 13. Email from Susan Crim to Donoghue, copying Colleen Nevin, Denise Morelli, John Bailey, Christle Sheppard Southall, 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails from Donoghue’s September 18, 2023, 7:05pm, 7:21pm, 7:26pm, and 7:32pm emails and Crim’s September 18, 7:14pm, 7:25pm, 7:28pm, and September 19, 3:00pm emails regarding the GCU investigation, sent to other FSA staff and OGC attorneys.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege and Attorney-Client Privilege –</i> ED withheld emails between FSA Enforcement staff/officials and OGC attorneys that contain strategic discussion of an issue in the GCU investigation on which advice and feedback was solicited from and provided by other FSA staff and from OGC attorneys. These discussions are part of the Department’s internal deliberative process on the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. The emails also constitute attorney-client communications to the extent they provide information and preliminary advice and feedback on which OGC’s legal advice was requested. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Donna Mangold, and Hunter Wiggins Date: Sept. 18, 2023, 7:14pm</p> <p>14. Email from Donoghue Date: Sept. 18, 2023, 7:21pm</p> <p>15. Email from Crim to Donoghue, copying Nevin, Morelli, Bailey, Sheppard Southall, Mangold, and Wiggins Date: Sept. 18, 2023, 7:25pm</p> <p>16. Email from Donoghue Date: Sept. 18, 2023, 7:26pm</p> <p>17. Email from Crim to Donoghue, copying Nevin, Morelli, Bailey, Sheppard Southall, Mangold, and Wiggins Date: Sept. 18, 2023, 7:28pm</p> <p>18. Email from Donoghue to Crim, copying Nevin, Morelli, Bailey, Sheppard Southall, Mangold, and Wiggins Date: Sept. 18, 2023, 7:32pm</p> <p>19. Email from Donoghue to Crim, copying Nevin, Morelli, Bailey, Sheppard Southall, Mangold, and Wiggins Date: Sept. 19, 2023, 3:00pm</p>		such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
85	REVISED ED 24-00550-F (Apr. 15, 2024)_000357 – REVISED ED 24-00550-F (Apr. 15, 2024)_000358	2	<p>1. Email from David Obuchowicz to Michael Frola, copying Kristen Donoghue, Donna Mangold, and Steven Gombos, Steve Chema, and Jacob Shorter, Counsel for GCU, Regarding a Letter Related to the GCU Investigation and Other Matters Involving GCU Date: Sept. 22, 2023, 1:56pm</p> <p>2. Email from Donoghue to Christopher Madaio, Susan Crim, Colleen Nevin, Sarah Angilello, and Edward Groves, copying Frola, Christle Sheppard Southall, and John Bailey Date: Sept. 22, 2023, 3:07pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld an email from Donoghue to other FSA staff and OGC attorneys concerning a letter from counsel for GCU related to the GCU investigation and other FSA matters involving GCU.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The email contains deliberative discussion of GCU's PPPA and other matters involving GCU, as well as the GCU investigation as it related to such matters, and are part of the Department's internal deliberative process on those matters. The PPPA contained terms imposed in part by the Department as a result of the GCU investigation. The email also provides advice and views from Donoghue, the Chief Enforcement Officer, and solicits views from OGC attorneys and other FSA staff on these matters. Disclosure of this information would have a chilling effect on discussion of FSA work to ensure institutions' compliance with title IV program requirements, which is a critical FSA function. Disclosure of this information also would have a chilling effect on frank investigative discussions concerning FSA investigations, to the extent these emails also discuss the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <i>Attorney-Client Privilege</i> – To the extent that Donoghue's email seeks advice from OGC attorneys regarding the GCU investigation and other matters involving GCU, the email constitutes a communication from a client to their attorneys.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) to the extent that it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing. ED also withheld under Exemption 7(A) information about the open program review into GCU, which reasonably could interfere with the Department's ability to complete a fair, thorough program review.</p>
86	REVISED ED 24-00550-F (Apr. 15, 2024)_000359 –	2	1. Email from David Obuchowicz to Michael Frola, copying Kristen Donoghue, Donna Mangold, and Steven Gombos, Steve	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld an email from Donoghue to other FSA staff and OGC attorneys concerning a letter from counsel for GCU related to the GCU investigation and

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
	REVISED ED 24-00550-F (Apr. 15, 2024)_000360		<p>Chema, and Jacob Shorter, Counsel for GCU, Regarding a Letter Related to the GCU Investigation and Other Matters Involving GCU Date: Sept. 22, 2023, 1:56pm</p> <p>2. Email from Donoghue to Christopher Madaio, Susan Crim, Colleen Nevin, Sarah Angilello, and Edward Groves, copying Frola, Christle Sheppard Southall, and John Bailey Date: Sept. 22, 2023, 3:07pm</p> <p>3. Email from Madaio to Donoghue, Crim, Nevin, Angilello, and Groves, copying Frola, Sheppard Southall, and Bailey Date: Sept. 22, 2023, 3:27pm</p>		<p>other FSA matters involving GCU. ED also withheld an email from Madaio to other FSA staff and OGC attorneys regarding the same.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails contain deliberative discussion of GCU’s PPPA and other matters involving GCU, as well as the GCU investigation as it related to such matters, and are part of the Department’s internal deliberative process on those matters. The PPPA contained terms imposed in part by the Department as a result of the GCU investigation. The email also provides advice and views from Donoghue, the Chief Enforcement Officer, and Madaio, the Director of the Investigations Group, and solicits advice from OGC attorneys and other FSA staff on these matters. Disclosure of this information would have a chilling effect on discussion of FSA work to ensure institutions’ compliance with title IV program requirements, which is a critical FSA function. Disclosure of this information also would have a chilling effect on frank investigative discussions concerning FSA investigations, to the extent these emails also discuss the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Attorney-Client Privilege</i> – To the extent that Donoghue’s email seeks advice from OGC attorneys regarding matters involving GCU, the email constitutes a communication from a client to their attorneys. Madaio’s email also constitutes an attorney-client communication as Madaio, an attorney, is providing his views and advice regarding matters related to GCU, including the PPPA, which contained conditions imposed in part as a result of the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) to the extent that it contains privileged information relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing. ED also withheld under Exemption 7(A) information about the open program review into GCU, which reasonably could interfere with the Department’s ability to complete a fair, thorough program review.</p>
87	REVISED ED 24-00550-F (Apr. 15, 2024)_000366	1	<p>Emails between Christopher Madaio and Kristen Donoghue, copying Sarah Angilello and Kathryn Johnson, concerning an Investigation Group Meeting with Richard Cordray</p> <p>Date: September 25, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld portions of emails between FSA Enforcement officials/staff that detail issues for discussion at a monthly meeting with Cordray, the then-Chief Operating Officer of FSA. The discussion relates to open enforcement matters, including the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – Donoghue’s and Madaio’s emails respectively address their views on the items to be discussed with Cordray. The emails are part of the Department’s internal deliberative process on the GCU investigation and other matters being handled by the Investigations Group. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and other Investigations Group matters. Such investigative discussions are central to FSA performing the core function of investigating and enforcing institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
88	REVISED ED 24-00550-F (Apr. 15, 2024)_000367 – REVISED ED 24-00550-F (Apr. 15, 2024)_000373	7	<p>1. Email from David Obuchowicz, Counsel for GCU, to Kristen Donoghue, Donna Mangold, and Steven Gombos, Steve Chema, and Jacob Shorter, Counsel for GCU, Regarding a Letter Related to the</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld an email from Donoghue to other FSA staff and OGC attorneys concerning a letter from counsel for GCU related to the GCU investigation and other FSA matters involving GCU. ED also withheld an email from Madaio to other FSA staff and OGC attorneys regarding the same. ED also withheld responses from Eldred, Frola, and Crim, as well as additional emails from Madaio regarding the same.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>GCU Investigation and Other Matters Involving GCU Date: Sept. 22, 2023, 1:56pm</p> <p>2. Email from Donoghue to Christopher Madaio, Susan Crim, Colleen Nevin, Sarah Angilello, and Edward Groves, copying Michael Frola, Christle Sheppard Southall, and John Bailey Date: Sept. 22, 2023, 3:07pm</p> <p>3. Email from Madaio to Donoghue, Crim, Nevin, Angilello, and Groves, copying Frola, Sheppard Southall, and Bailey Date: Sept. 22, 2023, 3:27pm</p> <p>4. Email from Frola to Madaio, Donoghue, Crim, Nevin, Angilello, and Groves, copying Sheppard Southall, Bailey, Jane Eldred, and Martina Fernandez-Rosario Date: Sept. 22, 2023, 4:23pm</p> <p>5. Email from Eldred to Frola, Madaio, Donoghue, Crim, Nevin, Angilello, and Groves, copying Sheppard Southall, Bailey, and Fernandez-Rosario Date: Sept. 22, 2023, 4:40pm</p> <p>6. Email from Frola to Eldred, Madaio, Donoghue, Crim, Nevin, Angilello, and Groves, copying Sheppard Southall, Bailey, and Fernandez-Rosario Date: Sept. 25, 2023, 1:01pm</p> <p>7. Email from Madaio to Frola, Eldred, Donoghue, Crim, Nevin, Angilello, and Groves, copying Sheppard Southall, Bailey, and Fernandez-Rosario Date: Sept. 25, 2023, 9:52pm</p> <p>8. Email from Frola to Madaio, Eldred, Donoghue, Crim, Nevin, Angilello, and Groves, copying Sheppard Southall, Bailey, and Fernandez-Rosario Date: Sept. 26, 2023, 7:57am</p> <p>9. Email from Crim to Frola, Madaio, Eldred, Donoghue, Nevin, Angilello, Groves, and Denise Morelli, copying Sheppard Southall, Bailey, and Fernandez-Rosario Date: Sept. 26, 2023, 10:15am</p> <p>10. Email from Crim to Frola, Madaio, Eldred, Donoghue, Nevin, Angilello, Groves, and Morelli, copying Sheppard Southall, Bailey, and Fernandez-Rosario Date: Sept. 26, 2023, 10:15am</p> <p>11. Email from Crim to Frola, Madaio, Eldred, Donoghue, Nevin, Angilello, Groves, and Morelli, copying Sheppard Southall,</p>		<p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails contain deliberative discussion of GCU’s PPPA and other matters involving GCU, as well as the GCU investigation as it related to such matters, and are part of the Department’s internal deliberative process on those matters. The email also provides advice and views from Donoghue, the Chief Enforcement Officer, Madaio, the Director of the Investigations Group, Frola, Eldred, and Crim and solicits advice from OGC attorneys and other FSA staff on these matters. Disclosure of this information would have a chilling effect on discussion of other FSA work to ensure institutions’ compliance with title IV program requirements, which is a critical FSA function. Disclosure of this information also would have a chilling effect on frank investigative discussions concerning FSA investigations, to the extent these emails also discuss the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Attorney-Client Privilege</i> – To the extent that emails from Donoghue, Frola, Madaio, and Crim seeks advice from OGC attorneys regarding various matters involving GCU, including the PPPA – or indicate that FSA was in the process of obtaining OGC advice on other matters involving GCU – the emails constitute communications from clients to their attorneys. Madaio’s September 22, 2023, 3:27pm email also constitutes an attorney-client communication as Madaio, an attorney, is providing his views and advice regarding matters related to GCU, including the PPPA, which contained conditions imposed in part as a result of the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) to the extent that it contains privileged information relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing. ED also withheld under Exemption 7(A) portions of Donoghue’s September 22, 2023 email; Frola’s September 22, 2023 email; Eldred’s September 22, 2023 email; and Crim’s September 26, 2023, 10:15am email because those portions of the emails contain discussion of information concerning an open program review involving GCU. The release of information about an open program review reasonably could interfere with the Department’s ability to complete a fair, thorough program review.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Bailey, Fernandez-Rosario, and Kathleen Hochhalter Date: Sept. 26, 2023, 12:06pm</p> <p>12. Email from Crim Date: Sept. 26, 2023, 12:11pm</p> <p>13. Email from Donoghue to Crim, copying Frola, Madaio, Eldred, Nevin, Angilello, Groves, Morelli, Sheppard Southall, Bailey, Fernandez-Rosario, and Hochhalter Date: Sept. 26, 2023, 12:38pm</p> <p>14. Email from Sheppard Southall to Donoghue and Crim, copying Frola, Madaio, Eldred, Nevin, Angilello, Groves, Morelli, Bailey, Fernandez-Rosario, and Hochhalter Date: Sept. 26, 2023, 1:01pm</p> <p>15. Email from Frola to Sheppard Southall, Donoghue, and Crim, copying Madaio, Eldred, Nevin, Angilello, Groves, Morelli, Bailey, Fernandez-Rosario, and Hochhalter Date: Sept. 26, 2023, 3:44pm</p> <p>16. Email from Madaio to Frola, Sheppard Southall, Donoghue, and Crim, copying Eldred, Nevin, Angilello, Groves, Morelli, Bailey, Fernandez-Rosario, and Hochhalter Date: Sept. 26, 2023, 3:45pm</p> <p>(Note: Hochhalter works in FSA.)</p>		
89	REVISED ED 24-00550-F (Apr. 15, 2024)_000381 – REVISED ED 24-00550-F (Apr. 15, 2024)_000383	3	<ol style="list-style-type: none"> 1. Email from Kristen Donoghue to Christopher Madaio, Richard Cordray, Michael Frola, John Bailey, Christle Sheppard Southall, Toby Merrill, Hunter Wiggins, Sarah Angilello, and Edward Groves Regarding GCU's PPPA Terms Date: Sept. 28, 2023, 6:59am 2. Email from Donoghue to Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, Groves, and Susan Crim Date: Sept. 28, 2023, 3:13pm 3. Email from Crim to Donoghue, Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 3:21pm 4. Email from Donoghue to Crim, Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, Groves Date: Sept. 28, 2023, 3:24pm 5. Email from Donoghue to Crim, Madaio, Cordray, Frola, Bailey, Sheppard Southall, 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails from Donoghue and Crim regarding conditions to be imposed by the Department in GCU's PPPA, as well as a portion of Cordray's email concerning GCU's PPPA conditions.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails are communications between Donoghue, the Chief Enforcement Officer, on behalf of herself and Madaio, and other FSA officials and OGC attorneys concerning conditions to be imposed by the Department in GCU's PPPA, which, at the time, had not yet been signed. GCU's PPPA includes conditions that were imposed by ED as a result of the GCU investigation. Donoghue's September 28, 2023, 3:13pm email also makes a recommendation to the Chief Operating Officer for his approval and discusses an issue relevant to the GCU investigation; Crim's September 28, 3:21pm also discusses an issue relevant to the GCU investigation. These discussions are part of the Department's internal deliberative process on GCU's PPPA and the GCU investigation, to the extent the investigation had bearing on the PPPA. These discussions are central to FSA performing its core function of ensuring institutions' compliance with Title IV program requirements; they are also central to FSA investigating institutions' compliance with the HEA. Disclosure of this information would have a chilling effect on the free exchange of recommendations regarding such matters between FSA staff and FSA leadership. ED withheld under Exemption 5 the first half of Cordray's email approving FSA's approach to GCU's PPPA because it reflects the reason for Cordray's approval of the conditions in GCU's PPPA. <u>Attorney-Client Privilege</u> – Donoghue's September 28, 3:13pm email also is an attorney-client communication to the extent that it seeks legal advice from OGC regarding updated terms to GCU's PPPA. Release of this information would have a chilling effect on the attorney-client relationship between FSA and OGC.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 3:25pm 6. Email from Cordray to Donoghue, Crim, Madaio, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 3:39pm		<i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) that it also withheld under Exemption 5 because it contains privileged information relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing. ED withheld under Exemption 7(A) the first half of Cordray’s email approving FSA’s approach to GCU’s PPPA because it reflects the reason for Cordray’s approval of the conditions in GCU’s PPPA.
90	REVISED ED 24-00550-F (Apr. 15, 2024)_000384 – REVISED ED 24-00550-F (Apr. 15, 2024)_000386	3	1. Email from Kristen Donoghue to Christopher Madaio, Richard Cordray, Michael Frola, John Bailey, Christle Sheppard Southall, Toby Merrill, Hunter Wiggins, Sarah Angilello, and Edward Groves Regarding GCU’s PPPA Terms Date: Sept. 28, 2023, 6:59am 2. Email from Donoghue to Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, Groves, and Susan Crim Date: Sept. 28, 2023, 3:13pm 3. Email from Crim to Donoghue, Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 3:21pm 4. Email from Donoghue to Crim, Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, Groves Date: Sept. 28, 2023, 3:24pm 5. Email from Crim to Donoghue, Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 3:24pm 6. Email from Donoghue to Crim, Madaio, Cordray, Frola, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 3:25pm 7. Email from Frola to Donoghue, Crim, Madaio, Cordray, Bailey, Sheppard Southall, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 3:33pm 8. Email from Sheppard Southall to Frola, Donoghue, Crim, Madaio, Cordray, Bailey, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 5:21pm 9. Email from Madaio to Sheppard Southall, Frola, Donoghue, Crim, Cordray, Bailey, Merrill, Wiggins, Angilello, and Groves Date: Sept. 28, 2023, 5:23pm	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails from Donoghue and Crim regarding conditions to be imposed by the Department in GCU’s PPPA. ED also withheld emails from Madaio, Frola, and Sheppard Southall regarding the same. <i>Justification – Exemption 5: Deliberative Process Privilege –</i> The emails are communications between Donoghue, the Chief Enforcement Officer, on behalf of herself and Madaio, and other FSA officials and OGC attorneys concerning conditions to be imposed by the Department in GCU’s PPPA, which, at the time, had not yet been signed. GCU’s PPPA includes conditions that were imposed by ED as a result of the GCU investigation. Donoghue’s September 28, 2023, 3:13pm email also makes a recommendation to the Chief Operating Officer for his approval. Donoghue’s September 28, 2023, 3:13pm email also makes a recommendation to the Chief Operating Officer for his approval and discusses an issue relevant to the GCU investigation; Crim’s September 28, 3:21pm also discusses an issue relevant to the GCU investigation. These discussions are part of the Department’s internal deliberative process on GCU’s PPPA and the GCU investigation, to the extent the investigation had bearing on the PPPA. These discussions are central to FSA performing its core function of ensuring institutions’ compliance with title IV program requirements; they are also central to FSA investigating institutions’ compliance with the HEA. Disclosure of this information would have a chilling effect on the free exchange of recommendations regarding such matters between FSA staff and FSA leadership. <i>Attorney-Client Privilege –</i> Donoghue’s September 28, 3:13pm email also is an attorney-client communication to the extent that it seeks legal advice from OGC regarding updated terms to GCU’s PPPA. Release of this information would have a chilling effect on the attorney-client relationship between FSA and OGC. Sheppard Southall’s email is an attorney-client communication as it provides legal advice from OGC to FSA on the updated PPPA terms. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) that it also withheld under Exemption 5 because it contains privileged information relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
91	REVISED ED 24-00550-F (Apr. 15, 2024)_000387 –	2	1. Email from Jacob Shorter, Counsel for GCU, to Kristen Donoghue, Michael Frola, and Christopher Madaio, copying Steven	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a portion of Madaio’s email to OGC, OUS, and FSA officials/employees containing Madaio’s summary of a letter received from counsel for GCU concerning GCU’s PPPA and additional information related to the letter.

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
	REVISED ED 24-00550-F (Apr. 15, 2024)_000388		<p>Gombos and Steve Chema, Counsel for GCU, Regarding GCU's Signed PPPA and Reservation of Rights Letter</p> <p>2. Email from Madaio to Benjamin Miller, Brad Middleton, John Bailey, Christle Sheppard Southall, Donna Mangold, Denise Morelli, Colleen Nevin, Donoghue, Susan Crim, and Toby Merrill Regarding GCU's Signed PPPA and Reservation of Rights Letter and the GCU Investigation</p> <p>Date: Sept. 29, 2023</p>		<p><i>Justification – Exemption 5: Attorney Work-Product Privilege</i> - The email is attorney work-product as it was drafted in reasonable anticipation of litigation with GCU over the GCU investigation and contains Madaio's characterization of the letter and related information to inform other ED officials/employees of information related to GCU's PPPA. GCU's PPPA includes conditions that were imposed by ED as a result of the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
92	REVISED ED 24-00550-F (Apr. 15, 2024)_000412 – REVISED ED 24-00550-F (Apr. 15, 2024)_000415	4	<p>1. Email from Christopher Madaio to Maria Morgen and Barbara Gellman-Danley, Officials with the Higher Learning Commission (an accreditor), copying Elizabeth Daggett and Sarah Angilello, Regarding the GCU Investigation Date: Aug. 25, 2023, 1:02pm</p> <p>2. Email from Morgen Date: Aug. 28, 2023, 8:16pm</p> <p>3. Email from Madaio to Morgen, copying Gellman-Danley, Daggett, and Angilello Date: Aug. 28, 2023, 11:39pm</p> <p>4. Email from Daggett to Madaio and Morgen, copying Gellman-Danley and Angilello Date: Aug. 28, 2023, 10:53am</p> <p>5. Email from Morgen to Daggett and Madaio, copying Gellman-Danley, Angilello, and Linnea Stenson and Robert Rucker, Officials with the Higher Learning Commission Date: Aug. 28, 2023, 12:08pm</p> <p>6. Email from Madaio to Morgen and Daggett, copying Gellman-Danley, Angilello, Stenson, and Rucker Date: Aug. 28, 2023, 11:14am</p> <p>7. Email from Morgen to Madaio and Daggett, copying Angilello Date: Oct. 5, 2023, 4:47pm</p> <p>8. Email from Madaio Date: Oct. 5, 2023, 4:52pm</p> <p>9. Email from Donoghue Date: Oct. 5, 2023, 4:54pm</p> <p>10. Email from Madaio to Donoghue, copying Donna Mangold and Christle Sheppard Southall Date: Oct. 5, 2023, 5:51pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld discussion between Madaio and Donoghue of an email from Higher Learning Commission (HLC), an accreditor, that requested ED's views as to HLC's disclosure of information related to the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The emails constitute discussions that are part of the Department's internal deliberative process on the GCU investigation; specifically, the emails are antecedent to the Department's response to HLC's email and contain recommendations and discussion regarding the Department's response. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. Disclosure would also have a chilling effect on coordination within the Department on responses to inquiries from outside entities, which could lead to inaccurate or untimely information being provided to such entities.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			(Note: Daggett works in ED's Office of Postsecondary Education.)		
93	REVISED ED 24-00550-F (Apr. 15, 2024)_000416 – REVISED ED 24-00550-F (Apr. 15, 2024)_000417	2	<ol style="list-style-type: none"> 1. Email from Christopher Madaio to Kristen Donoghue, Matthew Robinson, Benjamin Miller, and Brad Middleton Regarding the GCU Investigation Date: Oct. 6, 2023, 12:32pm 2. Email from Donoghue to Madaio, Robinson, Miller, and Middleton Date: Oct. 6, 2023, 12:39pm 3. Email from Middleton to Donoghue, Madaio, Robinson, and Miller Date: Oct. 6, 2023, 12:53pm 4. Email from Robinson to Middleton, Donoghue, Madaio, and Miller Date: Oct. 6, 2023, 2:25pm 5. Email from Middleton to Robinson, Donoghue, Madaio, and Miller Date: Oct. 6, 2023, 2:29pm 6. Email from Madaio to Middleton, Robinson, Donoghue, and Miller Date: Oct. 6, 2023, 2:33pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails from Madaio, Middleton, Donoghue, and Robinson concerning the GCU investigation.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld the contents of emails between FSA, OUS, and OGC officials that contain strategic discussions related to the GCU investigation and which solicit and provide feedback from FSA and OUS staff and an OGC attorney – Matthew Robinson. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and FSA and OUS. <i>Deliberative Process Privilege</i> – These discussions also contain strategic discussions related to the GCU investigation and are part of the Department's internal deliberative process in conveying information about that investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
94	REVISED ED 24-00550-F (Apr. 15, 2024)_000420 – REVISED ED 24-00550-F (Apr. 15, 2024)_000509	90	<ol style="list-style-type: none"> 1. Email from Benjamin Miller to Kristen Donoghue Forwarding an Email Regarding a Statement on Grand Canyon University Date: Oct. 5, 2023, 4:19pm 2. Email from Donoghue to Richard Cordray, Hunter Wiggins, Christopher Madaio, April Jordan, and Melody Cowan Date: Oct. 5, 2023, 4:22pm 3. Email from Madaio to Donoghue, Cordray, Wiggins, Jordan, and Cowan Date: Oct. 5, 2023, 4:25pm 4. Email from Donoghue to Madaio, Cordray, Wiggins, Jordan, Cowan and Miller Date: Oct. 5, 2023, 4:41pm 5. Email from Donoghue to Madaio, Cordray, Wiggins, Jordan, Cowan, Miller, John Bailey, Donna Mangold, and Toby Merrill Date: Oct. 5, 2023 6. Email from Miller to Donoghue, Madaio, Cordray, Wiggins, Jordan, Cowan, Bailey, Mangold, Merrill, and Shin Inouye 7. Email for Inouye Date: Oct. 5, 2023, 4:47pm 8. Email from Wiggins to Inouye, copying Miller, Donoghue, Madaio, Cordray, Jordan, Cowan, Bailey, Mangold, Merrill, Vanessa Harmoush, James Kvaal, Lisa Brown, and Lexi Barrett Date: Oct. 5, 2023, 5:53pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld an October 9, 2023, email from Miller and a paragraph in an October 9 email from Madaio conveying more specific information about the GCU investigation and its status at that time. (As described below, these are withheld under the deliberative process privilege. They are on the page Bates stamped REVISED ED 24-00550-F (Apr. 15, 2024)_000420.) ED also withheld these emails and other emails (or portions thereof) in this thread from Inouye, Brown, Donoghue, Cordray, Kvaal, Bailey, Mangold, Barrett, Miller, Wiggins, and Madaio under Exemption 5. (As described below, these are withheld under the attorney-client privilege.)</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld an October 9, 2023, email from Miller and a paragraph in an October 9 email from Madaio conveying more specific information about the GCU investigation and its status at that time.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – Madaio's and Miller's October 9 emails contain information on the current status of the GCU investigation and the Department's intended next steps. The discussion was antecedent to the Chief Operating Officer's approval of a fine action against GCU, as well as to the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. The release of these drafts also could lead to confusion about the Department's publicly available decisions in the GCU investigation. <i>Attorney-Client Privilege</i> – In developing the statement to the press, Department staff solicited legal advice from various OGC attorneys on the statement's contents, and OGC attorneys – including Lisa Brown, the General Counsel, Bailey, Mangold, and Merrill – provided such advice. Madaio's and Miller's October 9 emails, as well as all other emails, or portions thereof, withheld in this document, were withheld under the attorney-client privilege. Disclosure of this information would have a chilling effect on the attorney-client relationship between OGC and other offices within the Department and would dissuade other offices from seeking, and OGC from providing, legal advice in connection with statements to the press.</p>

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			<p>9. Email from Brown to Wiggins and Inouye, copying Miller, Donoghue, Madaio, Cordray, Jordan, Cowan, Bailey, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 5, 2023, 5:59pm</p> <p>10. Email from Bailey to Brown, Wiggins, and Inouye, copying Miller, Donoghue, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 5, 2023, 6:08pm</p> <p>11. Email from Donoghue to Bailey, Brown, Wiggins, and Inouye, copying Miller, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 5, 2023, 6:17pm</p> <p>12. Email from Miller to Donoghue, Bailey, Brown, Wiggins, and Inouye, copying Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 5, 2023, 6:19pm</p> <p>13. Email from Inouye Date: Oct. 5, 2023, 6:20pm</p> <p>14. Email from Brown to Inouye, copying Miller, Donoghue, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 5, 2023, 6:24pm</p> <p>15. Email from Inouye to Brown, copying Miller, Donoghue, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 5, 2023, 6:29pm</p> <p>16. Email from Inouye to Brown, copying Miller, Donoghue, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 5, 2023, 7:25pm</p> <p>17. Email from Inouye to Brown, copying Miller, Donoghue, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 6, 2023, 9:52am</p> <p>18. Email from Brown to Inouye, copying Miller, Donoghue, Bailey, Wiggins,</p>		<p><i>Justification – Exemption 7(A):</i> ED also withheld under Exemption 7(A) an October 9 email from Benjamin Miller and a portion of an October 9 email from Christopher Madaio that contained strategic discussions about a potential fine action against GCU before FSA’s Chief Operating Officer approved a fine action, as well as before the Department issued the October 31, 2023 letter initiating a fine against GCU. The GCU investigation remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 6, 2023, 9:57am</p> <p>19. Email from Donoghue to Brown and Inouye, copying Miller, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, Kvaal, and Barrett Date: Oct. 6, 2023, 10:05am</p> <p>20. Email from Barrett to Donoghue, Brown, and Inouye, copying Miller, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, and Kvaal Date: Oct. 6, 2023, 10:13am</p> <p>21. Email from Inouye to Barrett, Donoghue, and Brown, copying Miller, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Merrill, Harmoush, and Kvaal Date: Oct. 6, 2023, 10:23am</p> <p>22. Email from Merrill to Inouye, Barrett, Donoghue, and Brown, copying Miller, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, Harmoush, and Kvaal Date: Oct. 6, 2023, 10:28am</p> <p>23. Email from Kvaal to Merrill, Inouye, Barrett, Donoghue, and Brown, copying Miller, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, Mangold, and Harmoush Date: Oct. 6, 2023, 10:34am</p> <p>24. Email from Mangold to Kvaal, Merrill, Inouye, Barrett, Donoghue, and Brown, copying Miller, Bailey, Wiggins, Madaio, Cordray, Jordan, Cowan, and Harmoush Date: Oct. 6, 2023, 11:03pm</p> <p>25. Email from Bailey to Mangold, Kvaal, Merrill, Inouye, Barrett, Donoghue, Brown, and Brad Middleton, copying Miller, Wiggins, Madaio, Cordray, Jordan, Cowan, and Harmoush Date: Oct. 6, 2023, 11:42am</p> <p>26. Email from Inouye to Bailey, Mangold, Kvaal, Merrill, Barrett, Donoghue, Brown, and Middleton, copying Miller, Wiggins, Madaio, Cordray, Jordan, April, Cowan, and Harmoush Date: Oct. 6, 2023, 12:08pm</p> <p>27. Email from Kvaal Date: Oct. 6, 2023, 12:18pm</p> <p>28. Email from Donoghue Date: Oct. 6, 2023, 12:28pm</p>		

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>29. Email from Cordray to Donoghue, copying Kvaal, Inouye, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, and Harmoush Date: Oct. 6, 2023, 1:12pm</p> <p>30. Email from Inouye to Cordray and Donoghue, copying Kvaal, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, and Harmoush Date: Oct. 6, 2023, 1:28pm</p> <p>31. Email from Donoghue to Inouye and Cordray, copying Kvaal, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, and Harmoush Date: Oct. 6, 2023, 1:28pm</p> <p>32. Email from Inouye Date: Oct. 6, 2023, 2:31pm</p> <p>33. Email from Brown to Inouye, copying Donoghue, Cordray, Kvaal, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, and Harmoush Date: Oct. 6, 2023, 3:02pm</p> <p>34. Email from Inouye Date: Oct. 6, 2023, 3:29pm</p> <p>35. Email from Brown to Inouye, Donoghue, Cordray, Kvaal, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, Harmoush, and Matthew Robinson Date: Oct. 6, 2023, 4:10pm</p> <p>36. Email from Inouye Date: Oct. 6, 2023, 4:19pm</p> <p>37. Email from Brown to Inouye, copying Donoghue, Cordray, Kvaal, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, Harmoush, and Robinson Date: Oct. 6, 2023, 4:27pm</p> <p>38. Email from Inouye to Brown, copying Donoghue, Cordray, Kvaal, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, Harmoush, and Robinson Date: Oct. 6, 2023, 5:08pm</p> <p>39. Email from Robinson to Inouye and Brown, copying Donoghue, Cordray, Kvaal, Bailey, Mangold, Merrill, Barrett,</p>		

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, and Harmoush</p> <p>40. Email from Inouye to Robinson and Brown, copying Donoghue, Cordray, Kvaal, Bailey, Mangold, Merrill, Barrett, Brown, Middleton, Miller, Wiggins, Madaio, Jordan, Cowan, and Harmoush Date: Oct. 9, 2023, 12:47pm</p> <p>41. Email from Miller Date: Oct. 9, 2023, 12:50pm</p> <p>42. Email from Madaio to Miller, copying Inouye, Robinson, Brown, Donoghue, Cordray, Kvaal, Bailey, Mangold, Merrill, Barrett, Middleton, Wiggins, Jordan, Cowan, and Harmoush Date: Oct. 9, 2023, 1:40pm</p> <p>(Note: Harmoush was, at the time, the Traveling Press Secretary for ED. Jordan and Cowan work in FSA's communications unit. Inouye is the Deputy Assistant Secretary for Communications in ED's Office of Communications and Outreach. Kvaal is the Undersecretary in ED. Brown is the General Counsel in ED. Barrett is the Chief of Staff in ED's Office of the Secretary.)</p>		
95	REVISED ED 24-00550-F (Apr. 15, 2024)_000510 – REVISED ED 24-00550-F (Apr. 15, 2024)_000513	4	<ol style="list-style-type: none"> 1. Calendar Invitation from Barbara Hoblitzell to Kristen Donoghue and Claire Viall, copying Alexander Payne and Benjamin Miller, Regarding an Inquiry From Senator Sinema's Staff Regarding GCU Date: Oct. 6, 2023, 3:17pm 2. Email from Miller to Hoblitzell, Donoghue, Viall, and Middleton, copying Payne Date: Oct. 6, 2023, 3:18pm 3. Email from Hoblitzell to Miller, Donoghue, Viall, and Middleton, copying Payne Date: Oct. 6, 2023, 3:19pm 4. Email from Donoghue to Hoblitzell, Miller, Viall, Middleton, Richard Cordray, and Christopher Madaio, copying Payne and Matthew Robinson Date: Oct. 6, 2023, 3:29pm 5. Email from Middleton to Donoghue, Hoblitzell, Miller, Viall, Cordray, and Madaio, copying Payne and Robinson Date: Oct. 6, 2023, 3:32pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld under Exemption 5 a portion of Hoblitzell's Oct. 6, 2023, 3:17pm calendar invitation, Donoghue's October 6, 3:29pm and 3:34pm emails, and Mangold's October 6, 3:39pm email. ED also withheld under Exemption 5 the contents of Middleton's October 6, 3:32pm email, a portion of Viall's October 6, 4:51pm email, a portion of Donoghue's October 9, 5:32pm email, and Madaio's October 10, 7:52am email.</p> <p><i>Portion Withheld – Exemption 7(A):</i> ED withheld the contents of Middleton's October 6, 2023, 3:32pm email, a portion of Viall's October 6, 4:51pm email, Donoghue's October 9, 5:32pm email, and Madaio's October 10, 7:52am email under Exemption 7(A).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld a sentence of Hoblitzell's calendar invitation to Donoghue, Viall, Payne, and Miller, which referenced strategic discussions ongoing concerning GCU. These discussions were part of the Executive branch's internal deliberations on GCU, and the release of this information would have a chilling effect on frank discussions about ongoing matters. ED withheld portions of emails from Donoghue, Middleton, Viall, Mangold, and Madaio because they contain strategic discussions of the GCU investigation and other matters involving GCU, in connection with an inquiry from U.S. Senator Kyrsten Sinema's staff. These discussions were part of internal deliberations on the GCU investigation, other matters involving GCU, and the Department's response to the inquiry from Senator Sinema's staff. The disclosure of this material would have a chilling effect on frank discussions between Department staff concerning FSA actions and congressional inquiries. ED also withheld the Microsoft Teams meeting ID and passcode for a Microsoft teams meeting because it may also be possible for members of the public to use the meeting ID and passcode to gain access to privileged information discussed or written during the Microsoft Teams meeting. ED withheld Donoghue's October 9, 5:32pm email and Madaio's October 10, 7:52am email because they contained discussion on the timing of certain work</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>6. Email from Donoghue to Middleton, Hoblitzell, Miller, Viall, Cordray, and Madaio, copying Payne, Robinson, and Donna Mangold Date: Oct. 6, 2023, 3:34pm</p> <p>7. Email from Mangold to Donoghue, Middleton, Hoblitzell, Miller, Viall, Cordray, and Madaio, copying Payne and Robinson Date: Oct. 6, 2023, 3:39pm</p> <p>8. Email from Viall to Mangold, Donoghue, Middleton, Hoblitzell, Miller, Cordray, and Madaio, copying Payne and Robinson Date: Oct. 6, 2023, 4:51pm</p> <p>9. Email from Madaio Date: Oct. 9, 2023, 8:20am</p> <p>10. Email from Donoghue Date: Oct. 9, 2023, 5:32pm</p> <p>11. Email from Madaio to Donoghue Date: Oct. 10, 2023, 7:52am</p> <p>(Note: Hoblitzell works in ED's Office of Legislation and Congressional Affairs. Payne and Viall formerly worked in ED's Office of Legislation and Congressional Affairs.)</p>		<p>on the GCU investigation, which is part of the Department's internal deliberative process on the investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – Donoghue's October 6, 3:29pm and 3:34pm email and Middleton's October 6, 3:32pm email indicate that they desired OGC's (legal) input on the discussions concerning OGC; Mangold provided some such advice in her October 6, 3:39pm email.</p> <p><i>Justification – Exemption 7(A):</i> ED also withheld portions of those emails that contained privileged discussions relating to the GCU investigation under Exemption 7(A) – specifically Middleton's and Viall's emails, Donoghue's October 9, 2023, 5:32pm email, and Madaio's October 10, 2023 email – because the investigation remains open as the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
96	REVISED ED 24-00550-F (Apr. 15, 2024)_000520 – REVISED ED 24-00550-F (Apr. 15, 2024)_000522	3	<p>1. Email from Kristen Donoghue to Richard Cordray, copying Christopher Madaio, Regarding the GCU Investigation Date: Sept. 27, 2023, 2:54pm</p> <p>2. Email from Cordray to Donoghue, copying Madaio Date: Sept. 27, 2023, 2:59pm</p> <p>3. Email from Donoghue to Cordray, copying Madaio Date: Sept. 27, 2023, 3:23pm</p> <p>4. Email from Donoghue to Brad Middleton, Madaio, Barbara Hoblitzell, and Claire Viall Date: Oct. 10, 2023, 10:26am</p> <p>5. Email from Madaio to Donoghue, copying Middleton Date: Oct. 10, 2023, 11:09am</p> <p>6. Email from Madaio to Donoghue, copying Middleton Date: Oct. 10, 2023, 11:43am</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the majority of Donoghue's September 27, 2023, 2:54pm email, a portion of Donoghue's September 27, 3:23pm email, and all of Madaio's October 10, 11:09am and 11:43am emails concerning a timeline of the GCU investigation.</p> <p><i>Justifications – Exemption 5: Deliberative Process Privilege</i> – ED withheld the aforementioned material because the emails contain strategic discussions concerning a timeline of the GCU investigation and other matters involving GCU. The emails discussing the timeline of the investigation discuss selective facts as well as contain FSA officials' summary and impressions of certain "events" in the investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <u>Attorney-Client Privilege</u> – Madaio's emails also constitute attorney-client communications as they contain the advice and impressions of Madaio, an attorney, regarding information about the GCU investigation provided to Donoghue for her consideration.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
97	REVISED ED 24-00550-F (Apr. 15, 2024)_000523 – REVISED ED 24-00550-F (Apr. 15, 2024)_000528	6	<p>Draft Briefing Paper on Enforcement and School Oversight</p> <p>Note: This document was attached to Madaio's October 10, 2023, email to Donoghue in Doc. 114.</p>	(b)(5)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld in full a draft briefing paper on FSA enforcement and school oversight matters.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – As a draft and a briefing paper, the document is part of the Department's internal deliberative process on enforcement and school oversight matters. The release of this document would have a chilling effect on Department staff's</p>

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					willingness to prepare briefing papers to prepare Department leadership for meetings with Congress or other oversight bodies, which would diminish the accuracy and thoroughness of information available to Department leaders when meeting with oversight bodies.
98	REVISED ED 24-00550-F (Apr. 15, 2024)_000529 – REVISED ED 24-00550-F (Apr. 15, 2024)_000531	3	<ol style="list-style-type: none"> 1. Email from Kristen Donoghue to Richard Cordray, copying Christopher Madaio, Regarding the GCU Investigation Date: Sept. 27, 2023, 2:54pm 2. Email from Cordray to Donoghue, copying Madaio Date: Sept. 27, 2023, 2:59pm 3. Email from Donoghue to Cordray, copying Madaio Date: Sept. 27, 2023, 3:23pm 4. Email from Donoghue to Brad Middleton, Madaio, Barbara Hoblitzell, and Claire Viall Date: Oct. 10, 2023, 10:26am 5. Email from Madaio to Donoghue, copying Middleton Date: Oct. 10, 2023, 11:09am 6. Email from Madaio to Donoghue, copying Middleton Date: Oct. 10, 2023, 11:43am 7. Email from Donoghue to Madaio, copying Middleton Date: Oct. 10, 2023, 1:01pm 8. Email from Madaio to Donoghue, copying Middleton Date: Oct. 10, 2023, 1:26pm <p>(Note: Hoblitzell works in ED’s Office of Legislation and Congressional Affairs. Viall formerly worked in ED’s Office of Legislation and Congressional Affairs.)</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the majority of Donoghue’s September 27, 2023, 2:54pm email, a portion of Donoghue’s September 27, 3:23pm email, and all of Madaio’s October 10, 11:09am and 11:43am emails concerning a timeline of the GCU investigation.</p> <p><i>Justifications – Exemption 5: Deliberative Process Privilege</i> – ED withheld the aforementioned material because the emails contain strategic discussions concerning a timeline of the GCU investigation and other matters involving GCU, as well as investigations more generally. The emails discussing the timeline of the investigation discuss selective facts as well as contain FSA officials’ summary and impressions of certain “events” in the investigation, as well as investigations more generally. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Attorney-Client Privilege</i> – Madaio’s October 10, 2023, 11:09am and 11:43am emails also constitute attorney-client communications as they contain the advice and impressions of Madaio, an attorney, regarding information about the GCU investigation provided to Donoghue for her consideration.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
99	REVISED ED 24-00550-F (Apr. 15, 2024)_000532 – REVISED ED 24-00550-F (Apr. 15, 2024)_000534	3	<p>Emails between Christopher Madaio and Kristen Donoghue Concerning a Fine Analysis in the GCU Investigation</p> <p>Date: Oct. 10, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails between Madaio and Donoghue concerning a fine analysis in the GCU investigation, as well as a portion of the subject line that reveals additional information about those discussions.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of emails between Madaio and Donoghue that contain strategic discussions of a fine analysis in the GCU investigation. ED also withheld portions of the subject lines of these emails that would reveal the specific nature of some of the strategic discussions between Madaio and Donoghue. These emails are part of FSA’s internal deliberations on the GCU investigation and fine action, which, at the time, had not been approved by the Chief Operating Officer nor issued to GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of</p>

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					such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
100	REVISED ED 24-00550-F (Apr. 15, 2024)_000535	1	<ol style="list-style-type: none"> Email from Lauren Pope to Sarah Angilello, Brian Bayne, Susan Crim, Dawn Leget, Christopher Madaio, Colleen Nevin, and Tara Sikora Date: Aug. 25, 2023 Email from Pope to Crim Date: Oct. 13, 2023 Email from Crim to Kristen Donoghue Date: Oct. 13, 2023 <p>(Note: Bayne is an attorney in FSA.)</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a sentence in each of Pope's email to Crim and Crim's email to Donoghue concerning the GCU investigation and fine action.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The withheld sentences consist of strategic discussions concerning the GCU investigation and fine action. The emails predate the then-Chief Operating Officer's approval of a fine action against GCU. These emails are part of FSA's internal deliberations on the GCU investigation and fine action. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine imposed on GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
101	REVISED ED 24-00550-F (Apr. 15, 2024)_000536 – REVISED ED 24-00550-F (Apr. 15, 2024)_000539	4	<ol style="list-style-type: none"> Email from Christopher Madaio to Melody Cowan and April Jordan, copying Kristen Donoghue, Regarding a Draft GCU Fine Action Letter Date: Oct. 6, 2023, 9:15am Email from Cowan to Madaio and Donoghue, copying Jordan Date: Oct. 12, 2023, 3:28pm Email from Madaio to Susan Crim, Colleen Nevin, and Donoghue Date: Oct. 13, 2023, 1:23pm Email from Crim Date: Oct. 13, 2023, 1:27pm Email from Madaio to Crim, copying Nevin and Donoghue Date: Oct. 13, 2023, 1:39pm Email from Crim Date: Oct. 13, 2023, 12:39pm Email from Donoghue to Crim, copying Madaio and Nevin Date: Oct. 13, 2023, 1:48pm Email from Crim to Donoghue, copying Madaio and Nevin Date: Oct. 13, 2023, 1:52pm Email from Madaio to Crim and Donoghue, copying Nevin, Dawn Leget, Sarah Angilello, and Lauren Pope Date: Oct. 13, 2023, 3:22pm Email from Susan Crim Date: Oct. 15, 2023, 3:57pm Email from Donoghue Date: Oct. 15, 2023, 10:57pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a small portion of Cowan's October 12, 2023 email to Madaio and Donoghue. ED also withheld the contents of Madaio's October 13, 1:23pm, 1:39pm, and 3:22pm, and October 16, 9:24am email concerning the draft GCU fine action letter. ED withheld the contents of Crim's October 13, 1:27pm, 12:39pm, and 1:52pm, and October 15, 3:57pm emails, as well as portions of Donoghue's October 13, 1:48pm and October 15, 10:57pm emails.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld from Cowan's October 12, 2023, email strategic discussion concerning FSA's work on the GCU fine action, which is part of ED's internal deliberations on the GCU investigation. ED withheld almost in full the text of the remaining emails in this email chain between Madaio, Crim, and Donoghue that contain strategic discussions of the GCU investigation and fine action, which, at the time, had not yet been approved by the Chief Operating Officer, nor had the fine been issued to GCU. These emails are part of FSA's internal deliberations on the GCU investigation and fine action. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

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			<p>12. Email from Madaio to Donoghue Date: Oct. 15, 2023, 11:30pm</p> <p>13. Email from Donoghue to Madaio and Crim Date: Oct. 16, 2023, 9:24am</p> <p>14. Email from Madaio to Donoghue and Crim Date: Oct. 16, 2023, 9:24am</p> <p>15. Email from Donoghue to Madaio and Crim Date: Oct. 16, 2023, 9:25am</p> <p>(Note: Jordan and Cowan work in FSA's communications unit.)</p>		
102	REVISED ED 24-00550-F (Apr. 15, 2024)_000540 – REVISED ED 24-00550-F (Apr. 15, 2024)_000543	4	<p>1. Email from Christopher Madaio to Kristen Donoghue, Donna Mangold, John Bailey, Susan Crim, and Michael Frola, copying Sarah Angilello, Christle Sheppard Southall, and Kathryn Johnson, Regarding an Update on a Call With GCU Counsel Regarding the Department's Fine Action Date: Oct. 12, 2023, 2:34pm</p> <p>2. Email from Frola to Madaio, Donoghue, Mangold, Bailey, Crim, and Jane Eldred, copying Angilello, Sheppard Southall, and Johnson Date: Oct. 12, 2023, 3:43pm</p> <p>3. Email from Eldred to Frola, Madaio, Donoghue, Mangold, Bailey, and Crim, copying Angilello, Sheppard Southall, and Johnson Date: Oct. 12, 2023, 4:12pm</p> <p>4. Email from Madaio to Eldred, Frola, Donoghue, Mangold, Bailey, and Crim, copying Angilello, Sheppard Southall, and Johnson Date: Oct. 16, 2023, 2:45pm</p> <p>5. Email from Madaio to Eldred, Frola, Donoghue, Mangold, Bailey, and Crim, copying Angilello, Sheppard Southall, and Johnson Date: Oct. 16, 2023, 3:36pm</p> <p>6. Email from Donoghue to Madaio Date: Oct. 16, 2023, 3:59pm</p> <p>7. Email from Madaio to Donoghue Date: Oct. 16, 2023, 4:24pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld all but the first paragraph of Madaio's October 12, 2023, email describing and discussing a call with counsel for GCU.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld all but the first paragraph of Madaio's October 12 email because it contains Madaio's summary of and mental impressions concerning the call and contains strategic discussions relating to the GCU investigation and other matters involving GCU, including an open program review involving GCU. The email is part of internal deliberations about the GCU investigation and other FSA matters involving GCU. ED withheld almost in full the remaining emails in this thread because they contain strategic discussions relating to the GCU investigation and deliberative discussion of other matters involving GCU, including an open program review involving GCU. These emails are part of internal deliberations about the GCU investigation and other FSA matters involving GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. Disclosure of discussions about other matters involving GCU would chill the exchange of information about such matters to the extent they are relevant to ongoing FSA investigations and would chill recommendations on such matters generally. <i>Attorney Work-Product Privilege</i> – Madaio's October 12 email contains Madaio's impressions of, reactions to, and recommendations following a meeting with GCU's counsel regarding the GCU fine action and other matters relating to GCU. Because the email was drafted in reasonable anticipation of litigation with GCU regarding the investigation, it is attorney work product.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing. ED also withheld emails that contain discussion of information concerning an open program review involving GCU. The release of information about an open program review reasonably could interfere with the Department's ability to conduct a fair, thorough program review.</p>
103	REVISED ED 24-00550-F (Apr. 15, 2024)_000545 – REVISED ED 24-00550-F (Apr. 15, 2024)_000546	2	<p>Letter from Christopher Madaio to Steven Gombos, Counsel for GCU, Regarding GCU</p> <p>Date: Oct. 16, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 7(A):</i> ED withheld the fourth paragraph on the first page of an October 16, 2023 letter to GCU's counsel from Madaio.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld a portion of the October 16, 2023 letter to GCU's counsel that contains discussion of information received in connection with an open program review involving GCU, which is an open law enforcement proceeding; the release of this material could interfere with the Department's ability to conduct a fair, thorough program review.</p>

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104	REVISED ED 24-00550-F (Apr. 15, 2024)_000547 – REVISED ED 24-00550-F (Apr. 15, 2024)_000548	2	<p>Emails between Christopher Madaio, Susan Crim, and Kristen Donoghue concerning the GCU Fine Action Letter</p> <p>Date: Oct. 16 and 17, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of Madaio’s October 16, 2023, 1:13pm email, and Crim’s and Donoghue’s email, under Exemption 5 and 7(A).</p> <p><i>Justification – Exemption 5: <u>Deliberative Process Privilege</u></i> – ED withheld the contents of emails between Madaio, Crim, and Donoghue because they contain strategic discussions of a letter concerning the GCU fine action; the fine action, at the time, had not yet been approved by FSA’s Chief Operating Officer and the fine had not yet been issued to GCU. The emails are part of internal deliberations about the GCU investigation and, more specifically, the fine action against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> - The email from Crim identifies areas on which to seek advice from OGC, and thus is an attorney-client communication. Disclosure would have a chilling effect on Department staff sharing with each other areas on which they intend to seek advice from OGC; this would compromise the Department’s ability to act in compliance with the law. Madaio’s email, given that it contains strategic discussion of the GCU investigation and was drafted in reasonable anticipation of litigation with GCU concerning the investigation, also constitutes attorney work product.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
105	REVISED ED 24-00550-F (Apr. 15, 2024)_000549 – REVISED ED 24-00550-F (Apr. 15, 2024)_000552	4	<ol style="list-style-type: none"> 1. Email from Christopher Madaio to Claire Viall and Barbara Hoblitzell, both of ED’s Office of Legislation and Congressional Affairs, copying Kristen Donoghue, Regarding GCU Date: Oct. 10, 2023, 10:31am 2. Email from Donoghue to Matthew Robinson, Senior Counsel in OGC, Donna Mangold, and Jill Siegelbaum, then-Acting Assistant General Counsel for OGC’s Division of Business and Administrative Law, Regarding GCU Date: Oct. 10, 2023, 10:42am 3. Email from Donoghue to Robinson, Mangold, and Siegelbaum, copying Madaio, Viall, Hoblitzell, and Brad Middleton Date: Oct. 15, 2023, 10:01am 4. Email from Robinson Date: Oct. 15, 2023, 9:45am 5. Email from Donoghue to Robinson, copying Mangold, Siegelbaum, Madaio, Viall, Hoblitzell, and Middleton Date: Oct. 16, 2023, 11:44am 6. Email from Hoblitzell to Donoghue and Robinson, copying Mangold, Siegelbaum, 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED also withheld the names of attachments in Madaio’s October 10, 2023, 10:31am email and October 17, 1:37pm email to Donoghue. ED also withheld the contents of Donoghue’s October 10, 10:42am, October 15, 10:01am and 10:47am, October 16, 11:44am and 1:25pm, and October 17, 10:39am emails regarding the GCU investigation and other matters involving GCU. ED also withheld Madaio’s October 17, 10:32am and 1:37pm emails and Robinson’s October 15, 9:45am and October 16, 9:32pm emails under Exemptions 5 and 7(A).</p> <p><i>Justification – Exemption 5: <u>Attorney-Client Privilege</u></i> – ED withheld the contents of Donoghue’s emails and Madaio’s emails to Donoghue and Robinson because they seek legal advice from OGC regarding matters related to the GCU investigation and other matters involving GCU. Robinson’s emails ask questions to assist him in providing legal advice regarding these matters. ED also withheld portions of file names attached to these emails, which would reveal the nature of the legal advice sought by FSA. Disclosure of this information would have a chilling effect on the attorney-client relationship between FSA and OGC, making FSA less likely to seek advice from OGC and OGC less forthcoming in its advice. <u>Deliberative Process Privilege</u> – ED withheld the contents of emails between individuals from FSA’s Enforcement Office and OGC, with individuals from ED’s Office of Legislation and Congressional Affairs included, as well as between individuals from FSA’s Enforcement Office, that solicit and provide advice on matters related to the GCU investigation and other matters involving GCU. The emails are also part of internal deliberations about the GCU investigation and other matters involving GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Madaio, Viall, and Middleton Date: Oct. 16, 2023, 11:50am</p> <p>7. Email from Donoghue to Hoblitzell and Robinson, copying Mangold, Siegelbaum, Madaio, Viall, and Middleton Date: Oct. 16, 2023, 1:25pm</p> <p>8. Email from Robinson to Donoghue and Hoblitzell, copying Mangold, Siegelbaum, Madaio, Viall, and Middleton Date: Oct. 16, 2023, 9:32pm</p> <p>9. Email from Madaio to Robinson and Donoghue Date: Oct. 17, 2023, 10:32am</p> <p>10. Email from Donoghue to Madaio and Robinson Date: Oct. 17, 2023, 10:39am</p> <p>11. Email from Madaio to Donoghue Date: Oct. 17, 2023, 1:37pm</p>		such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
106	REVISED ED 24-00550-F (Apr. 15, 2024)_000553 – REVISED ED 24-00550-F (Apr. 15, 2024)_000555	3	<p>1. Email from Christopher Madaio to Susan Crim concerning a Memorandum for the Chief Operating Officer on a Fine Action against GCU Date: Oct. 18, 2023, 9:29pm</p> <p>2. Email from Crim to Madaio, copying Kristen Donoghue, concerning a Memorandum for the Chief Operating Officer on a Fine Action against GCU Date: Oct. 19, 2023, 7:12am</p> <p>3. Email from Madaio to Crim, copying Donoghue Date: Oct. 19, 2023, 8:51am</p> <p>4. Email from Crim to Madaio, copying Donoghue Date: Oct. 19, 2023, 8:54am</p> <p>5. Email from Donoghue to Crim, Madaio, Colleen Nevin, and Dawn Bilodeau Date: Oct. 19, 2023, 8:57am</p> <p>6. Email from Crim to Donoghue, Madaio, Nevin, and Bilodeau Date: Oct. 19, 2023, 9:01am</p> <p>7. Email from Donoghue to Crim, Madaio, Nevin, and Bilodeau Date: Oct. 19, 2023, 9:08am</p> <p>8. Email from Crim to Donoghue, Madaio, Nevin, and Bilodeau Date: Oct. 19, 2023, 9:08am</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld under Exemptions 5 and 7(A) the contents of emails between Madaio, Crim, and Donoghue (with other FSA employees copied) concerning the GCU investigation – specifically, the fine action against GCU.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the contents of emails between Crim, Madaio, and Donoghue (with other FSA employees copied) because the emails contain strategic discussions concerning the fine action against GCU, which, at the time, had not yet been approved by FSA's Chief Operating Officer. The emails are part of internal deliberations about the GCU investigation – specifically, the fine action against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
107	REVISED ED 24-00550-F (Apr. 15, 2024)_000556 – REVISED ED 24-00550-F (Apr. 15, 2024)_000557	2	<p>1. Email from Christopher Madaio to John Bailey, Toby Merrill, Donna Mangold, and Christle Sheppard Southall, copying Kristen Donoghue, Regarding the GCU</p>	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the contents of emails from Madaio, Merrill, and Mangold regarding the GCU investigation – specifically, the fine action against GCU and corresponding fine notice (also referred to in this <u>Vaughn</u> index as a “fine action letter”).

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Fine Notice Date: Oct. 14, 2023, 2:17pm</p> <p>2. Email from Madaio to Bailey, Merrill, Mangold, and Sheppard Southall, copying Donoghue, Susan Crim, Sarah Angilello, and Dawn Leget Date: Oct. 17, 2023, 7:39am</p> <p>3. Email from Merrill to Madaio, Bailey, Mangold, and Sheppard Southall, copying Donoghue, Crim, Angilello, and Leget Date: Oct. 17, 2023, 7:44am</p> <p>4. Email from Madaio to Merrill, Bailey, Mangold, and Sheppard Southall, copying Donoghue, Crim, Angilello, and Leget Date: Oct. 17, 2023, 7:49am</p> <p>5. Email from Mangold to Madaio, Merrill Bailey, and Sheppard Southall, copying Donoghue, Crim, Angilello, and Leget Date: Oct. 19, 2023, 5:07pm</p> <p>6. Email from Madaio to Mangold, Merrill, Bailey, and Sheppard Southall, copying Donoghue, Crim, Angilello, and Leget Date: Oct. 19, 2023, 5:08pm</p>		<p><i>Justification – Exemption 5: Attorney-Client Privilege and Attorney Work-Product Privilege</i> – ED withheld the contents of emails between Madaio and OGC attorneys concerning the GCU fine notice because the emails constitute attorney-client communications and attorney work-product, as they were drafted in reasonable anticipation of litigation with GCU over the investigation. Madaio’s emails solicit legal advice from OGC, and OGC’s emails indicate OGC provided advice on the investigation. The release of this information would also have a chilling effect on the attorney-client relationship between FSA and OGC. <i>Deliberative Process Privilege</i> – The emails are also part of internal deliberations about the GCU investigation and fine action specifically, as they contain strategic discussions of the GCU investigation. The discussions predate the Chief Operating Officer’s approval of the fine action against GCU and the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
108	REVISED ED 24-00550-F (Apr. 15, 2024)_000558 – REVISED ED 24-00550-F (Apr. 15, 2024)_000559	2	<p>1. Email from Christopher Madaio to Kristen Donoghue, Susan Crim, Donna Mangold, John Bailey, Toby Merrill, Christle Sheppard Southall, Hunter Wiggins, Colleen Nevin, Sarah Angilello, and Kathryn Johnson Regarding a Phone Call received from Steven Gombos, Counsel for GCU, Related to the GCU Investigation and Other FSA Matters Involving GCU Date: Oct. 19, 2023, 4:03pm</p> <p>2. Email from Donoghue to Richard Cordray and Madaio Date: Oct. 19, 2023, 5:00pm</p> <p>3. Email from Madaio to Donoghue and Cordray Date: Oct. 19, 2023, 10:32pm</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld all but one sentence of Madaio’s October 19, 2023, 4:03pm email under Exemptions 5 and 7(A). ED similarly withheld all but the first few words of Madaio’s October 19, 10:32pm email under Exemptions 5 and 7(A).</p> <p><i>Justification – Exemption 5: Attorney Work-Product Privilege and Deliberative Process Privilege</i> – ED withheld all but one sentence of Madaio’s October 19, 4:03pm email because the email contains Madaio’s summary of and mental impressions concerning a phone call received from GCU’s counsel related to the GCU investigation and other FSA matters involving GCU and was drafted in reasonable anticipation of litigation with GCU regarding the investigation; thus, the email is attorney work-product. The email is also part of internal deliberations about the GCU investigation and other FSA matters involving GCU. For the same reasons, ED withheld all but the first few words of Madaio’s October 19, 2023, 10:32pm email to Donoghue and Cordray. ED withheld Madaio’s October 19, 10:32pm because it similarly contained Madaio’s summary of and mental impressions concerning the phone call received from GCU’s counsel. The release of this information would have a chilling effect on Department attorneys, who would be dissuaded from sharing (at least in writing) their impressions of communications with external parties.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
109	REVISED ED 24-00550-F (Apr. 15, 2024)_000560	1	<p>Email from Christopher Madaio to Susan Crim, copying Sarah Angilello, Regarding the Package to be Provided to Richard Cordray in the GCU Investigation</p> <p>Date: October 20, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld under Exemptions 5 and 7(A) the contents of Madaio’s email regarding a package for Richard Cordray in the GCU investigation and the names of two documents attached to the email.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld a portion of the October 20, 2023, 4:15pm email from Madaio to Crim that contains strategic discussion about the GCU</p>

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					<p>investigation. ED also withheld the names of attachments that would reveal the nature of the withheld strategic discussion in the body of the email. This material is part of FSA's internal deliberations on the GCU investigation and predate the Chief Operating Officer's approval of the fine action against GCU and the October 31, 2023 letter initiating a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
110	REVISED ED 24-00550-F (Apr. 15, 2024)_000561 – REVISED ED 24-00550-F (Apr. 15, 2024)_000562	2	<p>Email thread between Christopher Madaio and Susan Crim, copying Sarah Angilello, Regarding the Package to be Provided to Richard Cordray in the GCU Investigation</p> <p>Date: October 20, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld under Exemptions 5 and 7(A) the contents of Madaio's October 20, 2023, 4:15pm email regarding a package for Richard Cordray in the GCU investigation and the second-to-last paragraph of Madaio's October 20, 4:38pm email to Crim.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld portions of the October 20, 4:15pm and 4:38pm emails from Madaio to Crim that contains strategic discussion about the GCU investigation. This material is part of FSA's internal deliberations on the GCU investigation and predate the then-Chief Operating Officer's approval of the fine action against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <i>Attorney-Client Privilege</i> – ED also withheld the second-to-last paragraph of Madaio's October 20, 4:38pm email because it relays information concerning the attorney-client relationship between OGC and FSA relating to the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
111	REVISED ED 24-00550-F (Apr. 15, 2024)_000563	1	<p>Email from Susan Crim to Richard Cordray, FSA Integration, and Wayne Sullivan, copying Kristen Donoghue, Colleen Nevin, Hunter Wiggins, Christopher Madaio, Sarah Angilello, Kathryn Johnson, Donna Mangold, Christle Sheppard Southall, John Bailey, Toby Merrill, Tara Sikora, and Lauren Pope, transmitting a decision memorandum requesting approval to issue a proposed fine to GCU</p> <p>Date: October 20, 2023</p>	(b)(5)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the second-to-last paragraph in Crim's email to Richard Cordray and others.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege and Deliberative Process Privilege</i> – ED withheld the second-to-last paragraph of Crim's email because it relays information concerning the attorney-client relationship between OGC and FSA relating to the GCU investigation. This information was included as part of strategic discussion of the GCU investigation and the recommendations made to Cordray regarding the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p>
112	REVISED ED 24-00550-F (Apr. 15, 2024)_000564 – REVISED ED 24-00550-F (Apr. 15, 2024)_000565	2	<p>Decision Memorandum re: Grand Canyon University Investigation from Susan Crim, through Kristen Donoghue, to Richard Cordray</p> <p>Date: October 20, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the summary, recommendation, and unsigned decision sections of a decision memorandum regarding the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The withheld material describes Crim's conclusions and enforcement recommendations to Cordray regarding the GCU investigation – specifically, the fine action – and contains factual information to support that conclusion. Disclosure of this material would have a chilling effect on frank investigative discussions between FSA</p>

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					<p>leadership and FSA employees, and such discussions are central to FSA performing the core function of investigating and enforcing institutions' compliance with the HEA and could lead to confusion about the Department's publicly available investigative/enforcement decisions in the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
113	REVISED ED 24-00550-F (Apr. 15, 2024)_000566 – REVISED ED 24-00550-F (Apr. 15, 2024)_000567	2	<p>Decision Memorandum re: Grand Canyon University Investigation from Christopher Madaio, through Kristen Donoghue, to Richard Cordray</p> <p>Date: August 3, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the summary and recommendation sections of a decision memorandum regarding the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege, Attorney-Client Privilege, and Attorney Work-Product Privilege</i> – The summary contains the legal conclusions of Madaio and selective facts to support that conclusion. The recommendation constitutes both legal advice and an investigative recommendation from Madaio to Cordray regarding the GCU investigation, and the document was drafted in reasonable anticipation of litigation with GCU regarding the investigation. Disclosure of this information would have a chilling effect on the communication of frank recommendations by FSA staff to FSA leadership and the attorney-client relationship between FSA attorneys and FSA leadership. Such discussions, and such relationship, are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
114	REVISED ED 24-00550-F (Apr. 15, 2024)_000568 – REVISED ED 24-00550-F (Apr. 15, 2024)_000598	31	Draft Fine Action Letter to GCU	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full a draft of the fine action letter to GCU (informing GCU that the Department intended to fine GCU).</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full a draft of the fine action letter to GCU because it contains strategic discussions regarding the GCU investigation and, as a draft document presented to the then-Chief Operating Officer prior to his approval of the initiation of a fine action against GCU, functioned as a recommendation regarding the initiation of a fine action against GCU. The draft is part of the internal deliberative process on the GCU investigation – specifically, whether and why to initiate a fine action against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. <i>Attorney Work-Product Privilege</i> – The document was drafted, in part, by attorneys in FSA's Investigations Group in reasonable anticipation of litigation with GCU regarding the investigation. The document reflects, in part, those attorneys' legal advice conclusions regarding the investigation. Disclosure of the document would have a chilling effect on FSA attorneys sharing their conclusions and work product with other FSA staff and leadership to inform those individuals' decisions.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>

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115	REVISED ED 24-00550-F (Apr. 15, 2024)_000599 – REVISED ED 24-00550-F (Apr. 15, 2024)_000630	32	Recommendation Memorandum from FSA’s Investigations Group to FSA’s Chief Operating Officer and Chief Enforcement Officer Regarding the GCU Investigation Date: August 3, 2023	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full a recommendation memorandum related to the GCU investigation, aside from title matter.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The memorandum contains strategic discussions and recommendations related to the GCU investigation, as well as discussion of factual conclusions to support the recommendations. The memorandum is part of the Department’s internal deliberative process in issuing a finding and determining what, if any, actions to take in the GCU investigation. It was drafted and provided to the then-Chief Operating Officer prior to his decision to issue findings and initiate an enforcement action against GCU, to inform such decision. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> – The memorandum was authored by FSA’s Investigations Group, which is comprised of, among others, attorneys. The memorandum constitutes legal advice provided by the attorneys of FSA’s Investigations Group to FSA’s Chief Operating Officer and Chief Enforcement Officer. The memorandum also was drafted in reasonable anticipation of litigation with GCU concerning the investigation. Disclosure of this information would have a chilling effect on FSA attorneys providing advice to FSA leadership.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
116	REVISED ED 24-00550-F (Apr. 15, 2024)_000631 – REVISED ED 24-00550-F (Apr. 15, 2024)_000637	7	Draft Document Related to the GCU Investigation, Drafted by FSA’s Investigations Group	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full a draft document related to the GCU investigation, which contains comments and edits, in redline, from Department employees.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full a draft document related to the GCU investigation, which contains comments and edits, in redline, from Department employees. The document was authored by FSA’s Investigations Group. The draft document contains strategic discussions and recommendations related to the GCU investigation. The document was drafted and shared with the then-Chief Operating Officer prior to his approval of the initiation of a fine action against GCU to inform his action. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department’s decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. Disclosure also could lead to confusion about the Department’s publicly available investigative/enforcement decisions in the GCU investigation. <u>Attorney-Client Privilege and Attorney Work-Product Privilege</u> - Because this document contains analysis and recommendations written by the Investigations Group in reasonable anticipation of litigation with GCU over the Department’s GCU investigation, it is protected by attorney work-product doctrine. The document also, in presenting legal analysis and recommendations from these attorneys to other Department colleagues, constitutes an attorney-client communication.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>

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117	REVISED ED 24-00550-F (Apr. 15, 2024)_000638 – REVISED ED 24-00550-F (Apr. 15, 2024)_000639	2	Fine Recommendation Memorandum from an AAASG Fine Specialist to the AAASG Director/Assistant Director, approved by Susan Crim on Oct. 20, 2023 Date: Oct. 20, 2023	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the background section, OGC discussion section, and AAASG Specialist Analysis/Recommendation section of a fine recommendation memorandum in the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld the background section of the fine recommendation memorandum as it contains deliberative analysis of the background of the GCU investigation and fine recommendation. ED withheld the recommendation section of the memorandum because it is a deliberative recommendation by an AAASG employee to the deciding official, the AAASG Director (Susan Crim), regarding whether to initiate a fine action against GCU and the amount of such fine. The release of this information would have a chilling effect on frank investigative/enforcement discussions among FSA employees about FSA investigations and recommendations by FSA employees to deciding officials on enforcement actions. Such discussions are central to FSA performing the core function of investigating and enforcing institutions’ compliance with the HEA. <i>Attorney-Client Privilege</i> – ED also withheld the OGC discussion section of the memorandum because it contains OGC’s legal opinion on the fine recommendation, and thus is protected by attorney-client privilege. The release of this information would have a chilling effect on the attorney-client relationship between OGC and FSA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
118	REVISED ED 24-00550-F (Apr. 15, 2024)_000640 – REVISED ED 24-00550-F (Apr. 15, 2024)_000641	2	<ol style="list-style-type: none"> 1. Email from Susan Crim to Richard Cordray, FSA Integration, and Wayne Sullivan, Director of Corporate Operations for FSA, copying Kristen Donoghue, Colleen Nevin, Hunter Wiggins, Christopher Madaio, Sarah Angilello, Kathryn Johnson, Donna Mangold, Christle Sheppard Southall, John Bailey, Toby Merrill, Tara Sikora, and Lauren Pope, Transmitting a Decision Memorandum Requesting Approval to Issue a Proposed Fine to GCU Date: Oct. 20, 2023 2. Email from Chris Farr to Crim, Cordray, FSA Integration, and Sullivan, copying Donoghue, Nevin, Wiggins, Madaio, Angilello, Johnson, Sikora, Pope, Mangold, Sheppard Southall, Bailey, and Merrill Date: Oct. 23, 2023 3. Email from Donoghue to Madaio Date: Oct. 23, 2023, 9:19am 4. Email from Madaio to Donoghue Date: Oct. 23, 2023, 9:38am 5. Email from Donoghue to Madaio Date: Oct. 23, 2023, 9:51am 6. Email from Madaio to Donoghue Date: Oct. 23, 2023, 10:00am 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld the second-to-last paragraph in Crim’s email to Richard Cordray and others. ED also withheld a few sentences from the end of Farr’s email to Crim and others. ED also withheld under Exemption 5 and 7(A) portions of emails between Madaio and Donoghue regarding the GCU investigation.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld the second-to-last paragraph of Crim’s email because it relays information concerning the attorney-client relationship between OGC and FSA relating to the GCU investigation. <i>Deliberative Process Privilege</i> – The information in Crim’s email was included as part of strategic discussion of the GCU investigation and the recommendations made to Cordray regarding the GCU investigation. ED also withheld from Farr’s email a few sentences reflecting Cordray’s reaction to information concerning the GCU investigation, which was in addition to his approval of the proposed fine action. ED also withheld from emails between Madaio and Donoghue strategic discussion on the process of informing OUS of the approved decision memorandum from Cordray authorizing a fine action against GCU. The withheld material is part of the Department’s internal deliberative process in initiating a fine action against GCU in the GCU investigation. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. Additionally, the release of this information could lead to confusion about the Department’s publicly available investigative/enforcement decisions in the GCU investigation.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>

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119	REVISED ED 24-00550-F (Apr. 15, 2024)_000642 – REVISED ED 24-00550-F (Apr. 15, 2024)_000643	2	Email thread between Christopher Madaio and Susan Crim, copying Sarah Angilello, Kathryn Johnson, and Kristen Donoghue, Concerning the GCU Investigation Date: Oct. 23, 2023	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full the contents of emails between Madaio and Crim concerning the GCU investigation, as well as the subject line of each email between them. <i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full the text of emails between Madaio and Crim concerning the GCU investigation because the emails contain strategic discussions about the GCU investigation. These emails are part of FSA’s internal deliberations on the GCU investigation. The release of this material would have a chilling effect on frank investigative discussions among Department staff concerning ongoing FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Attorney-Client Privilege and Attorney Work-Product Privilege</i> – The emails also constitute attorney work product and contain attorney-client privileged material because the emails solicit and contain information related to the GCU investigation needed for legal advice and the emails were drafted in reasonable anticipation of litigation with GCU concerning the investigation. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.
120	REVISED ED 24-00550-F (Apr. 15, 2024)_000644 – REVISED ED 24-00550-F (Apr. 15, 2024)_000648	5	1. Email from Christopher Madaio to Kristen Donoghue, Susan Crim, Donna Mangold, John Bailey, Toby Merrill, Christle Sheppard Southall, Hunter Wiggins, Colleen Nevin, Sarah Angilello, and Kathryn Johnson concerning a phone call received from Steven Gombos, counsel for GCU, related to the GCU investigation and other FSA matters involving GCU Date: Oct. 19, 2023, 4:03pm 2. Email from Donna Mangold Date: Oct. 19, 2023, 5:15pm 3. Email from Madaio to Mangold, copying Donoghue, Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 19, 2023, 5:35pm 4. Email from Madaio to Mangold, copying Donoghue, Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello, concerning a phone call received from Gombos related to the GCU investigation and other FSA matters involving GCU Date: Oct. 23, 2023, 1:29pm 5. Email from Donoghue to Madaio and Mangold, copying Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 1:37pm	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld all but one sentence each of Madaio’s October 19, 2023, 4:03pm email and October 23, 1:29pm and 3:22pm emails under Exemptions 5 and 7(A). ED also withheld under Exemptions 5 and 7(A) emails from Mangold, Donoghue, Wiggins, and Merrill. <i>Justification – Exemption 5: Attorney Work-Product Privilege</i> - ED withheld all but one sentence of Madaio’s October 19, 4:03pm email because the email contains Madaio’s summary of and mental impressions concerning a phone call received from GCU’s counsel related to the GCU investigation and other FSA matters involving GCU and was drafted in reasonable anticipation of litigation with GCU regarding the investigation; thus, the email is attorney work product. Similarly, Madaio’s October 23, 1:29pm and 3:22pm emails contain Madaio’s mental impressions and recommendations regarding additional communications received from GCU’s counsel. Merrill’s and Mangold’s emails also contain their views regarding the communications and provide legal advice to Madaio and Donoghue regarding the same. Having been drafted in reasonable anticipation of litigation with GCU concerning the investigation and other litigation that the Department was (and is) involved in concerning GCU, the emails constitute attorney work product. <i>Attorney-Client Privilege</i> – Merrill’s, Mangold’s, Wiggins’ and Donoghue’s emails, as well as Madaio’s October 23, 1:29pm and 3:22pm emails also are attorney-client communications. As noted above, Merrill’s and Mangold’s emails contain their views regarding the communications and provide legal advice to Madaio and Donoghue regarding the same. Wiggins’ and Donoghue’s emails, as well as the specified emails from Madaio, provide their views on the communications from GCU’s counsel and solicit feedback from OGC (and others in FSA) on their recommendations. Disclosure of the withheld material would have a chilling effect on Department attorneys’ willingness to share their legal advice and views concerning Department work, and on Department employees seeking legal advice relevant to their work. <i>Deliberative Process Privilege</i> – All of the withheld material (including Donoghue’s and Wiggins’ emails) were withheld because they contain deliberative discussions regarding a response to GCU’s counsel’s communications regarding the GCU investigation and other matters involving GCU. The discussions were antecedent to several communications from the Department to GCU’s counsel in response to GCU’s counsel’s communications. The discussions are part of the internal deliberative process of responding to such communications, as well as the Department’s deliberations on the GCU investigation and other matters involving GCU. Disclosure of these discussions would have a chilling

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			<p>6. Email from Mangold to Donoghue and Madaio, copying Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 2:05pm</p> <p>7. Email from Donoghue to Mangold and Madaio, copying Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 2:14pm</p> <p>8. Email from Madaio to Donoghue and Mangold, copying Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 3:22pm</p> <p>9. Email from Mangold Date: Oct. 23, 2023, 2:30pm</p> <p>10. Email from Wiggins to Mangold, copying Madaio, Donoghue, Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 3:34pm</p> <p>11. Email from Merrill to Wiggins and Mangold, copying Madaio, Donoghue, Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 3:37pm</p> <p>12. Email from Mangold to Merrill and Wiggins, copying Madaio, Donoghue, Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 3:40pm</p> <p>13. Email from Merrill to Mangold and Wiggins, copying Madaio, Donoghue, Crim, Bailey, Merrill, Sheppard Southall, Wiggins, Nevin, Johnson, and Angilello Date: Oct. 23, 2023, 4:04pm</p>		<p>effect on Department employees seeking feedback on and making recommendations about responding to inquiries from external entities with whom the Department engages, which would lead to less accurate, timely responses to such communications. Disclosure of these discussions also would have a chilling effect on discussions about FSA investigations and other enforcement or similar matters involving FSA. Such discussions are central to FSA performing the core function of investigating and ensuring institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
121	REVISED ED 24-00550-F (Apr. 15, 2024)_000649	1	<p>1. Email from Jacob Shorter, counsel for GCU, to Christopher Madaio, copying Steven Gombos, counsel for GCU, transmitting a letter to GCU about PPPA Condition B Date: Oct. 25, 2023</p> <p>2. Email from Madaio to Kristen Donoghue, Jane Eldred, Michael Frola, Hunter Wiggins, Donna Mangold, Christle Sheppard Southall, and Susan Crim, copying Kathryn Johnson and Sarah Angilello Date: Oct. 25, 2023, 4:23pm</p>	(b)(5)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld all but the first sentence of Madaio's email to FSA and OGC colleagues regarding Condition B of GCU's PPPA.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld portions of an email from Madaio to FSA and OGC employees because the email contains Madaio's mental impressions concerning a letter from GCU about Condition B of GCU's PPPA. The withheld material is an attorney-client communication because Madaio implicitly is seeking the advice of OGC (and FSA colleagues) regarding GCU's counsel's letter. <i>Deliberative Process Privilege</i> – The email is also part of internal deliberations about the letter, and how to respond, implementation of Condition B of GCU's PPPA. The discussions are part of the internal deliberative process of responding to such communications, as well as the Department's deliberations on ensuring compliance with Condition B of the PPPA. Disclosure of these discussions would have a chilling effect on Department employees seeking feedback on and making recommendations about responding to inquiries from external</p>

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					entities with whom the Department engages, which would lead to less accurate, timely responses to such communications.
122	REVISED ED 24-00550-F (Apr. 15, 2024)_000650 – REVISED ED 24-00550-F (Apr. 15, 2024)_000652	3	<ol style="list-style-type: none"> 1. Email from Jacob Shorter, counsel for GCU, to Christopher Madaio, copying Steven Gombos, counsel for GCU, transmitting a letter to GCU about PPPA Condition B Date: Oct. 25, 2023 2. Email from Madaio to Kristen Donoghue, Jane Eldred, Michael Frola, Hunter Wiggins, Donna Mangold, Christle Sheppard Southall, and Susan Crim, copying Kathryn Johnson and Sarah Angilello Date: Oct. 25, 2023, 4:23pm 3. Email from Mangold Date: Oct. 25, 2023, 3:31pm 4. Email from Wiggins to Mangold, copying Madaio, Donoghue, Eldred, Frola, Sheppard Southall, Crim, Johnson, and Angilello Date: Oct. 25, 2023, 4:51pm 5. Email from Donoghue to Wiggins and Mangold, copying Madaio, Eldred, Frola, Sheppard Southall, Crim, Johnson, and Angilello Date: Oct. 25, 2023, 5:02pm 6. Email from Madaio Date: Oct. 25, 2023, 4:04pm¹ 7. Email from Wiggins to Madaio, copying Donoghue, Mangold, Eldred, Frola, Sheppard Southall, Crim, Johnson, and Angilello Date: Oct. 25, 2023, 5:30pm 8. Email from Donoghue Date: Oct. 25, 2023, 9:09pm 9. Email from Madaio to Donoghue Date: Oct. 25, 2023, 9:47pm 	(b)(5)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld all but the first sentence of Madaio’s email to FSA and OGC colleagues regarding Condition B of GCU’s PPPA. ED also withheld the contents of subsequent emails from Mangold, Wiggins, Donoghue, and Madaio further discussing a letter received from GCU’s counsel regarding Condition B of GCU’s PPPA.</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld portions of an email from Madaio to FSA and OGC employees because the email contains Madaio’s mental impressions concerning a letter from GCU about Condition B of GCU’s PPPA. The withheld material is an attorney-client communication because Madaio implicitly is seeking the advice of OGC (and FSA colleagues) regarding GCU’s counsel’s letter. ED withheld emails from Mangold and Madaio (specifically, his October 25, 2023, 4:04pm and 9:47pm emails) that contain those attorneys’ views on the letter from GCU’s counsel regarding Condition B of the PPPA and advice regarding responses. <u>Deliberative Process Privilege</u> – All of the withheld material is also part of internal deliberations about the letter, and how to respond, implementation of Condition B of GCU’s PPPA, which was imposed as a result of the GCU investigation. The discussions are part of the internal deliberative process of responding to such communications, as well as the Department’s deliberations on ensuring compliance with Condition B of the PPPA. Disclosure of these discussions would have a chilling effect on Department employees seeking feedback on and making recommendations about responding to inquiries from external entities with whom the Department engages, which would lead to less accurate, timely responses to such communications.</p>
123	REVISED ED 24-00550-F (Apr. 15, 2024)_000653 – REVISED ED 24-00550-F (Apr. 15, 2024)_000654	2	<ol style="list-style-type: none"> 1. Email from Sarah Angilello to Elizabeth Piotrowski, Michael Tankersley, and Naomi Tagaki, attorneys for the FTC, copying Christopher Madaio, regarding the GCU investigation Date: Oct. 26, 2023, 11:44am 2. Email from Piotrowski to Angilello, Tankersley, and Tagaki, copying Madaio, regarding the GCU investigation Date: Oct. 26, 2023, 5:52pm 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full the contents of emails between the FTC and FSA regarding the GCU investigation and an internal ED email from Madaio to Donoghue (copying Angilello and Johnson) regarding the same.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full the text of emails between FTC attorney and Sarah Angilello, and between FSA attorneys working on the GCU investigation, because they contain strategic discussions about FSA’s investigation of GCU. The withheld material reflects intra- and inter-agency discussions concerning the GCU investigation and is part of the deliberative process. The release of this material would chill intra- and inter-agency deliberations involving FSA investigations. <u>Attorney Work-Product Privilege</u> – The emails from</p>

¹ Note: The discrepancy between time stamps in emails may be due to the time zone in which certain individuals who received, and replied, to the email were located.

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			3. Email from Madaio to Kristen Donoghue, copying Angilello and Kathryn Johnson, regarding the GCU investigation 4. Date: Oct. 26, 2023, 5:54pm		Angilello and Madaio also constitute attorney-work product created in reasonable anticipation of litigation with GCU over FSA's GCU investigation. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.
124	REVISED ED 24-00550-F (Apr. 15, 2024)_000656 – REVISED ED 24-00550-F (Apr. 15, 2024)_000661	6	1. Email from Jacob Shorter, counsel for GCU, to Christopher Madaio, copying Steven Gombos, counsel for GCU, transmitting a letter to GCU about PPPA Condition B Date: Oct. 25, 2023 2. Email from Madaio to Kristen Donoghue, Jane Eldred, Michael Frola, Hunter Wiggins, Donna Mangold, Christle Sheppard Southall, and Susan Crim, copying Kathryn Johnson and Sarah Angilello Date: Oct. 25, 2023 3. Email from Madaio to Donoghue, Eldred, Frola, Wiggins, Mangold, Sheppard Southall, and Crim, copying Johnson and Angilello Date: Oct. 26, 2023, 5:51pm 4. Email from Mangold Date: Oct. 26, 2023, 7:28pm 5. Email from Wiggins Date: Oct. 26, 2023, 8:38pm 6. Email from Madaio Date: Oct. 26, 2023, 10:26pm 7. Email from Wiggins Date: Oct. 27, 2023, 12:30am 8. Email from Donoghue to Wiggins, copying Madaio, Mangold, Eldred, Frola, Sheppard Southall, Crim, Johnson, and Angilello Date: Oct. 27, 2023, 6:47am 9. Email from Donoghue Date: Oct. 27, 2023, 8:06am 10. Email from Madaio to Donoghue, copying Wiggins, Mangold, Eldred, Frola, Sheppard Southall, Crim, Johnson, and Angilello Date: Oct. 27, 2023, 9:17am 11. Email from Mangold Date: Oct. 27, 2023, 9:54am 12. Email from Madaio to Mangold, copying Donoghue and Sheppard Southall Date: Oct. 27, 2023, 9:57am	(b)(5) (b)(7)(A)	<i>Portion Withheld – Exemption 5:</i> ED withheld in full the text of emails between ED employees because the emails contain internal deliberations/discussions about letters from GCU about PPPA Condition B, which requested response from the Department, as well emails that contain discussion of the GCU investigation and other matters involving GCU generally. (Note: Madaio's October 25, 2023 and October 27, 2023, 9:17am emails are withheld only in part.) <i>Portion Withheld – Exemption 7(A):</i> ED withheld under Exemption 7(A) the contents of Mangold's October 27, 9:54am email and Madaio's October 27, 9:57am email, as well as a portion of the contents of Madaio's October 27, 9:17am email. <i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld portions of an email from Madaio to FSA and OGC employees because the email contains Madaio's mental impressions concerning a letter from GCU about Condition B of GCU's PPPA. The withheld material is an attorney-client communication because Madaio implicitly is seeking the advice of OGC (and FSA colleagues) regarding GCU's counsel's letter. ED withheld emails from Mangold and additional emails from Madaio that contain those attorneys' views on the letter from GCU's counsel regarding Condition B of the PPPA and advice regarding responses. <i>Deliberative Process Privilege</i> – Most of the withheld material is also part of internal deliberations about the letter, and how to respond, implementation of Condition B of GCU's PPPA. The discussions are part of the internal deliberative process of responding to such communications, as well as the Department's deliberations on ensuring compliance with Condition B of the PPPA. These communications precede certain communications by the Department to GCU concerning Condition B of the PPPA. Madaio's and Mangold's October 27 emails pertain to a communication from GCU's counsel regarding another matter involving GCU and the GCU investigation and how the Department responded. Disclosure of these discussions would have a chilling effect on Department employees seeking feedback on and making recommendations about responding to inquiries from external entities with whom the Department engages, which would lead to less accurate, timely responses to such communications. <i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information relevant to the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
125	REVISED ED 24-00550-F (Apr. 15, 2024)_000662 – REVISED ED 24-00550-F (Apr. 15, 2024)_000663	2	<ol style="list-style-type: none"> 1. Email from Christopher Madaio to Kristen Donoghue, Donna Mangold, Christle Sheppard Southall, John Bailey, and Toby Merrill, copying Sarah Angilello, Susan Crim, and Lauren Pope, concerning the GCU fine action letter Date: Oct. 26, 2023, 11:48am 2. Email from Susan Crim to Madaio, Donoghue, Mangold, Sheppard Southall, Bailey, and Merrill, copying Angilello and Pope Date: Oct. 26, 2023, 3:32pm 3. Email from Angilello to Crim, Madaio, Donoghue, Mangold, Sheppard Southall, Bailey, and Merrill, copying Pope and Dawn Leget Date: Oct. 27, 2023, 10:04am (Note: Leget is an attorney within FSA’s Investigations Group) 4. Email from Crim to Angilello, Madaio, Donoghue, Mangold, Sheppard Southall, Bailey, and Merrill, copying Pope and Leget Date: Oct. 27, 2023, 10:25am 	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld under Exemptions 5 and 7(A) the contents of emails from Madaio, Crim, and Angilello regarding the GCU fine action letter. ED also withheld portions of the subject line of each of the emails in this thread.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full the text of emails containing strategic discussions about the fine action letter to be sent to GCU. ED withheld portions of the subject line of each of the emails in this thread because the release of such information would reveal the nature of the Department’s strategic discussions about the GCU fine action letter. These discussions were antecedent to the issuance of the October 31, 2023 fine action letter, which formally notified GCU of the initiation of the fine action, the amount of the fine, and the reasons for imposing the fine and which was released to the public as the Department’s decision to initiate a fine action. These discussions were part of the deliberative process about the fine action to be taken against GCU and the communication of that action to GCU. The release of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department’s decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. <i>Attorney-Client Privilege and Attorney Work-Product Privilege</i> – Madaio’s and Angilello’s email (the latter of which added text to Crim’s October 26, 2023, 3:32pm email) convey information regarding Investigations Group work relevant to the fine action letter and provide advice regarding the GCU investigation. The emails are attorney work product as they were drafted in reasonable anticipation of litigation with GCU regarding the investigation. Disclosure of this information would have a chilling effect on FSA attorneys sharing their advice and information in their possession with FSA colleagues when pertinent to FSA investigations.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
126	REVISED ED 24-00550-F (Apr. 15, 2024)_000664 – REVISED ED 24-00550-F (Apr. 15, 2024)_000667	4	<ol style="list-style-type: none"> 13. Email from Jacob Shorter, counsel for GCU, to Christopher Madaio, copying Steven Gombos, counsel for GCU, transmitting a letter to GCU about PPPA Condition B Date: Oct. 25, 2023 14. Email from Madaio to Kristen Donoghue, Jane Eldred, Michael Frola, Hunter Wiggins, Donna Mangold, Christle Sheppard Southall, and Susan Crim, copying Kathryn Johnson and Sarah Angilello Date: Oct. 25, 2023 15. Email from Madaio to Donoghue, Eldred, Frola, Wiggins, Mangold, Sheppard Southall, and Crim, copying Johnson and Angilello Date: Oct. 26, 2023, 5:51pm 16. Email from Mangold Date: Oct. 26, 2023, 7:28pm 17. Email from Wiggins Date: Oct. 26, 2023, 8:38pm 	(b)(5)	<p><i>Portion Withheld – Exemption 5:</i> ED withheld in full the text of emails between ED employees because the emails contain internal deliberations/discussions about letters from GCU about PPPA Condition B, which requested response from the Department. (Note: Madaio’s October 25, 2023 email is withheld only in part.)</p> <p><i>Justification – Exemption 5: Attorney-Client Privilege</i> – ED withheld portions of an email from Madaio to FSA and OGC employees because the email contains Madaio’s mental impressions concerning a letter from GCU about Condition B of GCU’s PPPA. The withheld material is an attorney-client communication because Madaio implicitly is seeking the advice of OGC (and FSA colleagues) regarding GCU’s counsel’s letter. ED withheld emails from Mangold and additional emails from Madaio that contain those attorneys’ views on the letter from GCU’s counsel regarding Condition B of the PPPA and advice regarding responses. <i>Deliberative Process Privilege</i> – All of the withheld material is also part of internal deliberations about the letter, and how to respond, implementation of Condition B of GCU’s PPPA. The discussions are part of the internal deliberative process of responding to such communications, as well as the Department’s deliberations on ensuring compliance with Condition B of the PPPA. These communications precede certain communications by the Department to GCU concerning Condition B of the PPPA. Disclosure of these discussions would have a chilling effect on Department employees seeking feedback on and making recommendations about responding to inquiries from external entities with whom the Department engages, which would lead to less accurate, timely responses to such communications.</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			18. Email from Madaio Date: Oct. 26, 2023, 10:26pm 19. Email from Wiggins Date: Oct. 27, 2023, 12:30am 20. Email from Donoghue to Wiggins, copying Madaio, Mangold, Eldred, Frola, Sheppard Southall, Crim, Johnson, and Angilello Date: Oct. 27, 2023, 6:47am 21. Email from Mangold to Donoghue and Wiggins, copying Madaio, Eldred, Frola, Sheppard Southall, Crim, Johnson, and Angilello Date: Oct. 27, 2023, 9:53am 22. Email from Donoghue Date: Oct. 27, 2023, 10:28am 23. Email from Madaio to Donoghue Date: Oct. 27, 2023, 10:42am		
127	REVISED ED 24-00550-F (Apr. 15, 2024)_000668 – REVISED ED 24-00550-F (Apr. 15, 2024)_000669	2	Emails between Kristen Donoghue and Christopher Madaio, copying Susan Crim, Regarding a Draft Letter in the GCU Investigation Date: Oct. 29 and 30, 2023 (Note: Crim was a direct addressee of Donoghue’s Oct. 29, 2023 email.)	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full the text of emails between Donoghue and Madaio discussing a draft letter in the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – The withheld material is part of FSA’s deliberative process to determine the contents of communications with GCU regarding the GCU investigation, as well as the deliberative process regarding the investigation as a whole. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. Disclosure of this information would also dissuade Department staff from employees seeking feedback on and making recommendations about communications to the subject of investigations about those investigations, which would lead to such communications being less accurate and timely. <i>Attorney-Client Privilege and Attorney Work-Product Privilege</i> – The withheld material also is discussion protected by the attorney-client privilege because Donoghue seeks additional information and explanation from Madaio regarding the draft letter under discussion – as part of explaining her feedback on the letter – and Madaio provides such information and explanation. Madaio’s emails also constitute attorney work product as the emails, and the underlying letter referred to, were drafted in reasonable anticipation of litigation regarding the GCU investigation and contain Madaio’s recommendations regarding and views on edits to the letter.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>
128	REVISED ED 24-00550-F (Apr. 15, 2024)_000670 – REVISED ED 24-00550-F (Apr. 15, 2024)_000671	2	1. Email from Christopher Madaio to April Jordan and Melody Cowan, copying Kristen Donoghue, Susan Crim, and Colleen Nevin about the GCU investigation Date: Oct. 30, 2023, 3:53pm (Note: Jordan and Cowan work in FSA’s communications unit.) 2. Email from Cowan to Madaio and Jordan, copying Donoghue, Crim, and Nevin about	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld in full the text of Madaio’s October 30, 2023, 3:53pm email to Jordan and Cowan. ED also withheld portions of the October 30 emails from Crim, Cowan, and Jordan. Finally, ED withheld portions of the subject line of each email in the email thread.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld in full the text of Madaio’s Oct. 30, 2023, 3:53pm email to Jordan and Cowan because it contains strategic discussions about the GCU investigation. Similarly, ED withheld portions of the October 30 emails from Crim, Cowan, and Jordan because they contain strategic discussions about the GCU investigation. The withheld material is part of FSA’s deliberative process in determining the precise action to take against GCU in the</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>the GCU investigation Date: Oct. 30, 2023, 4:05pm</p> <p>3. Email from Crim to Madaio, Cowan, and Jordan, copying Donoghue about the GCU investigation Date: Oct. 30, 2023, 5:43pm</p> <p>4. Email from Jordan to Crim, copying Donoghue, Madaio, Cowan, and LaToya Tribue Date: Oct. 30, 2023, 6:16pm (Note: Tribue works in FSA as a FOIA analyst.)</p> <p>5. Email from Crim to Jordan, copying Donoghue, Madaio, Cowan, Tribue, and Lauren Pope Date: Oct. 30, 2023, 7:32pm</p>		<p>GCU investigation. The discussions are antecedent to the Department's issuance of the October 31, 2023 fine action letter to GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA. It also could create confusion about the Department's final decision to initiate a fine action against GCU. ED withheld portions of the subject lines of each of the emails in this thread because the withheld material reveals the nature of the strategic discussions about the GCU investigation. <u>Attorney-Client Privilege</u> – ED also withheld information in Madaio's email and in Crim's October 30, 7:32pm email that reveal legal advice provided by OGC to FSA on the GCU investigation. Such a communication is protected by the attorney-client privilege. Release of this information would have a chilling effect on the attorney-client relationship between FSA and OGC. It also would discourage Department staff from sharing with other Department staff legal advice obtained from OGC of which others should be aware, as it would mean legal advice would only be protected when it is directly exchanged between OGC attorneys and the Department staff acting as their clients.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
129	REVISED ED 24-00550-F (Apr. 15, 2024)_000775 – REVISED ED 24-00550-F (Apr. 15, 2024)_000776	2	<p>Emails between Christopher Madaio, Kristen Donoghue, Benjamin Miller, and Brad Middleton</p> <p>(Note: Madaio's Oct. 23 email to Miller and Middleton copied Richard Cordray, Donoghue, Susan Crim, Donna Mangold, John Bailey, Sarah Angilello, Kathryn Johnson, Christle Sheppard Southall, and Colleen Nevin)</p> <p>Date: Oct. 23, 29, and 30, 2023</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld – Exemption 5 and 7(A):</i> ED withheld a portion of Madaio's October 23, 2023, 10:50am and October 30, 8:30pm emails to OUS regarding the fine action in the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld a portion of Christopher Madaio's October 23, 2023 email to Miller and Middleton because it contains strategic discussions about the GCU investigation. The withheld material is part of FSA's deliberative process of determining the fine to be initiated against GCU and contains information regarding the issuance of the fine action. ED also withheld a portion of Madaio's October 30, 2023 email to Miller, Middleton, and Donoghue because it describes a strategic update to the GCU investigation and the reasons for the update. The withheld material is information that would reveal FSA's deliberations on determining the fine to be initiated against GCU. These discussions were antecedent to the issuance of the October 31, 2023 fine action letter to GCU, which initiated a fine against GCU. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations and could lead to confusion about the Department's decisions in the GCU investigation. Such investigative discussions are central to FSA performing the core function of investigating institutions' compliance with the HEA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department's ability to defend its position in that hearing.</p>
130	REVISED ED 24-00550-F (Apr. 15, 2024)_000777 – REVISED ED 24-00550-F (Apr. 15, 2024)_000779	3	<p>Emails between Christopher Madaio and Kristen Donoghue, some of which copy Susan Crim, Regarding a Letter Received from Steven Gombos about the GCU Investigation</p> <p>Email from David Obuchowicz to Kristen Donoghue, copying Gombos, Steve Chema, and</p>	(b)(5) (b)(7)(A)	<p><i>Portion Withheld:</i> ED withheld under Exemptions 5 and 7(A) portions of emails between Kristen Donoghue and Christopher Madaio (with Susan Crim copied) discussing a draft response to a letter from counsel for GCU in the GCU investigation.</p> <p><i>Justification – Exemption 5: Deliberative Process Privilege</i> – ED withheld emails between Donoghue and Madaio because they discussed a draft response to a letter from GCU's counsel in the GCU investigation. The withheld material is part of the Department's deliberative process to determine the Department's response to the letter from GCU's counsel, as well as the GCU investigation more</p>

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
			<p>Christopher Madaio, transmitting letter from Steven Gombos about the GCU investigation</p> <p>(Note: Gombos, Obuchowicz, and Chema are/were counsel for GCU.)</p> <p>Date: Oct. 30 and 31, 2023 (emails between Madaio and Donoghue); Oct. 27, 2023 (email from David Obuchowicz)</p>		<p>broadly. Disclosure of this information would have a chilling effect on frank investigative discussions and coordination concerning FSA investigations. Such investigative discussions are central to FSA performing the core function of investigating institutions’ compliance with the HEA. Additionally, disclosure of this material would have a chilling effect on Department employees seeking feedback on and making recommendations about responding to inquiries from external entities with whom the Department engages, which would lead to less accurate, timely responses to such communications. <u>Attorney-Client Privilege</u> – Donoghue requested, and Madaio provided, his recommendations regarding a response to GCU’s counsel concerning their letter. As Madaio is an attorney, this thus constitutes an attorney-client communication.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld material under Exemption 7(A) because it contains privileged information concerning the GCU investigation, which remains open because the fine initiated against GCU is currently the subject of an ongoing hearing before the OHA. The release of such material while a hearing about the GCU investigation is ongoing could interfere with the Department’s ability to defend its position in that hearing.</p>

Production: May 7, 2024 Release

File Name: "24-00550-F Responsive Records_05.07_2024_Password.pdf"

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
131	ED 24-00550-F (May 7, 2024)_000039 – ED 24-00550-F (May 7, 2024)_000065	27	Letter from Kristen Donoghue to Brian Mueller, President of GCU, and Steven Gombos, counsel for GCU, Notifying GCU of the Department's Intention to Initiate a Fine Proceeding Against GCU Date: August 16, 2023	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld a single paragraph on the twenty-fifth page of the Department's August 16, 2023 notice letter to GCU. <i>Justification – Exemption 7(A):</i> ED withheld this paragraph because it discusses an open program review involving GCU, disclosure of this information prior to the issuance of a final program review determination could interfere with the Department's ability to conduct a fair, thorough program review.
132	ED 24-00550-F (May 7, 2024)_000066 – ED 24-00550-F (May 7, 2024)_000067	2	Letter from Counsel for GCU to FSA Regarding GCU	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld in full a letter from counsel for GCU to FSA concerning GCU, which discussed the GCU investigation and open program review into GCU, among other issues. <i>Justification – Exemption 7(A):</i> ED withheld this letter because, among other issues, it discusses an open program review involving GCU, disclosure of this information prior to the issuance of a final program review determination could interfere with the Department's ability to conduct a fair, thorough program review.
133	ED 24-00550-F (May 7, 2024)_000068 – ED 24-00550-F (May 7, 2024)_000069	2	Attachment to Letter from Counsel for GCU to FSA Regarding GCU	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld in full an attachment to a letter from counsel for GCU to FSA. <i>Justification – Exemption 7(A):</i> ED withheld this document because the letter and attachment were submitted, in part, in response to the Department's program review of GCU. Disclosure of this information prior to the issuance of a final program review determination could interfere with the Department's ability to conduct a fair, thorough program review.
134	ED 24-00550-F (May 7, 2024)_000070	1	Attachment to Letter from Counsel for GCU to FSA Regarding GCU	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld in full an attachment to a letter from counsel for GCU to FSA. <i>Justification – Exemption 7(A):</i> ED withheld this document because the letter and attachment were submitted, in part, in response to the Department's program review of GCU. Disclosure of this information prior to the issuance of a final program review determination could interfere with the Department's ability to conduct a fair, thorough program review.
135	ED 24-00550-F (May 7, 2024)_000071 – ED 24-00550-F (May 7, 2024)_000072	2	Attachment to Letter from Counsel for GCU to FSA Regarding GCU	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld in full an attachment to a letter from counsel for GCU to FSA. <i>Justification – Exemption 7(A):</i> ED withheld this document because the letter and attachment were submitted, in part, in response to the Department's program review of GCU. Disclosure of this information prior to the issuance of a final program review determination could interfere with the Department's ability to conduct a fair, thorough program review.
136	ED 24-00550-F (May 7, 2024)_000073 – ED 24-00550-F (May 7, 2024)_000074	2	Letter from Counsel for GCU to FSA Regarding GCU	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld in full a letter from counsel for GCU to FSA concerning GCU, which discussed the GCU investigation and open program review into GCU, among other issues. <i>Justification – Exemption 7(A):</i> ED withheld this letter because, among other issues, it discusses an open program review involving GCU, disclosure of this information prior to the issuance of a final program review determination could interfere with the Department's ability to conduct a fair, thorough program review.
137	ED 24-00550-F (May 7, 2024)_000075 – ED 24-00550-F (May 7, 2024)_000076	2	Attachment to Letter from Counsel for GCU to FSA Regarding GCU	(b)(7)(A)	<i>Portion Withheld – Exemption 7(A):</i> ED withheld in full an attachment to a letter from counsel for GCU to FSA. <i>Justification – Exemption 7(A):</i> ED withheld this document because the letter and attachment were submitted, in part, in response to the Department's program review of GCU. Disclosure of this information prior to the issuance of a final program review determination could interfere with the Department's ability to conduct a fair, thorough program review.

Doc. No.	Bates Number	# of Pages	Description of Record	Exemption	Justification
138	ED 24-00550-F (May 7, 2024)_000077	1	Attachment to Letter from Counsel for GCU to FSA Regarding GCU	(b)(7)(A)	<p><i>Portion Withheld – Exemption 7(A):</i> ED withheld in full an attachment to a letter from counsel for GCU to FSA.</p> <p><i>Justification – Exemption 7(A):</i> ED withheld this document because the letter and attachment were submitted, in part, in response to the Department’s program review of GCU. Disclosure of this information prior to the issuance of a final program review determination could interfere with the Department’s ability to conduct a fair, thorough program review.</p>