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Arlington, VA 22209
703.243.9423
www.consovoymccarthy.com

March 5, 2026

Via Electronic Mail

Michele Howell
FOIA Office
VCU Health System
P.O. Box 842041
Richmond, VA 23284
[REDACTED]

Re: VFOIA Request 25-245

Dear Ms. Howell:

I represent Defending Education, a national grassroots organization dedicated to securing a high-quality, value-neutral education for every American student. I write regarding VCU Health System's December 19, 2025 response to the VFOIA request submitted by Defending Education president Nicole Neily on November 25, 2025 (Request 25-245).

After identifying 784 emails responsive to Ms. Neily's request and issuing an invoice for the cost of processing them, your office abruptly reversed course and claimed that none of the emails were releasable public records because none "transacted the business of VCU or VCU Health System." Ex. B at 5. That claim is implausible on its face and contradicted by publicly available information about VCU Health System's operations. It is also inconsistent with Virginia Supreme Court precedent interpreting "public business" under Va. Code §2.2-3701. Accordingly, we ask that your office reassess the status of the responsive emails it identified to spare all parties the burden of litigation. To assist with this process, the remainder of this letter provides further information about the substance of Ms. Neily's FOIA request and VCU Health System's obligations under Virginia law.

Ms. Neily requested "records in the possession of Dr. Monica L. Baskin between the dates of June 1, 2025 and November 25, 2025 that contain the term 'AAMC' in conjunction with the terms 'puberty blocker,' 'gender-affirming,' 'transgender,' [or] 'cross-sex.'" Ex. A at 1. On December 2, 2025, VCU Health System informed Ms. Neily that it had located "784 emails" that were "sent or received between the dates of June 1, 2025 and November 25, 2025" and contained the keywords specified in her request. Ex. B at 1. Your office estimated that "access[ing] and review[ing] those emails for potential redaction or withholding pursuant to an applicable exemption" would require "26 hours" of labor and incur \$910 in costs. Ex. B at 1.

After Ms. Neily agreed to pay the estimated fees, your office sent Ms. Neily an invoice on December 8, 2025 and stated that it would begin processing records for release “once payment is received in the mail.” Ex. B at 5; *see* Ex. C. Yet on December 19, 2025, before VCU Health System ever received payment, your office informed Ms. Neily that it had “reviewed the emails returned by the search in advance of receiving prepayment.” Ex. B at 5. It stated that “no public records were found” among the 784 responsive documents, because “[n]one of the emails reviewed transacted the business of VCU or VCU Health System.” Ex. B at 5. Moreover, your office claimed to have reached this determination for all 784 emails in just four hours—a review rate of 196 emails per hour. *See* Ex. B at 6 (“[T]he review took approximately four hours.”).

As your office noted in its December 19 response, Va. Code §2.2-3701 defines a “public record” as “all writings and recordings” that are “prepared or owned by, or in the possession of a public body or its officers, employees in the transaction of public business.” The VFOIA statute elsewhere specifies that the law’s provisions “shall be liberally construed to promote an increased awareness by all persons of governmental activities.”¹ Thus, the Virginia Supreme Court “give[s] the phrase ‘public business’ a broad reading.”² “[P]ublic business’ as the phrase is used in Code §2.2-3701” includes “business that is on a public body’s agenda or is likely to come before the public body in the foreseeable future.”³ Further, a record need not relate to a specific transaction or venture to involve public business. To the contrary, a communication “constitute[s] the ‘business’ of a public body” if it “relate[s] to a subject that falls within the purview of that public body.”⁴ In other words, a record concerns the business of a public entity like VCU Health System if it relates to a topic within that entity’s authority.

It strains credulity that *none* of the 784 emails containing “the term ‘AAMC’ in conjunction with the terms ‘puberty blocker,’ ‘gender-affirming,’ ‘transgender,’ [or] ‘cross-sex’” related to a topic within the purview of VCU or VCU Health System. *See* Ex. A at 1. It is equally improbable that no email concerned a subject that is on VCU’s or VCU Health System’s “agenda” or “is likely to come before [those entities] in the foreseeable future.”⁵ Dr. Baskin is employed by VCU School of Medicine as an associate dean and as the Deputy Director of Research at a center within the VCU Health System. Until July 29, 2025, VCU Health System provided “gender-affirming care” for adolescents who asserted transgender identities, which included the provision of cross-sex hormones and puberty blockers.⁶ Indeed, it continues to provide

¹ Va. Code §2.2-3700.

² *Gloss v. Wheeler*, 302 Va. 258, 281–82 (2023).

³ *Id.* at 283; *see* §2.2-3701 (defining a “public body” to include “any legislative body, authority, board, bureau, commission, district, or agency of the Commonwealth or of any political subdivision of the Commonwealth ... and other organizations corporations, or agencies in the Commonwealth supported wholly or principally by public funds”).

⁴ *Id.* at 282.

⁵ *Id.* at 283.

⁶ Children’s Hospital of Richmond at VCU, *Gender-Affirming Care Statement* (July 29, 2025), perma.cc/KDL9-UAND.

“gender-affirming” care for adults.⁷ And the VCU Medical Center currently provides medical students with the AAMC’s “Sexual and Gender Minority Health Resources,” which include “clinical vignettes” about healthcare for “transgender” or “gender nonconforming” individuals.⁸

In any event, whether a requested record implicates public business is an “inherently factual” determination that can “turn on fine factual distinctions involving what was said, by whom, and in what context.”⁹ Case-specific assessments of this nature demand individualized review rather than sweeping categorical exclusions. For this reason alone, VCU Health System’s categorization of 784 documents as non-business-related within “approximately 4 hours” warrants reassessment. Ex. B at 6.

DE wishes to resolve this matter amicably, without the need for litigation. Accordingly, we ask that VCU Health System conduct a thorough, *individualized* review of the 784 emails responsive to Ms. Neily’s request and produce all documents that qualify as “public records” as defined by the Virginia Supreme Court. We also request that VCU Health System conduct this search in accordance with the timeline prescribed by Va. Code §2.2-3704(B) for original VFOIA requests and that your office “identify with reasonable particularity the ... subject matter of withheld records” it believes to be exempt from disclosure when providing a final response.¹⁰

Sincerely,

/s/ J. Michael Connolly
CONSOVOY MCCARTHY PLLC
mike@consovoymccarthy.com

cc: Nicole Neily, President, Defending Education

⁷ VCU Health, *Our Services*, perma.cc/45CW-PBQ3.

⁸ *LGBTQIA+ Health*, perma.cc/33S5-RPEK (providing access to AAMC “LGBTQ+ Health Resources” developed by the AAMC Advisory Committee on Sexual Orientation, Gender Identity, and Sex Development).

⁹ *Gloss*, 302 Va. at 289.

¹⁰ See §2.2-3704(B)(1).

EXHIBIT A



Upcoming System Maintenance

Please be advised of scheduled system maintenance on Monday, March 9th from 9:00 PM ET to March 9th at 10:00 PM ET. During this period, we may experience **temporary impact on performance or downtime**.

Normal operations will resume immediately after maintenance. Thank you for your patience and understanding as we work to improve our system's performance.



Skip to main content

Virginia Commonwealth University

NextRequest

Request Visibility: Unpublished

Request 25-245 Closed



Dates

Due

December 5, 2025

Received

November 25, 2025 via web

Request

Dear Sir or Madam,

Pursuant to the Virginia Freedom of Information Act (§2.2-3704 et seq.), I formally request for records in the possession of Dr. Monica L. Baskin between the dates of June 1, 2025 and November 25, 2025 that contain the term "AAMC" in conjunction with the terms "puberty blocker," "gender affirming," "transgender," "cross-sex," or "gender-affirming."

We respectfully request a waiver or reduction of fees associated with this request. Defending Education is a nonprofit organization and it does not intend to use the requested records for private commercial interests. The primary purpose of this request is to inform the public's

Requester

Nicole Neily

[Redacted]

4532 Cherry Hill Rd, #119, Arlington, VA, 22207



Defending Education

Invoices

No invoices due

Staff assigned

Departments

No departments available

Point of contact

Michele Howell

understanding of Dr. Baskin's role in influencing the country's medical education system towards gender affirmation through her role on the board of the Association of American Medical Colleges.

Defending Education has a proven track record of disseminating news about education issues, and expects to publicize the results of this request on its website. (See <https://defendinged.org/>.) To minimize the burden of production, I can accept records electronically and double-sided copies. That being said, if there are any fees for searching or copying these records, please inform me if the cost will exceed \$20.

The Virginia Freedom of Information Act requires that a response be provided within 5 business days; if you expect a significant delay in responding to this request, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please state in writing the basis for the denial, cite each specific exemption you feel justifies the refusal to release the information, and notify me of the appeal procedures available to me under the law.

Thank you for your prompt attention, and please let me know if you have any questions.

Sincerely,

Nicole Neily

President

Defending Education

Show less

Timeline

Documents

 **Request closed** Anyone with access to this request

Ms. Neily,

I write to notify you that our office is in receipt of your recent records request. The records you've requested would be VCU Health System Authority records rather than VCU records. Since these are separate legal entities, we will close this request in VCU's NextRequest system, log your request for VCU Health, and communicate with you from our VCU Health account moving forward.

Thank you,

Abigail Klose

VCU FOIA Office

December 2, 2025, 4:52pm by Staff

 **Request opened** Anyone with access to this request

Request received via web

November 25, 2025, 2:29pm by Nicole Neily

EXHIBIT B



Nicole Neily

CLEARED Fw: [Opened] Virginia Commonwealth University records request #25-245 from Nicole Neily

5 messages

FOIA VCUHS <FOIAVCUHS@vcuhealth.org>

Tue, Dec 2, 2025 at 5:05 PM

To:

Ms. Neily,

Our office is in receipt of your recent records request. As an initial matter, Va. Code § 2.2-3704(B) requires a request under the Virginia Freedom of Information Act (FOIA) to "identify the requested records with reasonable specificity." Virginia's Freedom of Information Advisory Council has opined that "reasonable specificity" means, using common definitions, "constituting or falling into a specific category" and "free from ambiguity." FOIA Council Opinion AO-01-00, September 29, 2000. A request for "records in the possession of" a particular person related to a topic is not reasonably specific enough for VCU to search for and identify all responsive records. In other words, there is no mechanism through which we can identify every record that may mention the keywords you've provided.

However, in an effort to provide you with a response, our office asked IT to search Dr. Baskin's email account for correspondence sent or received between the dates of June 1, 2025 and November 25, 2025 and containing the keywords you've provided. That search returned 784 emails. The estimated cost to access and review those emails for potential redaction or withholding pursuant to an applicable exemption is \$910.00 (30 emails per hour or 26 hours at \$35 /hour).

Whenever the estimated cost exceeds \$200, VCU requires prepayment of the full estimated cost before proceeding with processing the request as allowable by Va. Code § 2.2-3704(H). If the actual cost proves to be less than the estimate, VCU will refund any overage. Conversely, if actual costs are greater than the estimate, VCU will contact you to determine how you wish to proceed before incurring any additional costs. Please keep in mind that it is possible that some of these records may not transact public business, or fall under an exemption in VFOIA or be prohibited from release pursuant to other laws and may be withheld in their entirety upon review. In such instances, prepaid costs will not be refunded.

If you'd like to proceed with this search based on the above estimate, please let me know and I will send you an invoice with instructions on how to make your payment by check. You can also narrow the scope of your request to reduce the cost. If you choose to narrow the scope of the search, VCU will provide you with a revised cost estimate to consider. Finally, if you are interested in receiving records other than email correspondence, please identify them with reasonable specificity.

Thank you,

Abigail Klose

FOIA Office

VCU Health System

[912 W. Grace Street](#) / P.O. Box 842041

Richmond, VA 23284-2041

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

From: **VCU FOIA Office** <messages@nextrequest.com>

Date: Tue, Nov 25, 2025 at 2:29 PM

Subject: [Opened] Virginia Commonwealth University records request #25-245 from Nicole Neily

To: [REDACTED]

-- Reply ABOVE THIS LINE to post an INTERNAL message that will be sent to staff. Attach a non-image file to have it uploaded to the request as a staff only document

Virginia Commonwealth University Public Records

Record request #25-245 has been submitted and assigned to you. It currently has a due date of December 5, 2025.

Dear Sir or Madam,

Pursuant to the Virginia Freedom of Information Act (§2.2-3704 et seq.), I formally request for records in the possession of Dr. Monica L. Baskin between the dates of June 1, 2025 and November 25, 2025 that contain the term “AAMC” in conjunction with the terms “puberty blocker,” “gender affirming,” “transgender,” “cross-sex,” or “gender-affirming.”

We respectfully request a waiver or reduction of fees associated with this request. Defending Education is a nonprofit organization and it does not intend to use the requested records for private commercial interests. The primary purpose of this request is to inform the public’s understanding of Dr. Baskin’s role in influencing the country’s medical education system towards gender affirmation through her role on the board of the Association of American Medical Colleges.

Defending Education has a proven track record of disseminating news about education issues, and expects to publicize the results of this request on its website. (See <https://defendinged.org/>.) To

minimize the burden of production, I can accept records electronically and double-sided copies. That being said, if there are any fees for searching or copying these records, please inform me if the cost will exceed \$20.

The Virginia Freedom of Information Act requires that a response be provided within 5 business days; if you expect a significant delay in responding to this request, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please state in writing the basis for the denial, cite each specific exemption you feel justifies the refusal to release the information, and notify me of the appeal procedures available to me under the law.

Thank you for your prompt attention, and please let me know if you have any questions.

Sincerely,
Nicole Neily
President
Defending Education

[View Request 25-245](#)

<https://vcu.net/request.com/requests/25-245>



[Help Pages](#) | netrequest@civicplus.com

Nicole Neily [REDACTED]
To: FOIA VCUHS <FOIAVCUHS@vcuhealth.org>

Thu, Dec 4, 2025 at 10:04 AM

Thank you - yes, I would like to pay. Do you have a link to a payment portal, or would it be possible to get an invoice?
[Quoted text hidden]

To: Nicole Neily [REDACTED]

Ms. Neily,

Thank you for confirming that you would like to proceed with this request. Attached is an invoice with instructions on how to make prepayment by check. We will continue processing your request once payment is received in the mail.

Thank you,

Abigail Klose

FOIA Office

VCU Health System

[912 W. Grace Street](#) / P.O. Box 842041

Richmond, VA 23284-2041

From: Nicole Neily [REDACTED]

Sent: Thursday, December 4, 2025 10:04 AM

To: FOIA VCUHS <FOIAVCUHS@vcuhealth.org>

Subject: Re: CLEARED Fw: [Opened] Virginia Commonwealth University records request #25-245 from Nicole Neily

This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

[Report Suspicious](#)

Quoted text hidden]

 **Invoice 120825 - Defending Education.pdf**
287K

Nicole Neily [REDACTED]

Mon, Dec 8, 2025 at 1:10 PM

To: FOIA VCUHS <FOIAVCUHS@vcuhealth.org>

received - will process now. Thank you.

Quoted text hidden]

FOIA VCUHS <FOIAVCUHS@vcuhealth.org>

Fri, Dec 19, 2025 at 4:03 PM

To: [REDACTED]

Good afternoon,

I am writing to update you on the status of your request for information. Normally, our office would not continue processing a request until we've received prepayment in the mail. However, our office will be closed for winter break beginning Monday, December 22, and won't reopen until Monday, January 5. Because of this, we reviewed the emails returned by the search in advance of receiving prepayment and no public records were found. By way of additional explanation, Va. Code § 2.2-3701 defines public records as those in the possession of a public body or its officers, employees, or agents in the transaction of public business. None of the emails reviewed transacted the business of VCU or VCU Health System.

Finally, the review took approximately four hours. Therefore, in keeping with our charging policy for fulfillment of FOIA requests, there will be no charge. Assuming you have already processed the check for prepayment, we will void and return it to you when it is received. Thank you.

Best,

Abigail Klose

FOIA Office

VCU Health System

[912 W. Grace Street](#) / P.O. Box 842041

Richmond, VA 23284-2041

From: Nicole Neily [REDACTED]

Sent: Monday, December 8, 2025 1:10 PM

To: FOIA VCUHS <FOIAVCUHS@vcuhealth.org>

Subject: Re: CLEARED Fw: [Opened] Virginia Commonwealth University records request #25-245 from Nicole Neily

[Quoted text hidden]

EXHIBIT C

INVOICE



Date: 12/8/2025
Invoice Number: 120825

Virginia Commonwealth University
Enterprise Marketing and
Communications
FOIA Office

Grace Street Center
912 West Grace Street
Box 842041
Richmond, Virginia 23284-2041

Nicole Neily
Defending Education

[REDACTED]
4532 Cherry Hill Rd, #119
Arlington, VA, 22207

[REDACTED]
Michele Howell
FOIA Officer

Abigail Klose
FOIA Assistant

Fee to access, review, and make any necessary redactions to 784 emails sent or received by Dr. Monica L. Baskin between the dates of June 1, 2025 and November 25, 2025 containing the term "AAMC" in conjunction with the terms "puberty blocker," "gender affirming," "transgender," "cross-sex," or "gender-affirming."

30 emails / hour at \$35 / hour = \$910.00

Total due: \$910.00

Please make all checks payable to VCU Enterprise Marketing and Communications. If you have any questions concerning this invoice, contact Michele Howell at foiavcu@vcu.edu.