

Subject: Appeal for Counsel Misconduct - JMD File Number: 126943

Dear Members of the DOJ OIP Review Board,

I am writing to formally appeal the counsel misconduct associated with my FOIA request, specifically referencing Jillian Warzynski. The grounds for appeal stem from clear violations of 5 U.S.C 552, 18 U.S.C 1519, and 18 U.S.C 798.

Upon thorough research into Ms. Warzynski's background, I discovered a dearth of significant legal experience, raising concerns about her proficiency in handling FOIA requests. My apprehension stems from what appears to be a prioritization of quantity over quality in adjudication, reflected in a superficial mishandling of the appeal.

<https://lawyers.justia.com/lawyer/jillian-nicole-warzynski-1632564>

In adherence to established standards of professional conduct, it is evident that Ms. Warzynski did not adequately address the specifics of my FOIA request. Instead of suggesting a change in career path, I recommend that Ms. Warzynski seek opportunities in legal areas that offer a more substantial and enriching experience. Various positions can be explored on www.usajobs.gov. [My opinion]

The DOJ OIP bears a fiduciary responsibility to meticulously review records and validate affidavits from agencies subject to appeal, ensuring a baseline standard of performance. It is imperative that the agency demonstrates transparency and upholds its responsibilities without inadvertently endorsing subpar FOIA offices through the mere issuance of form letters. Due to the initial mishandling of the request by the JMD, the agency was offered a single opportunity to correct itself to which it failed. The agency does have the ability to redact the records to a level that allows transparency while upholding the Privacy act.

I commend the Antitrust Division as a notable example of ethical excellence in handling similar requests, even without assistance from OIP.

The OIP response on this request was a rubber-stamped denial of documents in a decision bereft of ethical jurisprudence on behalf of the United States, as elucidated in the attached exhibit.

Having previously communicated with the House Judiciary regarding errors by Matthew Hurd on 08/29/2023 on the prior request that jeopardized the credibility of the United States, I underscore the gravity of these concerns again on this second request.

Respectfully Submitted,

/s/

William Fernandes

Open AI Projects

'Collaboratively advocating for transparency and accountability in government affairs.'

CC: Judiciary Committee(s)



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

William Fernandes

August 28, 2023
Re: Appeal No. A-2023-00702
Request No. 126943-1

119660-91597331@requests.muckrock.com

VIA: Online Portal

Dear William Fernandes:

You appealed from the action of the Justice Management Division (JMD) on your Freedom of Information Act (FOIA) request for access to records concerning any investigation findings within the Insider Threat office(s) for any FBI or DEA employees worldwide for the period generated during this timeframe October 2019 - October 2018. I note that your appeal concerns JMD's withholdings pursuant to Exemptions 6, 7(C), and 7(E).

After carefully considering your appeal, I am affirming JMD's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. JMD properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties; and

5 U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures or guidelines for law enforcement investigations or prosecutions.

Please be advised that for each of these exemptions, it is reasonably foreseeable that disclosure of the information withheld would harm the interests protected by these exemptions.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of JMD in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office and speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

Matthew Hurd

X

Matthew Hurd

Chief, Administrative Appeals Staff



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

William Fernandes

Re: Appeal No. A-2023-01923
Request No. 126943

11966091597331@requests.muckrock.com

VIA: Online Portal - 12/7/2023

Dear William Fernandes:

This responds to your submission dated August 29, 2023, attempting to appeal from the action of the Justice Management Division (JMD) of the United States Department of Justice on Freedom of Information Act (FOIA) Request No. 126943.

By letter dated August 29, 2023, this Office informed you that your additional appeal from your FOIA request for the above-referenced records had been received by this Office and would be assigned for adjudication under Appeal No. A-2023-01923. However, this Office subsequently learned that your appeal file was a duplicate of Appeal No. A-2023-00702, which was adjudicated by this Office by letter dated August 28, 2023 (copy enclosed). In light of these circumstances, I am administratively closing Appeal No. A-2023-01923 in this Office.

If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office and speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

X *Jillian Warzynski*

Jillian Warzynski
Associate Chief, for
Christina Troiani, Chief, Administrative Appeals
Staff

Enclosure



U.S. Department of Justice
Antitrust Division
Freedom of Information Act / Privacy Act Unit
Liberty Square Building
450 5th Street, NW, Suite 1000
Washington, D.C. 20530
Voice: (202) 514-2692 / Fax: (202) 616-4529

October 12, 2023

VIA EMAIL
134034-10188317@requests.muckrock.com

Lewis Manning
MuckRock News DEPT MR 134034
263 Huntington Ave
Boston, MA 02115

Re: Freedom of Information Act Request No. ATFY22-145

Dear Mr. Manning:

This letter responds to your Freedom of Information Act (“FOIA”) request dated September 17, 2022, and received in this Office on September 19, 2022, in which you requested a copy of all Civil Investigative Demands sent during the month of August 2022. We assigned your request tracking number ATFY22-145. Please refer to this number in any future correspondence concerning your request.

After carefully reviewing the records responsive to your request, I have determined that 44 pages are appropriate for release. Forty-three pages are released in full and one page in part, copies of which are enclosed. The redacted portion of the one page contains information, the disclosure of which would constitute a clearly unwarranted invasion of an individual’s personal privacy. Accordingly, this information is withheld from public disclosure pursuant to 5 U.S.C. § 552(b)(6). Other records responsive to your request relate to ongoing enforcement proceedings and their disclosure could reasonably be expected to interfere with those proceedings. Accordingly, those records are exempt from public disclosure pursuant to 5 U.S.C. § 552(b)(7)(A). Please be advised that for each of these exemptions, it is reasonably foreseeable that disclosure of the information withheld would harm the interests protected by these exemptions.

If you are not satisfied with the Antitrust Division's determination in response to this request¹ you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact Tonya Kirksey, FOIA Public Liaison, at the telephone number listed above for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services ("OGIS") at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

/s/

Kathy Hsu
Chief
FOIA/Privacy Act Unit

Enclosures

¹ For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

United States Department of Justice

Antitrust Division
Washington, DC 20530

To: Allegion plc

(b) (6)

Cooley LLP

1299 Pennsylvania Ave., NW, Suite 700

Washington, DC 20004

Civil Investigative

Demand Number: 31120

This civil investigative demand is issued pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-1314, in the course of an antitrust investigation to determine whether there is, has been, or may be a violation of Section 7 of the Clayton Act, 15 U.S.C. § 18 by conduct, activities, or proposed action of the following nature: ASSA ABLOY AB's proposed acquisition of the Hardware and Home Improvement division of Spectrum Brands Holdings, Inc.

You are required by this demand to give oral testimony commencing on the 23rd day of August, 2022 at 8:00 a.m. at 11819 N. Pennsylvania Street, 1825 & 11835, Carmel, IN 46032, pursuant to the [attached schedule](#).

For the purposes of this investigation, Rebecca Valentine, Matthew Fellows, and Silvia Dominguez-Reece are designated as antitrust investigators who shall conduct the examination, which may be recorded by sound, sound-and-visual, or stenographic means, and the following are designated as the custodian and deputy custodian(s) to whom the transcript of the examination shall be submitted: Katrina Rouse (custodian) and Matthew Huppert (deputy custodian), U.S. Dept. of Justice, Antitrust Division, Defense, Industrials, and Aerospace Section, 450 Fifth Street NW, Suite 8700, Washington, DC 20530.

Inquiries concerning compliance should be directed to Rebecca Valentine at 202-476-0432.

Your attention is directed to 18 U.S.C. § 1505, printed in full on the reverse side of this demand, which makes obstruction of this investigation a criminal offense. The information you provide may be used by the Department of Justice in other civil, criminal, administrative, or regulatory cases or proceedings.

Issued in Washington, D.C., this 17th day of August, 2022.

/s/ Jonathan S. Kanter

Assistant Attorney General

18 U.S.C. § 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress -

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

CIVIL INVESTIGATIVE DEMAND SCHEDULE FOR ALLEGION PLC

Designate one or more officers, directors, managing agents, or other persons to testify on behalf of Allegion plc (“Allegion”) as to information known or reasonably available to Allegion regarding the following matters:

1. Allegion’s evaluation of the competitive landscape for the sale of Relevant Products, including suppliers that have entered in the past five years.
2. Allegion’s decisions and planning relating to the manufacturing, design, engineering, marketing and sales of Relevant Products.
3. Allegion’s pricing strategies for the Relevant Products in each of the channels in which it supplies those products, including specific instances of across-the-board price increases for the Relevant Products over the past five years.

The individual or individuals so designated shall be required to provide oral testimony as specified in the attached Civil Investigative Demand.

DEFINITIONS

1. The terms “the Company,” or “Allegion” mean Allegion plc, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing. The terms “parent,” “subsidiary,” “affiliate,” and “joint venture” refer to any person in which there is partial (25 percent or more) or total ownership or control between the Company and any other person.
2. The term “Relevant Product” means Door Hardware designed, manufactured, or marketed for use, or used on doors in residences.
3. The term “Door Hardware” means all products, whether operated mechanically or electronically, which are affixed to a door and facilitate the locking, opening, or closing of the door, including but not limited to door locks, door knobs, door levers, door handles, door latches, door entry sets, deadbolts, and handle sets. The term “Door Hardware” does not include door astragals/edge guards, door ball catches, door closers, door coordinators, door bottoms, door guards and retainers, door operators, door position switches, door pulls, door exit devices, door fasteners, door hinges, door indicator lights, door kickplates, door armor plates, door mop plates, door monitor switches, door mullions, door overhead holders/stops, door push and pull bars, door power supply, door power transfer, door pivots, door stops, door wiring harnesses, electromagnetic door holders, electromagnetic locking devices, electronic door strikes, electronic conversion kits, hotel door locks, or padlocks.

4. The term “Door” means a swinging door or pocket door used for ingress or egress to a room, closet, dwelling, or passageway, specifically excluding cabinet doors, rolling commercial doors, residential garage doors, and delivery locker doors.

United States Department of Justice

Antitrust Division
Washington, DC 20530

To: Colby College
4000 Mayflower Hill Dr.
Waterville, ME 04901

Civil Investigative
Demand Number: **31122**

This civil investigative demand is issued pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-1314, in the course of an antitrust investigation to determine whether there is, has been, or may be a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1 by conduct, activities, or proposed action of the following nature: Agreement to restrain competition among colleges in the recruitment of students.

You are required by this demand to produce all documentary material described in the attached schedule that is in your possession, custody, or control, and to make it available at your address indicated above for inspection and copying or reproduction by a custodian named below. You are also required to answer the interrogatories on the attached schedule. Each interrogatory must be answered separately and fully in writing, unless it is objected to, in which event the reasons for the objection must be stated in lieu of an answer. Such production of documents and answers to interrogatories shall occur on the 21st day of September, 2022 at 5:00 p.m.

The production of documentary material and the interrogatory answers in response to this demand must be made under a sworn certificate, in the form printed on the reverse side of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production and/or responsible for answering each interrogatory.

For the purposes of this investigation, the following are designated as the custodian and deputy custodian(s) to whom the documentary material shall be made available and the interrogatory answers shall be submitted: Aaron Hoag (custodian) and Ryan Struve (deputy custodian), U.S. Dept. of Justice, Antitrust Division, Technology and Digital Platforms Section, 450 Fifth Street NW, Suite 7100, Washington, DC 20530.

Inquiries concerning compliance should be directed to Ryan Struve at 202-514-4890.

Your attention is directed to 18 U.S.C. § 1505, printed in full on the reverse side of this demand, which makes obstruction of this investigation a criminal offense. The information you provide may be used by the Department of Justice in other civil, criminal, administrative, or regulatory cases or proceedings.

Issued in Washington, D.C., this 22nd day of August, 2022.

/s/ Jonathan S. Kanter

Assistant Attorney General

18 U.S.C. § 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress -

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Form of Certificate of Compliance*

I/We have read the provisions of 18 U.S.C. § 1505 and have knowledge of the facts and circumstances relating to the production of the documentary material and have responsibility for answering the interrogatories propounded in Civil Investigative Demand No. _____. I/We do hereby certify that all documentary material and all information required by Civil Investigative Demand No. _____ which is in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted to a custodian named therein.

If any documentary material otherwise responsive to this demand has been withheld or any interrogatory in the demand has not been fully answered, the objection to such demand and the reasons for the objection have been stated in lieu of production or an answer.

Signature _____

Title _____

Sworn to before me this _____ day of _____, 20____.

Notary Public

*In the event that more than one person is responsible for producing the documents and answering the interrogatories, the certificate shall identify the documents and interrogatories for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided by 28 U.S.C. § 1746.

CIVIL INVESTIGATIVE DEMAND FOR DOCUMENTS AND INFORMATION

Unless otherwise indicated or modified by the Department of Justice, each specification of this Demand requires a complete search of the College. In the Department's experience, modifications to this Demand may reduce the burden of searching for responsive documents and information in a way that is consistent with the Department's needs. The College is encouraged to propose such modifications, but all modifications must be agreed to in writing by the Department.

SPECIFICATIONS

1. Submit all documents relating to the dissemination or receipt of the identities of students accepted by you or any other college or university through an early decision admission plan, including:
 - a. agreements to exchange identities of accepted students with persons at other colleges or universities;
 - b. communications with persons at other colleges or universities relating to the transmission of identities of accepted students, including the justifications for such transmission;
 - c. internal documents relating to the transmission of identities of accepted students to or from persons at other colleges or universities;
 - d. documents relating to any meetings between you and any other colleges or universities in which the transmission of identities of accepted students was discussed;
 - e. documents relating to any groups or organizations, whether formal or informal, made up of colleges or universities that share information related to early decision admissions, including the Expendables and New England Expendables;
 - f. communications in which identities of accepted students are sent to or received from persons at other colleges or universities; or
 - g. communications with persons at any other college or university relating to any student accepted by you.

2. Since January 1, 2020, state (a) the total number of applications to the College withdrawn by prospective students and (b) the total number of admissions offers rescinded by you on the basis of information you received about another college or university's early decision admitted students list.

3. Submit all documents relating to any withdrawn application or rescinded admissions offer identified in response to Specification 2, including communications with any prospective student.

DEFINITIONS

The following definitions apply for the purposes of this Demand:

1. The terms “**you**” or “**the College**” means the entity to which this Demand is addressed, its predecessors, divisions, and subsidiaries, and all directors, officers, employees, agents, and representatives of the foregoing.
2. The term “**agreement**” means any understanding, formal or informal, written or unwritten.
3. The term “**Collaborative Work Environment**” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Even when based on a common technology platform, Collaborative Work Environments are often configured as separate and closed environments, each one of which is open to a select group of users with layered access control rules (reader vs. author vs. editor). Collaborative Work Environments include Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (“CMS”) (e.g., Drupal), wikis, and blogs.
4. The term “**documents**” means all written, printed, or electronically stored information (“ESI”) of any kind in the possession, custody, or control of the College, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, text messages, other Messaging Applications, and documents contained in Collaborative Work Environments and other document databases. “Documents” includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document. Unless otherwise specified, “documents” excludes bills of lading, invoices in non-electronic form, purchase orders, customs declarations, and other similar documents of a purely transactional nature; architectural plans and engineering blueprints; and documents solely relating to environmental, tax, human resources, OSHA, or ERISA issues.
5. The term “**Messaging Application**” refers to any electronic method used by the College and its employees to communicate with each other or entities outside the College for business purposes. “Messaging Application” include platforms for email, chats, instant messages, text messages, and other methods of group and individual communication (e.g., Microsoft Teams, Slack). “Messaging Application” may overlap with “Collaborative Work Environment.”
6. The term “**person**” includes the College and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

7. The terms “**Sensitive Personally Identifiable Information**” or “**Sensitive PII**” mean information or data that would identify an individual, including a person’s Social Security Number; or a person’s name, address, or phone number in combination with one or more of their (a) date of birth; (b) driver’s license number or other state identification number, or a foreign country equivalent; (c) passport number; (d) financial account number; or (e) credit or debit card number.
8. The terms “**Sensitive Health Information**” or “**SHI**” mean information or data about an individual’s health, including medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.
9. The term “**identify**” means to state:
 - a. in the case of a person other than a natural person: name, principal address, and telephone number;
 - b. in the case of a natural person other than a former employee of the College: name, employer, business address, business telephone number, business email, and title or position;
 - c. in the case of a former employee of the College: name, current address, telephone number and email address, and the date that the employment with the College ended; and
 - d. in the case of a communication: a description of the substance of the communication; the names of all participants in the communication; the identity of witnesses to the communication; and the date, time, and place of the communication.

INSTRUCTIONS

Timing

1. All references to year refer to calendar year. Unless otherwise specified, this Demand calls for documents, data, and other information created, altered, or received by the College within three years of the date on which this Demand was issued. For interrogatory responses, submit a separate response for each year or year-to-date unless otherwise specified. If calendar-year data are not available, supply the College’s fiscal-year data indicating the twelve-month period covered, and submit the College’s best estimate of calendar-year data.

Production Format

2. Department representatives must approve the format and production method of any documents, data, or other information before the College makes an electronic production in response to this Demand. Before preparing its production, the College must contact the Department to explain what materials are available and how they are stored. This discussion must include College personnel who are familiar with its electronically stored information and databases/data sets.
3. Before using software or technology (including search terms, predictive coding, de-duplication, or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this Demand, the College must submit a written description of the method(s) used to conduct any part of its search. In addition, for any process that relies on search terms to identify or eliminate documents, the College must submit: (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the frequency of each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and College terminology. For any process that instead relies on predictive coding to identify or eliminate documents, you must include (a) confirmation that subject-matter experts will be reviewing the seed set and training rounds; (b) recall, precision, and confidence-level statistics (or an equivalent); and (c) a validation process that allows for Department review of statistically significant samples of documents categorized as non-responsive documents by the algorithm.
4. If the Department agrees to narrow the scope of this Demand to a limited group of custodians, a search of each custodian's files must include files of their predecessors; files maintained by their assistants or under their control; and common or shared databases or data sources maintained by the College that are accessible by each custodian, their predecessors, or assistants.
5. Submit responses to this Demand in a reasonably usable format as required by the Department in the letter sent in connection with this Demand. Documents must be complete and unredacted, except for privilege and for any Sensitive Personally Identifiable Information or Sensitive Health Information redacted pursuant to Instruction 6. Documents must be submitted as found and ordered in the College's files and must not be shuffled or otherwise rearranged. The College is encouraged to submit copies of hard-copy documents electronically (with color hard copies where necessary to interpret the document) in lieu of producing original hard-copy documents. Unless otherwise agreed to by the Department, produce electronic documents in electronic form only. Electronic productions must be free of viruses. The Department will return any infected media for replacement, which may delay the College's date of compliance with this Demand.
6. Do not produce any Sensitive PII or SHI before discussing the information with Department representatives. If any document responsive to a particular specification contains Sensitive PII or SHI that is not responsive to that specification, redact the unresponsive Sensitive PII or SHI before producing the document. Provide any index of documents prepared by any person in connection with your response to this Demand that

lists such redacted documents by document control number. If the index is available in electronic form, provide it in that form.

7. Provide any index of documents prepared by any person in connection with your response to this Demand. If the index is available in electronic form, provide it in that form.
8. The College must continue to preserve documents or data contained in disaster recovery systems or backup media that may contain information responsive to this Demand. If you have any questions, please contact the Department representative identified below to discuss your obligation to preserve or search backup media.
9. Produce all non-privileged portions of any responsive document (including non-privileged or redacted attachments) for which a privilege claim is asserted. Each document withheld in whole or in part from production based on a claim of privilege must be assigned a unique privilege identification number and separate fields representing the beginning and ending document control numbers and logged as follows:
 - a. Each log entry must contain, in separate fields: privilege identification number; beginning and ending document control numbers; parent document control numbers; attachments document control numbers; family range; number of pages; all authors; all addressees; all blind copy recipients; all other recipients; date of the document; an indication of whether it is redacted; the basis for the privilege claim (e.g., attorney-client privilege), including the anticipated litigation for any work-product claim and the underlying privilege claim if subject to a joint-defense or common-interest agreement; and a description of the document's subject matter sufficiently detailed to enable the Department to assess the privilege claim and the facts relied upon to support that claim.
 - b. Include a separate legend containing an alphabetical list (by last name) of each name on the privilege log, identifying titles, company affiliations, the members of any group or email list on the log (e.g., the Board of Directors) and any name variations used for the same individual.
 - c. On the log and the legend, list all attorneys acting in a legal capacity with the designation ESQ after their name (include a space before and after the "ESQ").
 - d. Produce the log and legend in electronic form that is both searchable and sortable. Upon request, the College must submit a hard copy of the log and legend.
 - e. Department representatives will provide an exemplar and template for the log and legend upon request.
 - f. Any document created by the College's in-house counsel or the College's outside counsel that has not been distributed outside the College's in-house counsel's office or the College's outside counsel's law firm does not have to be logged. But if the document was distributed to any attorney who does not work exclusively in

the College's in-house counsel's office or who has any business responsibilities, it must be logged. Unlogged documents are subject to any preservation obligations the College or counsel may have.

10. If the College is unable to answer a question fully, it must supply all available information; explain why such answer is incomplete; describe the efforts made by the College to obtain the information; and list the sources from which the complete answer may be obtained. If the information that allows for accurate answers is not available, submit best estimates and describe how the estimates were derived. Estimated data should be followed by the notation "est." If there is no reasonable way for the College to estimate, provide an explanation.
11. If documents, data, or other information responsive to a particular specification no longer exists for reasons other than the College's document retention policy, describe the circumstances under which it was lost or destroyed, describe the information lost, list the specifications to which it was responsive, and list persons with knowledge of such documents, data, or other information.
12. To complete this Demand, the College must submit the certification on the reverse of the Civil Investigative Demand form, executed by the official supervising compliance with this Demand, and notarized.

Direct any questions the College has relating to the scope or meaning of anything in this Demand or suggestions for possible modifications thereto to Ryan Struve at (202) 514-4890. The response to this Demand must be addressed to the attention of Ryan Struve and delivered between 8:30 a.m. and 5:00 p.m. on any business day to 450 Fifth Street, NW, Suite 7100, Washington, DC 20001. If the College wishes to submit its response by U.S. mail, please call Ryan Struve for mailing instructions.

United States Department of Justice

Antitrust Division
Washington, DC 20530

To: Mount Holyoke College
50 College Street
South Hadley, MA 01075

Civil Investigative
Demand Number: **31124**

This civil investigative demand is issued pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-1314, in the course of an antitrust investigation to determine whether there is, has been, or may be a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1 by conduct, activities, or proposed action of the following nature: Agreement to restrain competition among colleges in the recruitment of students.

You are required by this demand to produce all documentary material described in the attached schedule that is in your possession, custody, or control, and to make it available at your address indicated above for inspection and copying or reproduction by a custodian named below. You are also required to answer the interrogatories on the attached schedule. Each interrogatory must be answered separately and fully in writing, unless it is objected to, in which event the reasons for the objection must be stated in lieu of an answer. Such production of documents and answers to interrogatories shall occur on the 21st day of September, 2022 at 5:00 p.m.

The production of documentary material and the interrogatory answers in response to this demand must be made under a sworn certificate, in the form printed on the reverse side of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production and/or responsible for answering each interrogatory.

For the purposes of this investigation, the following are designated as the custodian and deputy custodian(s) to whom the documentary material shall be made available and the interrogatory answers shall be submitted: Aaron Hoag (custodian) and Ryan Struve (deputy custodian), U.S. Dept. of Justice, Antitrust Division, Technology and Digital Platforms Section, 450 Fifth Street NW, Suite 7100, Washington, DC 20530.

Inquiries concerning compliance should be directed to Ryan Struve at 202-514-4890.

Your attention is directed to 18 U.S.C. § 1505, printed in full on the reverse side of this demand, which makes obstruction of this investigation a criminal offense. The information you provide may be used by the Department of Justice in other civil, criminal, administrative, or regulatory cases or proceedings.

Issued in Washington, D.C., this 22nd day of August, 2022.

/s/ Jonathan S. Kanter

Assistant Attorney General

18 U.S.C. § 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress -

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Form of Certificate of Compliance*

I/We have read the provisions of 18 U.S.C. § 1505 and have knowledge of the facts and circumstances relating to the production of the documentary material and have responsibility for answering the interrogatories propounded in Civil Investigative Demand No. _____. I/We do hereby certify that all documentary material and all information required by Civil Investigative Demand No. _____ which is in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted to a custodian named therein.

If any documentary material otherwise responsive to this demand has been withheld or any interrogatory in the demand has not been fully answered, the objection to such demand and the reasons for the objection have been stated in lieu of production or an answer.

Signature _____

Title _____

Sworn to before me this _____ day of _____, 20____.

Notary Public

*In the event that more than one person is responsible for producing the documents and answering the interrogatories, the certificate shall identify the documents and interrogatories for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided by 28 U.S.C. § 1746.

CIVIL INVESTIGATIVE DEMAND FOR DOCUMENTS AND INFORMATION

Unless otherwise indicated or modified by the Department of Justice, each specification of this Demand requires a complete search of the College. In the Department's experience, modifications to this Demand may reduce the burden of searching for responsive documents and information in a way that is consistent with the Department's needs. The College is encouraged to propose such modifications, but all modifications must be agreed to in writing by the Department.

SPECIFICATIONS

1. Submit all documents relating to the dissemination or receipt of the identities of students accepted by you or any other college or university through an early decision admission plan, including:
 - a. agreements to exchange identities of accepted students with persons at other colleges or universities;
 - b. communications with persons at other colleges or universities relating to the transmission of identities of accepted students, including the justifications for such transmission;
 - c. internal documents relating to the transmission of identities of accepted students to or from persons at other colleges or universities;
 - d. documents relating to any meetings between you and any other colleges or universities in which the transmission of identities of accepted students was discussed;
 - e. documents relating to any groups or organizations, whether formal or informal, made up of colleges or universities that share information related to early decision admissions, including the Expendables and New England Expendables;
 - f. communications in which identities of accepted students are sent to or received from persons at other colleges or universities; or
 - g. communications with persons at any other college or university relating to any student accepted by you.

2. Since January 1, 2020, state (a) the total number of applications to the College withdrawn by prospective students and (b) the total number of admissions offers rescinded by you on the basis of information you received about another college or university's early decision admitted students list.

3. Submit all documents relating to any withdrawn application or rescinded admissions offer identified in response to Specification 2, including communications with any prospective student.

DEFINITIONS

The following definitions apply for the purposes of this Demand:

1. The terms “**you**” or “**the College**” means the entity to which this Demand is addressed, its predecessors, divisions, and subsidiaries, and all directors, officers, employees, agents, and representatives of the foregoing.
2. The term “**agreement**” means any understanding, formal or informal, written or unwritten.
3. The term “**Collaborative Work Environment**” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Even when based on a common technology platform, Collaborative Work Environments are often configured as separate and closed environments, each one of which is open to a select group of users with layered access control rules (reader vs. author vs. editor). Collaborative Work Environments include Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (“CMS”) (e.g., Drupal), wikis, and blogs.
4. The term “**documents**” means all written, printed, or electronically stored information (“ESI”) of any kind in the possession, custody, or control of the College, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, text messages, other Messaging Applications, and documents contained in Collaborative Work Environments and other document databases. “Documents” includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document. Unless otherwise specified, “documents” excludes bills of lading, invoices in non-electronic form, purchase orders, customs declarations, and other similar documents of a purely transactional nature; architectural plans and engineering blueprints; and documents solely relating to environmental, tax, human resources, OSHA, or ERISA issues.
5. The term “**Messaging Application**” refers to any electronic method used by the College and its employees to communicate with each other or entities outside the College for business purposes. “Messaging Application” include platforms for email, chats, instant messages, text messages, and other methods of group and individual communication (e.g., Microsoft Teams, Slack). “Messaging Application” may overlap with “Collaborative Work Environment.”
6. The term “**person**” includes the College and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

7. The terms “**Sensitive Personally Identifiable Information**” or “**Sensitive PII**” mean information or data that would identify an individual, including a person’s Social Security Number; or a person’s name, address, or phone number in combination with one or more of their (a) date of birth; (b) driver’s license number or other state identification number, or a foreign country equivalent; (c) passport number; (d) financial account number; or (e) credit or debit card number.
8. The terms “**Sensitive Health Information**” or “**SHI**” mean information or data about an individual’s health, including medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.
9. The term “**identify**” means to state:
 - a. in the case of a person other than a natural person: name, principal address, and telephone number;
 - b. in the case of a natural person other than a former employee of the College: name, employer, business address, business telephone number, business email, and title or position;
 - c. in the case of a former employee of the College: name, current address, telephone number and email address, and the date that the employment with the College ended; and
 - d. in the case of a communication: a description of the substance of the communication; the names of all participants in the communication; the identity of witnesses to the communication; and the date, time, and place of the communication.

INSTRUCTIONS

Timing

1. All references to year refer to calendar year. Unless otherwise specified, this Demand calls for documents, data, and other information created, altered, or received by the College within three years of the date on which this Demand was issued. For interrogatory responses, submit a separate response for each year or year-to-date unless otherwise specified. If calendar-year data are not available, supply the College’s fiscal-year data indicating the twelve-month period covered, and submit the College’s best estimate of calendar-year data.

Production Format

2. Department representatives must approve the format and production method of any documents, data, or other information before the College makes an electronic production in response to this Demand. Before preparing its production, the College must contact the Department to explain what materials are available and how they are stored. This discussion must include College personnel who are familiar with its electronically stored information and databases/data sets.
3. Before using software or technology (including search terms, predictive coding, de-duplication, or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this Demand, the College must submit a written description of the method(s) used to conduct any part of its search. In addition, for any process that relies on search terms to identify or eliminate documents, the College must submit: (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the frequency of each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and College terminology. For any process that instead relies on predictive coding to identify or eliminate documents, you must include (a) confirmation that subject-matter experts will be reviewing the seed set and training rounds; (b) recall, precision, and confidence-level statistics (or an equivalent); and (c) a validation process that allows for Department review of statistically significant samples of documents categorized as non-responsive documents by the algorithm.
4. If the Department agrees to narrow the scope of this Demand to a limited group of custodians, a search of each custodian's files must include files of their predecessors; files maintained by their assistants or under their control; and common or shared databases or data sources maintained by the College that are accessible by each custodian, their predecessors, or assistants.
5. Submit responses to this Demand in a reasonably usable format as required by the Department in the letter sent in connection with this Demand. Documents must be complete and unredacted, except for privilege and for any Sensitive Personally Identifiable Information or Sensitive Health Information redacted pursuant to Instruction 6. Documents must be submitted as found and ordered in the College's files and must not be shuffled or otherwise rearranged. The College is encouraged to submit copies of hard-copy documents electronically (with color hard copies where necessary to interpret the document) in lieu of producing original hard-copy documents. Unless otherwise agreed to by the Department, produce electronic documents in electronic form only. Electronic productions must be free of viruses. The Department will return any infected media for replacement, which may delay the College's date of compliance with this Demand.
6. Do not produce any Sensitive PII or SHI before discussing the information with Department representatives. If any document responsive to a particular specification contains Sensitive PII or SHI that is not responsive to that specification, redact the unresponsive Sensitive PII or SHI before producing the document. Provide any index of documents prepared by any person in connection with your response to this Demand that

lists such redacted documents by document control number. If the index is available in electronic form, provide it in that form.

7. Provide any index of documents prepared by any person in connection with your response to this Demand. If the index is available in electronic form, provide it in that form.
8. The College must continue to preserve documents or data contained in disaster recovery systems or backup media that may contain information responsive to this Demand. If you have any questions, please contact the Department representative identified below to discuss your obligation to preserve or search backup media.
9. Produce all non-privileged portions of any responsive document (including non-privileged or redacted attachments) for which a privilege claim is asserted. Each document withheld in whole or in part from production based on a claim of privilege must be assigned a unique privilege identification number and separate fields representing the beginning and ending document control numbers and logged as follows:
 - a. Each log entry must contain, in separate fields: privilege identification number; beginning and ending document control numbers; parent document control numbers; attachments document control numbers; family range; number of pages; all authors; all addressees; all blind copy recipients; all other recipients; date of the document; an indication of whether it is redacted; the basis for the privilege claim (e.g., attorney-client privilege), including the anticipated litigation for any work-product claim and the underlying privilege claim if subject to a joint-defense or common-interest agreement; and a description of the document's subject matter sufficiently detailed to enable the Department to assess the privilege claim and the facts relied upon to support that claim.
 - b. Include a separate legend containing an alphabetical list (by last name) of each name on the privilege log, identifying titles, company affiliations, the members of any group or email list on the log (e.g., the Board of Directors) and any name variations used for the same individual.
 - c. On the log and the legend, list all attorneys acting in a legal capacity with the designation ESQ after their name (include a space before and after the "ESQ").
 - d. Produce the log and legend in electronic form that is both searchable and sortable. Upon request, the College must submit a hard copy of the log and legend.
 - e. Department representatives will provide an exemplar and template for the log and legend upon request.
 - f. Any document created by the College's in-house counsel or the College's outside counsel that has not been distributed outside the College's in-house counsel's office or the College's outside counsel's law firm does not have to be logged. But if the document was distributed to any attorney who does not work exclusively in

the College's in-house counsel's office or who has any business responsibilities, it must be logged. Unlogged documents are subject to any preservation obligations the College or counsel may have.

10. If the College is unable to answer a question fully, it must supply all available information; explain why such answer is incomplete; describe the efforts made by the College to obtain the information; and list the sources from which the complete answer may be obtained. If the information that allows for accurate answers is not available, submit best estimates and describe how the estimates were derived. Estimated data should be followed by the notation "est." If there is no reasonable way for the College to estimate, provide an explanation.
11. If documents, data, or other information responsive to a particular specification no longer exists for reasons other than the College's document retention policy, describe the circumstances under which it was lost or destroyed, describe the information lost, list the specifications to which it was responsive, and list persons with knowledge of such documents, data, or other information.
12. To complete this Demand, the College must submit the certification on the reverse of the Civil Investigative Demand form, executed by the official supervising compliance with this Demand, and notarized.

Direct any questions the College has relating to the scope or meaning of anything in this Demand or suggestions for possible modifications thereto to Ryan Struve at (202) 514-4890. The response to this Demand must be addressed to the attention of Ryan Struve and delivered between 8:30 a.m. and 5:00 p.m. on any business day to 450 Fifth Street, NW, Suite 7100, Washington, DC 20001. If the College wishes to submit its response by U.S. mail, please call Ryan Struve for mailing instructions.

United States Department of Justice

Antitrust Division
Washington, DC 20530

To: Trinity College
300 Summit Street
Hartford, CT 06106

Civil Investigative
Demand Number: **31125**

This civil investigative demand is issued pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-1314, in the course of an antitrust investigation to determine whether there is, has been, or may be a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1 by conduct, activities, or proposed action of the following nature: Agreement to restrain competition among colleges in the recruitment of students.

You are required by this demand to produce all documentary material described in the attached schedule that is in your possession, custody, or control, and to make it available at your address indicated above for inspection and copying or reproduction by a custodian named below. You are also required to answer the interrogatories on the attached schedule. Each interrogatory must be answered separately and fully in writing, unless it is objected to, in which event the reasons for the objection must be stated in lieu of an answer. Such production of documents and answers to interrogatories shall occur on the 21st day of September, 2022 at 5:00 p.m.

The production of documentary material and the interrogatory answers in response to this demand must be made under a sworn certificate, in the form printed on the reverse side of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production and/or responsible for answering each interrogatory.

For the purposes of this investigation, the following are designated as the custodian and deputy custodian(s) to whom the documentary material shall be made available and the interrogatory answers shall be submitted: Aaron Hoag (custodian) and Ryan Struve (deputy custodian), U.S. Dept. of Justice, Antitrust Division, Technology and Digital Platforms Section, 450 Fifth Street NW, Suite 7100, Washington, DC 20530.

Inquiries concerning compliance should be directed to Ryan Struve at 202-514-4890.

Your attention is directed to 18 U.S.C. § 1505, printed in full on the reverse side of this demand, which makes obstruction of this investigation a criminal offense. The information you provide may be used by the Department of Justice in other civil, criminal, administrative, or regulatory cases or proceedings.

Issued in Washington, D.C., this 22nd day of August, 2022.

/s/ Jonathan S. Kanter

Assistant Attorney General

18 U.S.C. § 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress -

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Form of Certificate of Compliance*

I/We have read the provisions of 18 U.S.C. § 1505 and have knowledge of the facts and circumstances relating to the production of the documentary material and have responsibility for answering the interrogatories propounded in Civil Investigative Demand No. _____. I/We do hereby certify that all documentary material and all information required by Civil Investigative Demand No. _____ which is in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted to a custodian named therein.

If any documentary material otherwise responsive to this demand has been withheld or any interrogatory in the demand has not been fully answered, the objection to such demand and the reasons for the objection have been stated in lieu of production or an answer.

Signature _____

Title _____

Sworn to before me this _____ day of _____, 20____.

Notary Public

*In the event that more than one person is responsible for producing the documents and answering the interrogatories, the certificate shall identify the documents and interrogatories for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided by 28 U.S.C. § 1746.

CIVIL INVESTIGATIVE DEMAND FOR DOCUMENTS AND INFORMATION

Unless otherwise indicated or modified by the Department of Justice, each specification of this Demand requires a complete search of the College. In the Department's experience, modifications to this Demand may reduce the burden of searching for responsive documents and information in a way that is consistent with the Department's needs. The College is encouraged to propose such modifications, but all modifications must be agreed to in writing by the Department.

SPECIFICATIONS

1. Submit all documents relating to the dissemination or receipt of the identities of students accepted by you or any other college or university through an early decision admission plan, including:
 - a. agreements to exchange identities of accepted students with persons at other colleges or universities;
 - b. communications with persons at other colleges or universities relating to the transmission of identities of accepted students, including the justifications for such transmission;
 - c. internal documents relating to the transmission of identities of accepted students to or from persons at other colleges or universities;
 - d. documents relating to any meetings between you and any other colleges or universities in which the transmission of identities of accepted students was discussed;
 - e. documents relating to any groups or organizations, whether formal or informal, made up of colleges or universities that share information related to early decision admissions, including the Expendables and New England Expendables;
 - f. communications in which identities of accepted students are sent to or received from persons at other colleges or universities; or
 - g. communications with persons at any other college or university relating to any student accepted by you.

2. Since January 1, 2020, state (a) the total number of applications to the College withdrawn by prospective students and (b) the total number of admissions offers rescinded by you on the basis of information you received about another college or university's early decision admitted students list.

3. Submit all documents relating to any withdrawn application or rescinded admissions offer identified in response to Specification 2, including communications with any prospective student.

DEFINITIONS

The following definitions apply for the purposes of this Demand:

1. The terms “**you**” or “**the College**” means the entity to which this Demand is addressed, its predecessors, divisions, and subsidiaries, and all directors, officers, employees, agents, and representatives of the foregoing.
2. The term “**agreement**” means any understanding, formal or informal, written or unwritten.
3. The term “**Collaborative Work Environment**” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Even when based on a common technology platform, Collaborative Work Environments are often configured as separate and closed environments, each one of which is open to a select group of users with layered access control rules (reader vs. author vs. editor). Collaborative Work Environments include Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (“CMS”) (e.g., Drupal), wikis, and blogs.
4. The term “**documents**” means all written, printed, or electronically stored information (“ESI”) of any kind in the possession, custody, or control of the College, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, text messages, other Messaging Applications, and documents contained in Collaborative Work Environments and other document databases. “Documents” includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document. Unless otherwise specified, “documents” excludes bills of lading, invoices in non-electronic form, purchase orders, customs declarations, and other similar documents of a purely transactional nature; architectural plans and engineering blueprints; and documents solely relating to environmental, tax, human resources, OSHA, or ERISA issues.
5. The term “**Messaging Application**” refers to any electronic method used by the College and its employees to communicate with each other or entities outside the College for business purposes. “Messaging Application” include platforms for email, chats, instant messages, text messages, and other methods of group and individual communication (e.g., Microsoft Teams, Slack). “Messaging Application” may overlap with “Collaborative Work Environment.”
6. The term “**person**” includes the College and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

7. The terms “**Sensitive Personally Identifiable Information**” or “**Sensitive PII**” mean information or data that would identify an individual, including a person’s Social Security Number; or a person’s name, address, or phone number in combination with one or more of their (a) date of birth; (b) driver’s license number or other state identification number, or a foreign country equivalent; (c) passport number; (d) financial account number; or (e) credit or debit card number.
8. The terms “**Sensitive Health Information**” or “**SHI**” mean information or data about an individual’s health, including medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.
9. The term “**identify**” means to state:
 - a. in the case of a person other than a natural person: name, principal address, and telephone number;
 - b. in the case of a natural person other than a former employee of the College: name, employer, business address, business telephone number, business email, and title or position;
 - c. in the case of a former employee of the College: name, current address, telephone number and email address, and the date that the employment with the College ended; and
 - d. in the case of a communication: a description of the substance of the communication; the names of all participants in the communication; the identity of witnesses to the communication; and the date, time, and place of the communication.

INSTRUCTIONS

Timing

1. All references to year refer to calendar year. Unless otherwise specified, this Demand calls for documents, data, and other information created, altered, or received by the College within three years of the date on which this Demand was issued. For interrogatory responses, submit a separate response for each year or year-to-date unless otherwise specified. If calendar-year data are not available, supply the College’s fiscal-year data indicating the twelve-month period covered, and submit the College’s best estimate of calendar-year data.

Production Format

2. Department representatives must approve the format and production method of any documents, data, or other information before the College makes an electronic production in response to this Demand. Before preparing its production, the College must contact the Department to explain what materials are available and how they are stored. This discussion must include College personnel who are familiar with its electronically stored information and databases/data sets.
3. Before using software or technology (including search terms, predictive coding, de-duplication, or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this Demand, the College must submit a written description of the method(s) used to conduct any part of its search. In addition, for any process that relies on search terms to identify or eliminate documents, the College must submit: (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the frequency of each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and College terminology. For any process that instead relies on predictive coding to identify or eliminate documents, you must include (a) confirmation that subject-matter experts will be reviewing the seed set and training rounds; (b) recall, precision, and confidence-level statistics (or an equivalent); and (c) a validation process that allows for Department review of statistically significant samples of documents categorized as non-responsive documents by the algorithm.
4. If the Department agrees to narrow the scope of this Demand to a limited group of custodians, a search of each custodian's files must include files of their predecessors; files maintained by their assistants or under their control; and common or shared databases or data sources maintained by the College that are accessible by each custodian, their predecessors, or assistants.
5. Submit responses to this Demand in a reasonably usable format as required by the Department in the letter sent in connection with this Demand. Documents must be complete and unredacted, except for privilege and for any Sensitive Personally Identifiable Information or Sensitive Health Information redacted pursuant to Instruction 6. Documents must be submitted as found and ordered in the College's files and must not be shuffled or otherwise rearranged. The College is encouraged to submit copies of hard-copy documents electronically (with color hard copies where necessary to interpret the document) in lieu of producing original hard-copy documents. Unless otherwise agreed to by the Department, produce electronic documents in electronic form only. Electronic productions must be free of viruses. The Department will return any infected media for replacement, which may delay the College's date of compliance with this Demand.
6. Do not produce any Sensitive PII or SHI before discussing the information with Department representatives. If any document responsive to a particular specification contains Sensitive PII or SHI that is not responsive to that specification, redact the unresponsive Sensitive PII or SHI before producing the document. Provide any index of documents prepared by any person in connection with your response to this Demand that

lists such redacted documents by document control number. If the index is available in electronic form, provide it in that form.

7. Provide any index of documents prepared by any person in connection with your response to this Demand. If the index is available in electronic form, provide it in that form.
8. The College must continue to preserve documents or data contained in disaster recovery systems or backup media that may contain information responsive to this Demand. If you have any questions, please contact the Department representative identified below to discuss your obligation to preserve or search backup media.
9. Produce all non-privileged portions of any responsive document (including non-privileged or redacted attachments) for which a privilege claim is asserted. Each document withheld in whole or in part from production based on a claim of privilege must be assigned a unique privilege identification number and separate fields representing the beginning and ending document control numbers and logged as follows:
 - a. Each log entry must contain, in separate fields: privilege identification number; beginning and ending document control numbers; parent document control numbers; attachments document control numbers; family range; number of pages; all authors; all addressees; all blind copy recipients; all other recipients; date of the document; an indication of whether it is redacted; the basis for the privilege claim (e.g., attorney-client privilege), including the anticipated litigation for any work-product claim and the underlying privilege claim if subject to a joint-defense or common-interest agreement; and a description of the document's subject matter sufficiently detailed to enable the Department to assess the privilege claim and the facts relied upon to support that claim.
 - b. Include a separate legend containing an alphabetical list (by last name) of each name on the privilege log, identifying titles, company affiliations, the members of any group or email list on the log (e.g., the Board of Directors) and any name variations used for the same individual.
 - c. On the log and the legend, list all attorneys acting in a legal capacity with the designation ESQ after their name (include a space before and after the "ESQ").
 - d. Produce the log and legend in electronic form that is both searchable and sortable. Upon request, the College must submit a hard copy of the log and legend.
 - e. Department representatives will provide an exemplar and template for the log and legend upon request.
 - f. Any document created by the College's in-house counsel or the College's outside counsel that has not been distributed outside the College's in-house counsel's office or the College's outside counsel's law firm does not have to be logged. But if the document was distributed to any attorney who does not work exclusively in

the College's in-house counsel's office or who has any business responsibilities, it must be logged. Unlogged documents are subject to any preservation obligations the College or counsel may have.

10. If the College is unable to answer a question fully, it must supply all available information; explain why such answer is incomplete; describe the efforts made by the College to obtain the information; and list the sources from which the complete answer may be obtained. If the information that allows for accurate answers is not available, submit best estimates and describe how the estimates were derived. Estimated data should be followed by the notation "est." If there is no reasonable way for the College to estimate, provide an explanation.
11. If documents, data, or other information responsive to a particular specification no longer exists for reasons other than the College's document retention policy, describe the circumstances under which it was lost or destroyed, describe the information lost, list the specifications to which it was responsive, and list persons with knowledge of such documents, data, or other information.
12. To complete this Demand, the College must submit the certification on the reverse of the Civil Investigative Demand form, executed by the official supervising compliance with this Demand, and notarized.

Direct any questions the College has relating to the scope or meaning of anything in this Demand or suggestions for possible modifications thereto to Ryan Struve at (202) 514-4890. The response to this Demand must be addressed to the attention of Ryan Struve and delivered between 8:30 a.m. and 5:00 p.m. on any business day to 450 Fifth Street, NW, Suite 7100, Washington, DC 20001. If the College wishes to submit its response by U.S. mail, please call Ryan Struve for mailing instructions.

United States Department of Justice

Antitrust Division
Washington, DC 20530

To: Wellesley College
106 Central Street
Wellesley, MA 02481

Civil Investigative
Demand Number: **31126**

This civil investigative demand is issued pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-1314, in the course of an antitrust investigation to determine whether there is, has been, or may be a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1 by conduct, activities, or proposed action of the following nature: Agreement to restrain competition among colleges in the recruitment of students.

You are required by this demand to produce all documentary material described in the attached schedule that is in your possession, custody, or control, and to make it available at your address indicated above for inspection and copying or reproduction by a custodian named below. You are also required to answer the interrogatories on the attached schedule. Each interrogatory must be answered separately and fully in writing, unless it is objected to, in which event the reasons for the objection must be stated in lieu of an answer. Such production of documents and answers to interrogatories shall occur on the 21st day of September, 2022 at 5:00 p.m.

The production of documentary material and the interrogatory answers in response to this demand must be made under a sworn certificate, in the form printed on the reverse side of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production and/or responsible for answering each interrogatory.

For the purposes of this investigation, the following are designated as the custodian and deputy custodian(s) to whom the documentary material shall be made available and the interrogatory answers shall be submitted: Aaron Hoag (custodian) and Ryan Struve (deputy custodian), U.S. Dept. of Justice, Antitrust Division, Technology and Digital Platforms Section, 450 Fifth Street NW, Suite 7100, Washington, DC 20530.

Inquiries concerning compliance should be directed to Ryan Struve at 202-514-4890.

Your attention is directed to 18 U.S.C. § 1505, printed in full on the reverse side of this demand, which makes obstruction of this investigation a criminal offense. The information you provide may be used by the Department of Justice in other civil, criminal, administrative, or regulatory cases or proceedings.

Issued in Washington, D.C., this 22nd day of August, 2022.

/s/ Jonathan S. Kanter

Assistant Attorney General

18 U.S.C. § 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress -

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Form of Certificate of Compliance*

I/We have read the provisions of 18 U.S.C. § 1505 and have knowledge of the facts and circumstances relating to the production of the documentary material and have responsibility for answering the interrogatories propounded in Civil Investigative Demand No. _____. I/We do hereby certify that all documentary material and all information required by Civil Investigative Demand No. _____ which is in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted to a custodian named therein.

If any documentary material otherwise responsive to this demand has been withheld or any interrogatory in the demand has not been fully answered, the objection to such demand and the reasons for the objection have been stated in lieu of production or an answer.

Signature _____

Title _____

Sworn to before me this _____ day of _____, 20____.

Notary Public

*In the event that more than one person is responsible for producing the documents and answering the interrogatories, the certificate shall identify the documents and interrogatories for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided by 28 U.S.C. § 1746.

CIVIL INVESTIGATIVE DEMAND FOR DOCUMENTS AND INFORMATION

Unless otherwise indicated or modified by the Department of Justice, each specification of this Demand requires a complete search of the College. In the Department's experience, modifications to this Demand may reduce the burden of searching for responsive documents and information in a way that is consistent with the Department's needs. The College is encouraged to propose such modifications, but all modifications must be agreed to in writing by the Department.

SPECIFICATIONS

1. Submit all documents relating to the dissemination or receipt of the identities of students accepted by you or any other college or university through an early decision admission plan, including:
 - a. agreements to exchange identities of accepted students with persons at other colleges or universities;
 - b. communications with persons at other colleges or universities relating to the transmission of identities of accepted students, including the justifications for such transmission;
 - c. internal documents relating to the transmission of identities of accepted students to or from persons at other colleges or universities;
 - d. documents relating to any meetings between you and any other colleges or universities in which the transmission of identities of accepted students was discussed;
 - e. documents relating to any groups or organizations, whether formal or informal, made up of colleges or universities that share information related to early decision admissions, including the Expendables and New England Expendables;
 - f. communications in which identities of accepted students are sent to or received from persons at other colleges or universities; or
 - g. communications with persons at any other college or university relating to any student accepted by you.

2. Since January 1, 2020, state (a) the total number of applications to the College withdrawn by prospective students and (b) the total number of admissions offers rescinded by you on the basis of information you received about another college or university's early decision admitted students list.

3. Submit all documents relating to any withdrawn application or rescinded admissions offer identified in response to Specification 2, including communications with any prospective student.

DEFINITIONS

The following definitions apply for the purposes of this Demand:

1. The terms “**you**” or “**the College**” means the entity to which this Demand is addressed, its predecessors, divisions, and subsidiaries, and all directors, officers, employees, agents, and representatives of the foregoing.
2. The term “**agreement**” means any understanding, formal or informal, written or unwritten.
3. The term “**Collaborative Work Environment**” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Even when based on a common technology platform, Collaborative Work Environments are often configured as separate and closed environments, each one of which is open to a select group of users with layered access control rules (reader vs. author vs. editor). Collaborative Work Environments include Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (“CMS”) (e.g., Drupal), wikis, and blogs.
4. The term “**documents**” means all written, printed, or electronically stored information (“ESI”) of any kind in the possession, custody, or control of the College, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, text messages, other Messaging Applications, and documents contained in Collaborative Work Environments and other document databases. “Documents” includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document. Unless otherwise specified, “documents” excludes bills of lading, invoices in non-electronic form, purchase orders, customs declarations, and other similar documents of a purely transactional nature; architectural plans and engineering blueprints; and documents solely relating to environmental, tax, human resources, OSHA, or ERISA issues.
5. The term “**Messaging Application**” refers to any electronic method used by the College and its employees to communicate with each other or entities outside the College for business purposes. “Messaging Application” include platforms for email, chats, instant messages, text messages, and other methods of group and individual communication (e.g., Microsoft Teams, Slack). “Messaging Application” may overlap with “Collaborative Work Environment.”
6. The term “**person**” includes the College and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

7. The terms “**Sensitive Personally Identifiable Information**” or “**Sensitive PII**” mean information or data that would identify an individual, including a person’s Social Security Number; or a person’s name, address, or phone number in combination with one or more of their (a) date of birth; (b) driver’s license number or other state identification number, or a foreign country equivalent; (c) passport number; (d) financial account number; or (e) credit or debit card number.
8. The terms “**Sensitive Health Information**” or “**SHI**” mean information or data about an individual’s health, including medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.
9. The term “**identify**” means to state:
 - a. in the case of a person other than a natural person: name, principal address, and telephone number;
 - b. in the case of a natural person other than a former employee of the College: name, employer, business address, business telephone number, business email, and title or position;
 - c. in the case of a former employee of the College: name, current address, telephone number and email address, and the date that the employment with the College ended; and
 - d. in the case of a communication: a description of the substance of the communication; the names of all participants in the communication; the identity of witnesses to the communication; and the date, time, and place of the communication.

INSTRUCTIONS

Timing

1. All references to year refer to calendar year. Unless otherwise specified, this Demand calls for documents, data, and other information created, altered, or received by the College within three years of the date on which this Demand was issued. For interrogatory responses, submit a separate response for each year or year-to-date unless otherwise specified. If calendar-year data are not available, supply the College’s fiscal-year data indicating the twelve-month period covered, and submit the College’s best estimate of calendar-year data.

Production Format

2. Department representatives must approve the format and production method of any documents, data, or other information before the College makes an electronic production in response to this Demand. Before preparing its production, the College must contact the Department to explain what materials are available and how they are stored. This discussion must include College personnel who are familiar with its electronically stored information and databases/data sets.
3. Before using software or technology (including search terms, predictive coding, de-duplication, or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this Demand, the College must submit a written description of the method(s) used to conduct any part of its search. In addition, for any process that relies on search terms to identify or eliminate documents, the College must submit: (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the frequency of each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and College terminology. For any process that instead relies on predictive coding to identify or eliminate documents, you must include (a) confirmation that subject-matter experts will be reviewing the seed set and training rounds; (b) recall, precision, and confidence-level statistics (or an equivalent); and (c) a validation process that allows for Department review of statistically significant samples of documents categorized as non-responsive documents by the algorithm.
4. If the Department agrees to narrow the scope of this Demand to a limited group of custodians, a search of each custodian's files must include files of their predecessors; files maintained by their assistants or under their control; and common or shared databases or data sources maintained by the College that are accessible by each custodian, their predecessors, or assistants.
5. Submit responses to this Demand in a reasonably usable format as required by the Department in the letter sent in connection with this Demand. Documents must be complete and unredacted, except for privilege and for any Sensitive Personally Identifiable Information or Sensitive Health Information redacted pursuant to Instruction 6. Documents must be submitted as found and ordered in the College's files and must not be shuffled or otherwise rearranged. The College is encouraged to submit copies of hard-copy documents electronically (with color hard copies where necessary to interpret the document) in lieu of producing original hard-copy documents. Unless otherwise agreed to by the Department, produce electronic documents in electronic form only. Electronic productions must be free of viruses. The Department will return any infected media for replacement, which may delay the College's date of compliance with this Demand.
6. Do not produce any Sensitive PII or SHI before discussing the information with Department representatives. If any document responsive to a particular specification contains Sensitive PII or SHI that is not responsive to that specification, redact the unresponsive Sensitive PII or SHI before producing the document. Provide any index of documents prepared by any person in connection with your response to this Demand that

lists such redacted documents by document control number. If the index is available in electronic form, provide it in that form.

7. Provide any index of documents prepared by any person in connection with your response to this Demand. If the index is available in electronic form, provide it in that form.
8. The College must continue to preserve documents or data contained in disaster recovery systems or backup media that may contain information responsive to this Demand. If you have any questions, please contact the Department representative identified below to discuss your obligation to preserve or search backup media.
9. Produce all non-privileged portions of any responsive document (including non-privileged or redacted attachments) for which a privilege claim is asserted. Each document withheld in whole or in part from production based on a claim of privilege must be assigned a unique privilege identification number and separate fields representing the beginning and ending document control numbers and logged as follows:
 - a. Each log entry must contain, in separate fields: privilege identification number; beginning and ending document control numbers; parent document control numbers; attachments document control numbers; family range; number of pages; all authors; all addressees; all blind copy recipients; all other recipients; date of the document; an indication of whether it is redacted; the basis for the privilege claim (e.g., attorney-client privilege), including the anticipated litigation for any work-product claim and the underlying privilege claim if subject to a joint-defense or common-interest agreement; and a description of the document's subject matter sufficiently detailed to enable the Department to assess the privilege claim and the facts relied upon to support that claim.
 - b. Include a separate legend containing an alphabetical list (by last name) of each name on the privilege log, identifying titles, company affiliations, the members of any group or email list on the log (e.g., the Board of Directors) and any name variations used for the same individual.
 - c. On the log and the legend, list all attorneys acting in a legal capacity with the designation ESQ after their name (include a space before and after the "ESQ").
 - d. Produce the log and legend in electronic form that is both searchable and sortable. Upon request, the College must submit a hard copy of the log and legend.
 - e. Department representatives will provide an exemplar and template for the log and legend upon request.
 - f. Any document created by the College's in-house counsel or the College's outside counsel that has not been distributed outside the College's in-house counsel's office or the College's outside counsel's law firm does not have to be logged. But if the document was distributed to any attorney who does not work exclusively in

the College's in-house counsel's office or who has any business responsibilities, it must be logged. Unlogged documents are subject to any preservation obligations the College or counsel may have.

10. If the College is unable to answer a question fully, it must supply all available information; explain why such answer is incomplete; describe the efforts made by the College to obtain the information; and list the sources from which the complete answer may be obtained. If the information that allows for accurate answers is not available, submit best estimates and describe how the estimates were derived. Estimated data should be followed by the notation "est." If there is no reasonable way for the College to estimate, provide an explanation.
11. If documents, data, or other information responsive to a particular specification no longer exists for reasons other than the College's document retention policy, describe the circumstances under which it was lost or destroyed, describe the information lost, list the specifications to which it was responsive, and list persons with knowledge of such documents, data, or other information.
12. To complete this Demand, the College must submit the certification on the reverse of the Civil Investigative Demand form, executed by the official supervising compliance with this Demand, and notarized.

Direct any questions the College has relating to the scope or meaning of anything in this Demand or suggestions for possible modifications thereto to Ryan Struve at (202) 514-4890. The response to this Demand must be addressed to the attention of Ryan Struve and delivered between 8:30 a.m. and 5:00 p.m. on any business day to 450 Fifth Street, NW, Suite 7100, Washington, DC 20001. If the College wishes to submit its response by U.S. mail, please call Ryan Struve for mailing instructions.

United States Department of Justice

Antitrust Division
Washington, DC 20530

To: Wesleyan University
237 High Street
Middletown, CT 06459

Civil Investigative
Demand Number: **31127**

This civil investigative demand is issued pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-1314, in the course of an antitrust investigation to determine whether there is, has been, or may be a violation of Section 1 of the Sherman Act, 15 U.S.C. § 1 by conduct, activities, or proposed action of the following nature: Agreement to restrain competition among colleges in the recruitment of students.

You are required by this demand to produce all documentary material described in the attached schedule that is in your possession, custody, or control, and to make it available at your address indicated above for inspection and copying or reproduction by a custodian named below. You are also required to answer the interrogatories on the attached schedule. Each interrogatory must be answered separately and fully in writing, unless it is objected to, in which event the reasons for the objection must be stated in lieu of an answer. Such production of documents and answers to interrogatories shall occur on the 21st day of September, 2022 at 5:00 p.m.

The production of documentary material and the interrogatory answers in response to this demand must be made under a sworn certificate, in the form printed on the reverse side of this demand, by the person to whom this demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production and/or responsible for answering each interrogatory.

For the purposes of this investigation, the following are designated as the custodian and deputy custodian(s) to whom the documentary material shall be made available and the interrogatory answers shall be submitted: Aaron Hoag (custodian) and Ryan Struve (deputy custodian), U.S. Dept. of Justice, Antitrust Division, Technology and Digital Platforms Section, 450 Fifth Street NW, Suite 7100, Washington, DC 20530.

Inquiries concerning compliance should be directed to Ryan Struve at 202-514-4890.

Your attention is directed to 18 U.S.C. § 1505, printed in full on the reverse side of this demand, which makes obstruction of this investigation a criminal offense. The information you provide may be used by the Department of Justice in other civil, criminal, administrative, or regulatory cases or proceedings.

Issued in Washington, D.C., this 22nd day of August, 2022.

/s/ Jonathan S. Kanter

Assistant Attorney General

18 U.S.C. § 1505. Obstruction of proceedings before departments, agencies, and committees

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress -

Shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both.

Form of Certificate of Compliance*

I/We have read the provisions of 18 U.S.C. § 1505 and have knowledge of the facts and circumstances relating to the production of the documentary material and have responsibility for answering the interrogatories propounded in Civil Investigative Demand No. _____. I/We do hereby certify that all documentary material and all information required by Civil Investigative Demand No. _____ which is in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted to a custodian named therein.

If any documentary material otherwise responsive to this demand has been withheld or any interrogatory in the demand has not been fully answered, the objection to such demand and the reasons for the objection have been stated in lieu of production or an answer.

Signature _____

Title _____

Sworn to before me this _____ day of _____, 20____.

Notary Public

*In the event that more than one person is responsible for producing the documents and answering the interrogatories, the certificate shall identify the documents and interrogatories for which each certifying individual was responsible. In place of a sworn statement, the above certificate of compliance may be supported by an unsworn declaration as provided by 28 U.S.C. § 1746.

CIVIL INVESTIGATIVE DEMAND FOR DOCUMENTS AND INFORMATION

Unless otherwise indicated or modified by the Department of Justice, each specification of this Demand requires a complete search of the College. In the Department's experience, modifications to this Demand may reduce the burden of searching for responsive documents and information in a way that is consistent with the Department's needs. The College is encouraged to propose such modifications, but all modifications must be agreed to in writing by the Department.

SPECIFICATIONS

1. Submit all documents relating to the dissemination or receipt of the identities of students accepted by you or any other college or university through an early decision admission plan, including:
 - a. agreements to exchange identities of accepted students with persons at other colleges or universities;
 - b. communications with persons at other colleges or universities relating to the transmission of identities of accepted students, including the justifications for such transmission;
 - c. internal documents relating to the transmission of identities of accepted students to or from persons at other colleges or universities;
 - d. documents relating to any meetings between you and any other colleges or universities in which the transmission of identities of accepted students was discussed;
 - e. documents relating to any groups or organizations, whether formal or informal, made up of colleges or universities that share information related to early decision admissions, including the Expendables and New England Expendables;
 - f. communications in which identities of accepted students are sent to or received from persons at other colleges or universities; or
 - g. communications with persons at any other college or university relating to any student accepted by you.

2. Since January 1, 2020, state (a) the total number of applications to the College withdrawn by prospective students and (b) the total number of admissions offers rescinded by you on the basis of information you received about another college or university's early decision admitted students list.

3. Submit all documents relating to any withdrawn application or rescinded admissions offer identified in response to Specification 2, including communications with any prospective student.

DEFINITIONS

The following definitions apply for the purposes of this Demand:

1. The terms “**you**” or “**the College**” means the entity to which this Demand is addressed, its predecessors, divisions, and subsidiaries, and all directors, officers, employees, agents, and representatives of the foregoing.
2. The term “**agreement**” means any understanding, formal or informal, written or unwritten.
3. The term “**Collaborative Work Environment**” means a platform used to create, edit, review, approve, store, organize, share, and access documents and information by and among authorized users, potentially in diverse locations and with different devices. Even when based on a common technology platform, Collaborative Work Environments are often configured as separate and closed environments, each one of which is open to a select group of users with layered access control rules (reader vs. author vs. editor). Collaborative Work Environments include Microsoft SharePoint sites, eRooms, document management systems (e.g., iManage), intranets, web content management systems (“CMS”) (e.g., Drupal), wikis, and blogs.
4. The term “**documents**” means all written, printed, or electronically stored information (“ESI”) of any kind in the possession, custody, or control of the College, including information stored on social media accounts like Twitter or Facebook, chats, instant messages, text messages, other Messaging Applications, and documents contained in Collaborative Work Environments and other document databases. “Documents” includes metadata, formulas, and other embedded, hidden, and bibliographic or historical data describing or relating to any document. Unless otherwise specified, “documents” excludes bills of lading, invoices in non-electronic form, purchase orders, customs declarations, and other similar documents of a purely transactional nature; architectural plans and engineering blueprints; and documents solely relating to environmental, tax, human resources, OSHA, or ERISA issues.
5. The term “**Messaging Application**” refers to any electronic method used by the College and its employees to communicate with each other or entities outside the College for business purposes. “Messaging Application” include platforms for email, chats, instant messages, text messages, and other methods of group and individual communication (e.g., Microsoft Teams, Slack). “Messaging Application” may overlap with “Collaborative Work Environment.”
6. The term “**person**” includes the College and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

7. The terms “**Sensitive Personally Identifiable Information**” or “**Sensitive PII**” mean information or data that would identify an individual, including a person’s Social Security Number; or a person’s name, address, or phone number in combination with one or more of their (a) date of birth; (b) driver’s license number or other state identification number, or a foreign country equivalent; (c) passport number; (d) financial account number; or (e) credit or debit card number.
8. The terms “**Sensitive Health Information**” or “**SHI**” mean information or data about an individual’s health, including medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.
9. The term “**identify**” means to state:
 - a. in the case of a person other than a natural person: name, principal address, and telephone number;
 - b. in the case of a natural person other than a former employee of the College: name, employer, business address, business telephone number, business email, and title or position;
 - c. in the case of a former employee of the College: name, current address, telephone number and email address, and the date that the employment with the College ended; and
 - d. in the case of a communication: a description of the substance of the communication; the names of all participants in the communication; the identity of witnesses to the communication; and the date, time, and place of the communication.

INSTRUCTIONS

Timing

1. All references to year refer to calendar year. Unless otherwise specified, this Demand calls for documents, data, and other information created, altered, or received by the College within three years of the date on which this Demand was issued. For interrogatory responses, submit a separate response for each year or year-to-date unless otherwise specified. If calendar-year data are not available, supply the College’s fiscal-year data indicating the twelve-month period covered, and submit the College’s best estimate of calendar-year data.

Production Format

2. Department representatives must approve the format and production method of any documents, data, or other information before the College makes an electronic production in response to this Demand. Before preparing its production, the College must contact the Department to explain what materials are available and how they are stored. This discussion must include College personnel who are familiar with its electronically stored information and databases/data sets.
3. Before using software or technology (including search terms, predictive coding, de-duplication, or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this Demand, the College must submit a written description of the method(s) used to conduct any part of its search. In addition, for any process that relies on search terms to identify or eliminate documents, the College must submit: (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the frequency of each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and College terminology. For any process that instead relies on predictive coding to identify or eliminate documents, you must include (a) confirmation that subject-matter experts will be reviewing the seed set and training rounds; (b) recall, precision, and confidence-level statistics (or an equivalent); and (c) a validation process that allows for Department review of statistically significant samples of documents categorized as non-responsive documents by the algorithm.
4. If the Department agrees to narrow the scope of this Demand to a limited group of custodians, a search of each custodian's files must include files of their predecessors; files maintained by their assistants or under their control; and common or shared databases or data sources maintained by the College that are accessible by each custodian, their predecessors, or assistants.
5. Submit responses to this Demand in a reasonably usable format as required by the Department in the letter sent in connection with this Demand. Documents must be complete and unredacted, except for privilege and for any Sensitive Personally Identifiable Information or Sensitive Health Information redacted pursuant to Instruction 6. Documents must be submitted as found and ordered in the College's files and must not be shuffled or otherwise rearranged. The College is encouraged to submit copies of hard-copy documents electronically (with color hard copies where necessary to interpret the document) in lieu of producing original hard-copy documents. Unless otherwise agreed to by the Department, produce electronic documents in electronic form only. Electronic productions must be free of viruses. The Department will return any infected media for replacement, which may delay the College's date of compliance with this Demand.
6. Do not produce any Sensitive PII or SHI before discussing the information with Department representatives. If any document responsive to a particular specification contains Sensitive PII or SHI that is not responsive to that specification, redact the unresponsive Sensitive PII or SHI before producing the document. Provide any index of documents prepared by any person in connection with your response to this Demand that

lists such redacted documents by document control number. If the index is available in electronic form, provide it in that form.

7. Provide any index of documents prepared by any person in connection with your response to this Demand. If the index is available in electronic form, provide it in that form.
8. The College must continue to preserve documents or data contained in disaster recovery systems or backup media that may contain information responsive to this Demand. If you have any questions, please contact the Department representative identified below to discuss your obligation to preserve or search backup media.
9. Produce all non-privileged portions of any responsive document (including non-privileged or redacted attachments) for which a privilege claim is asserted. Each document withheld in whole or in part from production based on a claim of privilege must be assigned a unique privilege identification number and separate fields representing the beginning and ending document control numbers and logged as follows:
 - a. Each log entry must contain, in separate fields: privilege identification number; beginning and ending document control numbers; parent document control numbers; attachments document control numbers; family range; number of pages; all authors; all addressees; all blind copy recipients; all other recipients; date of the document; an indication of whether it is redacted; the basis for the privilege claim (e.g., attorney-client privilege), including the anticipated litigation for any work-product claim and the underlying privilege claim if subject to a joint-defense or common-interest agreement; and a description of the document's subject matter sufficiently detailed to enable the Department to assess the privilege claim and the facts relied upon to support that claim.
 - b. Include a separate legend containing an alphabetical list (by last name) of each name on the privilege log, identifying titles, company affiliations, the members of any group or email list on the log (e.g., the Board of Directors) and any name variations used for the same individual.
 - c. On the log and the legend, list all attorneys acting in a legal capacity with the designation ESQ after their name (include a space before and after the "ESQ").
 - d. Produce the log and legend in electronic form that is both searchable and sortable. Upon request, the College must submit a hard copy of the log and legend.
 - e. Department representatives will provide an exemplar and template for the log and legend upon request.
 - f. Any document created by the College's in-house counsel or the College's outside counsel that has not been distributed outside the College's in-house counsel's office or the College's outside counsel's law firm does not have to be logged. But if the document was distributed to any attorney who does not work exclusively in

the College's in-house counsel's office or who has any business responsibilities, it must be logged. Unlogged documents are subject to any preservation obligations the College or counsel may have.

10. If the College is unable to answer a question fully, it must supply all available information; explain why such answer is incomplete; describe the efforts made by the College to obtain the information; and list the sources from which the complete answer may be obtained. If the information that allows for accurate answers is not available, submit best estimates and describe how the estimates were derived. Estimated data should be followed by the notation "est." If there is no reasonable way for the College to estimate, provide an explanation.
11. If documents, data, or other information responsive to a particular specification no longer exists for reasons other than the College's document retention policy, describe the circumstances under which it was lost or destroyed, describe the information lost, list the specifications to which it was responsive, and list persons with knowledge of such documents, data, or other information.
12. To complete this Demand, the College must submit the certification on the reverse of the Civil Investigative Demand form, executed by the official supervising compliance with this Demand, and notarized.

Direct any questions the College has relating to the scope or meaning of anything in this Demand or suggestions for possible modifications thereto to Ryan Struve at (202) 514-4890. The response to this Demand must be addressed to the attention of Ryan Struve and delivered between 8:30 a.m. and 5:00 p.m. on any business day to 450 Fifth Street, NW, Suite 7100, Washington, DC 20001. If the College wishes to submit its response by U.S. mail, please call Ryan Struve for mailing instructions.