

May 11, 2007

By fax, (202) 245-6623, and First Class mail

U.S. Department of Education
Office of Management
Regulatory Information Management Services
400 Maryland Avenue, SW, PCP 9143
Washington, DC 20202-4700

Re: Freedom of Information Act Request

Dear Sir/Madam:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records, regardless of format, medium, or physical characteristics, and including electronic records and information, pursuant to the Freedom of Information Act (“FOIA”) and Department of Education (“Department”) regulations, 34 CFR §§ 5.6 et. seq.

Specifically, CREW seeks records of any and all communications from January 20, 2001, to the present, between officials at the Department of Education and those at the (1) Executive Office of the President, (2) White House Office and (3) Office of the First Lady, regarding any and all of the following:

- (A) Susan Landry or Susan Landry Moore;
- (B) University of Texas Health Science Center at Houston’s Children’s Learning Institute;
- (C) University of Texas Health Science Center at Houston’s Center for Improving the Readiness of Children for Learning and Education (CIRCLE);
- (D) Texas State Center for Childhood Development (SCECD);
- (E) Texas Early Education Model (TEEM); and/or
- (F) Wireless Generation’s mCLASS:CIRCLE software.

In addition, CREW requests any and all communications from January 20, 2001, to the present, between officials at the Department of Education and:

- (A) Susan Landry or Susan Landry Moore;
- (B) Officials or employees at the University of Texas Health Science Center at Houston’s Children’s Learning Institute (CLI);
- (C) Officials or employees at the University of Texas Health Science Center at Houston’s Center for Improving the Readiness of Children for Learning and Education

(CIRCLE);

D) Officials or employees at the Texas State Center for Childhood Development (SCECD); and/or

E) Officials or employees at Wireless Generation.

Please search responsive records regardless of format, medium or physical characteristics. Where possible, please produce records electronically in PDF or TIF format on a CD-ROM. We seek records of any kind, including electronic records, audiotapes, videotapes and photographs. Our request includes any telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings and/or discussions, whether in-person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, minutes of any such meetings and/or discussions, the topics discussed at those meetings and/or discussions, e-mail regarding meetings and/or discussions, e-mail or facsimiles sent as a result of those meetings and/or discussions and transcripts or notes of any such meetings and/or discussions.

If it is your position that any portion of the requested records is exempt from disclosure, CREW requests that you provide an index of those documents as required under Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” Founding Church of Scientology v. Bell, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the Vaughn index must “describe each document or portion thereof withheld, and for **each** withholding it must discuss the consequences of supplying the sought-after information.” King v. U.S. Dep’t of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’” Id. at 224 (citing Mead Data Central v. U.S. Dep’t of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977)).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Mead Data Central, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 34 C.F.R. § 5.64, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government programs and procedures by CREW and the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii). See, e.g., McClellan Ecological v. Carlucci, 835 F.2d 1282, 1285 (9th Cir. 1987).

Specifically, these records are likely to contribute to the public's understanding of the influence and impact on education policy throughout the United States of Dr. Susan Landry and the corporations and federally-funded research centers with which she is affiliated. For example, as *The New York Times* reported in 2006, Dr. Landry served on the multi-agency National Early Literacy Panel and has designed widely-used commercial assessment products for early reading students. John O'Neil, Early Repairs in Foundation for Reading, *New York Times*, Oct. 4, 2006 (attached as Exhibit A). As that article points out, the assessment tools designed by Dr. Landry and others at the University of Texas Center for Improving the Readiness of Children for Learning and Education (CIRCLE) are being widely used in schools as part of the federally-funded Head Start program (*Id.*), which taxpayers support with nearly \$7 billion annually. See <http://www.acf.hhs.gov/programs/hsb/research/2007.htm>. According to manufacturer Wireless Generation, 45,000 preschool students were tested on the "M-Class:Circle" assessment using the company's hand-held devices in 2005. O'Neil, *New York Times*, Oct. 4, 2006.

CREW is a non-profit corporation organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to the protection of the citizen's right to be aware of the activities of government officials and to ensuring the integrity of those officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the government decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission. The release of information garnered through this request is not in CREW's financial interest. CREW will analyze the information responsive to this request, and will likely share its analysis with the public, either through memoranda, reports or press releases. In addition, CREW will disseminate any documents it acquires from this request to the public. CREW has established an interactive website where members of the public can analyze and comment on public documents, including documents CREW acquires through the FOIA. See <http://foia.citizensforethics.org/home>. Currently, this site contains links to thousands of pages of documents CREW acquired from multiple FOIA requests. CREW's main website, www.citizensforethics.org, also includes documents relating to CREW's FOIA litigation, Internal Revenue complaints, and Federal Election Commission complaints. As CREW's websites demonstrate, CREW has an established history of acquiring documents through the FOIA and publishing them on its website for public use.

Under these circumstances, CREW fully satisfies the criteria for a fee waiver.

Conclusion

Please respond to this request in writing within 20 days as required under 5 U.S.C. § 552(a)(6)(A)(I). If all of the requested documents are not available within that time period, CREW requests that you provide all requested documents or portions of documents which are available within that time period.

If you have any questions about this request or foresee any problems in releasing fully the requested records within the twenty-day period, please contact me at (202) 408-5565. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such determination. Please send the requested documents to Daniel C. Roth, Citizens for Responsibility and Ethics in Washington, 1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005.

Sincerely,



Daniel C. Roth
Counsel
Citizens for Responsibility and Ethics in Washington

Enclosure

EXHIBIT A

October 4, 2006

Early Repairs in Foundation for Reading

By JOHN O'NEIL

ALLENTOWN, Pa. — Children with severe reading problems usually struggle for years before getting the help they need. But a growing number of neurologists and educators say that with the latest diagnostic tests, children at high risk for these problems can be identified in preschool and treated before they ever begin to read.

The newer tests, available in computerized versions, measure a child's fluency with the skills that are the foundation of reading: the ability to recognize differences between sounds, the knowledge of letters and the accumulation of basic vocabulary and language skills. The National Early Literacy Panel, a committee of experts convened by a consortium of federal agencies, has found that these tests, when given to 3- and 4-year-olds, predict later reading problems as effectively as they do when they are given to kindergartners and first graders, said the panel's chairman, Dr. Timothy Shanahan of the [University of Illinois](#) in Chicago. The committee plans to recommend increased preschool screening when it publishes its findings later this year.

The panel also will recommend some shifts in teaching techniques, said a panel member, Dr. Susan Landry of the [University of Texas](#) Medical School at Houston. These include having at-risk children spend more time in small groups that address their specific weaknesses; emphasizing skills like blending sounds (C + AT = CAT), which have been found to be good performance predictors; and training parents to reinforce school lessons.

The point is to identify and attack the problems early, when they are easiest to correct.

"Once a child falls behind, it's very difficult to catch up," said Dr. Angela Fawcett of the University of Sheffield in England.

In the Head Start program here, screening and teaching are increasingly tied together, and a detailed skills assessment is part of the new school year routine. Last month, Karen Gischlar, a reading consultant, sat down with a 4-year-old, Destiny Freer, with a set of blocks, a book of pictures and a handheld computer loaded with M-Class: Circle, one of several formal screening tests on the market.

M-Class: Circle, which was developed by Dr. Landry, measures the skills linked to reading success. Its manufacturer, Wireless Generation, said the test was used to screen 45,000 preschoolers last year; paper versions were used to screen a similar number.

Destiny breezed through the first rounds of a series of one-minute tests, on naming letters and simple objects. She also aced the first rhyming exercise, on whether pairs of words sounded the "same or different."

But her answers became hesitant on the next round, when she was asked to find a rhyme to a word given by Ms. Gischlar. And she had more trouble with higher-level skills, like using the blocks to show the number of

words in a short sentence and clapping out the syllables in words like cowboy, big or wagon.

When the test was done, there on the computer screen were Destiny's scores, color coded in red, green and yellow, and a comparison to her scores from earlier this year, both of which showed Destiny to be developmentally on track, despite some of her faltering.

Another tap of Ms. Gischlar's stylus brought up a list of suggestions for her specific weaknesses — building awareness of word sounds, for instance, by telling a story in rhyme and letting her guess how some sentences end.

Destiny's teacher, Eliza Commareri, said the test helped plan how to individualize instruction and in arranging small groups because the program provides a database showing children with similar needs. The other benefit, she said, was the close link between the screening and a step-by-step curriculum of suggested activities. For teaching syllables, for instance, Ms. Commareri said she might ask the whole class to clap out "play-ground" when they're headed out to recess, or get a few children together to bang out words on a drum.

"It's very helpful because it gives results in all different areas, and activities in all different areas," she said.

Head Start programs have been taking the lead in preschool screening, in large part because low-income children have high rates of language delay; most of the children in the center here arrive more than a year behind.

Reading failure is linked to two different causes. Children with dyslexia tend to have inherited abnormalities in the brain's sound-processing mechanism. But insufficient early exposure to what neurologists call "rich language," a situation more common in poor families, can also undermine the processing abilities that are reading's foundation.

Screening can uncover both kinds of problems, but poor children are the ones who can benefit the most from preschool intervention, said Dr. Peggy McCardle, the chief of the child development branch of the National Institute of Child Health and Human Development.

School policy has traditionally been that children qualify for significant extra help only after they've fallen behind. In 2004, according to federal data, fewer than 10 percent of students getting special education services under the category of specific learning disability — most of whom have reading as their primary problem — were younger than 9.

In August, Education Secretary Margaret Spellings announced new regulations meant to make it easier for elementary schools to offer extra help as soon as students start to struggle.

Dr. Fawcett, who is also the editor of the journal *Dyslexia*, said making students wait for help was costly, both for schools and students.

A study she led found that a small amount of extra tutoring given to preschoolers with language delays — an hour a week of small-group work for 10 weeks — boosted their skills in comparison with similar children in a control group. The gain exceeded what a year's worth of remediation at age 7 or 8 would produce, she said.

Marj Jones, who runs Head Start programs in Phoenix as the executive director of the Arizona Literacy and Learning Center, is an enthusiastic user of another screening test, Get Ready to Read, developed by the

National Center for Learning Disabilities. The center's executive director, James H. Wendorf, estimated that the test was used to screen about 70,000 preschoolers each year by teachers or by parents using the interactive version available at getreadytoread.org. But Ms. Jones said that even the best testing produces only a limited gain unless it is part of a larger effort.

"You can go in and screen a child, but if you don't have continuous support from teachers and parents, you've only accomplished a short-term goal," she said.

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