

FILED
SIXTH JUDICIAL CIRCUIT**IN THE CIRCUIT COURT OF CHAMPAIGN, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

NOV 17 2014

30
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

STEVEN SALAITA,

Plaintiff,

v.

THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ILLINOIS,

Defendant.

2014 MR 920

Post-It® Fax Note	7671	Date	# of pages
To	Gretchen or Kelly		From
Co./Dept.	J		Co.
Phone #			Phone #
Fax #			Fax #

COMPLAINT

NOW COMES Plaintiff, STEVEN SALAITA, by his undersigned attorneys, LOEVY & LOEVY, and brings this Freedom of Information Act suit to force Defendant THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS to produce public records about its highly publicized firing of SALAITA from a tenured faculty position at the University of Illinois Urbana-Champaign ("University") for exercising his free speech rights.

INTRODUCTION

1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Illinois Freedom of Information Act ("FOIA"). 5 ILCS 140/1.

2. Restraints on access to information, to the extent permitted by FOIA, are limited exceptions to the principle that the people of this state have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of the people. *Id.*

3. All public records of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. 5 ILCS 140/1.2.

4. While a public body may object to a request on the basis that it is unduly burdensome, it may do so only if the burden outweighs the public interest in disclosure, and may not assert the provision if it did not properly respond to the request in writing by the statutorily required deadline. 5 ILCS 140/3(d), (g).

5. If the court determines that a public body willfully and intentionally failed to comply with FOIA, or otherwise acted in bad faith, the court shall impose upon the public body a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence. 5 ILCS 140/11(j).

6. Under FOIA Section 11(h), “except as to causes the court considers to be of greater importance, proceedings arising under [FOIA] shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.”

7. FOIA’s underpinnings of government transparency and citizen oversight of public officials, strongly favor the public disclosure of documents related to SALAITA’S firing. The University’s actions have garnered national attention because the principles at stake – academic freedom and faculty governance – are bedrock traditions of the American system of higher education, considered vital to the pursuit of knowledge and truth. Many have also criticized the University for bowing to pressure from private donors to reverse its hiring decision, allowing wealthy supporters to trump the views of the faculty in the department he would have joined, and the faculty on the search committee that decided to hire him. Despite the clear public interest in disclosure of this information, as evidenced by widespread media coverage and academic debate,

and including a boycott of the University by more than 5,000 academics nationwide, the University has refused to produce records in response to this request on the basis of “undue burden.”

BACKGROUND

8. Plaintiff STEVEN SALAITA is a resident of Virginia.

9. Defendant THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS is a public body located in Champaign County, Illinois.

10. The University holds itself out as committed to academic freedom, and states that: “It is the policy of the University to maintain and encourage full freedom within the law of inquiry, discourse, teaching, research, and publication and to protect any member of the academic staff against influences, from within or without the University, which would restrict the member’s exercise of these freedoms in the member’s area of scholarly interest.”

11. The University’s policies further state: “As a citizen, a faculty member may exercise the same freedoms as other citizens without institutional censorship or discipline.”

12. According to the United States Supreme Court: “Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” *See Keyishian v. Board of Regents of Univ. of State of N. Y.*, 385 U.S. 589, 603 (1967) (internal citations omitted).

THE UNIVERSITY’S DECISION TO TERMINATE SALAITA

13. SALAITA was born in Bluefield, West Virginia. He received his Bachelor’s degree in Political Science and his Masters degree in English, he earned a Ph.D from the

University of Oklahoma in 2003 with a concentration on Native American Studies, and Theory and Modernity. He joined the English department at Virginia Tech as an Assistant Professor in 2006, and became a tenured faculty member just three years later, in 2009. Over his career, SALAITA has written six books, published dozens of articles and book chapters, and spoken at conferences and invited lectures all around the world.

14. In October 2013, the University of Illinois offered SALAITA a tenured faculty position in its American Indian Studies Program. SALAITA accepted the offer, and thereafter resigned from his tenured faculty position at Virginia Tech.

15. In July 2014, in response to the killing by Israeli military forces of approximately 1500 Palestinian civilians, including more than 500 children, SALAITA posted a number of messages to his personal Twitter account critical of the State of Israel's policies and actions.

16. Some have agreed with SALAITA and applauded his comments; some found his messages offensive and criticized them; and others disagreed with his statements but defended his right to make them.

17. On July 22, 2014, in response to a question about Professor Salaita's Twitter messages, the University said the following to the Urbana News-Gazette: "Faculty have a wide range of scholarly and political views, and we recognize the freedom-of-speech rights of all of our employees."

18. Also in late July 2014, however, various donors contacted the University and threatened to withdraw their funding unless the University terminated SALAITA.

19. Chancellor Wise thereafter sent SALAITA a letter dated August 1, 2014 informing him that his appointment to a tenured position would not be recommended to the Board of Trustees, in effect firing him from the position he had accepted and been promised.

20. Neither Chancellor Wise nor any other University official spoke to SALAITA, the faculty in the American Indian Studies Program that he was about to join, or the members of the search committee that had recommended his hiring, before suddenly reversing course and refusing to complete his appointment.

21. Due to the implications of the University's decision on the free speech rights of scholars, academic freedom, and faculty involvement in governance, sixteen of the University's departments voted "no confidence" in the University's leadership, including Chancellor Phyllis Wise, President Robert Easter, and the Board of Trustees; thousands of scholars from around the world announced their intention to boycott the University; a large number of students have protested the University's actions; and the matter has been the subject of substantial press statewide, nationally, and around the world, including the Champaign-Urbana News Gazette, the Chicago Tribune, the New York Times, and London's the Guardian. The story has also been tracked by influential media sites in academia such as the Chronicle of Higher Education and Inside Higher Ed. By way of example only, declarations from interested media outlets interested in the records requested by this FOIA request are attached as Exhibit A.

22. SALAITA's sudden and unprecedented firing, and the issues of academic freedom and the influence of private money on public educational institutions that it has raised, are matters of tremendous public interest and go to the core of why this state has a FOIA statute: "To enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest." 5 ILCS 140/1.

23. In addition, one of the central figures in SALAITA's firing, Chancellor Wise, has recently been appointed to the transition team of Governor-elect Bruce Rauner. As a result, she

has the ability to shape state policy at all levels. The public has a right to see records that would shed light on the extent to which Wise allows private donors to influence her views on public issues, and in turn how that may impact the advice she provides to one of the most powerful politicians in the state on a wide range of issues.

SALAITA'S FOIA REQUESTS

24. On September 17, 2014, SALAITA requested a variety of records concerning the University's decision to terminate him, and concerning academic freedom and faculty governance issues more generally at the University. Exhibit B.

25. The records requested all concerned University policies and actions regarding academic hiring and firing, and fell squarely within the purpose of FOIA.

26. After taking a five-day extension to respond, the University asserted Section 3(g), claimed that the request was unduly burdensome, and invited SALAITA to narrow his request. Exhibits C and D. The responses did not address the public's interest in the records, even though Section 3(g) plainly applies only if the burden outweighs the public interest in disclosure.

27. The public interest in disclosure more than justified the work involved in collecting and producing the records sought in SALAITA's September 17 request. Nevertheless, on October 15, 2014, SALAITA issued a new, narrowed request. The narrowed request cut eight of the nine categories of records sought, and left only a single category: the email communications of 15 University officials from a three-month period. The request was further limited to only the email communications that contained one of 14 keywords specifically selected to target emails related to outside influences that affected the decision to fire SALAITA. Moreover, at the University's insistence, the request was further limited to exclude email domains that likely contained form protest emails sent by individuals through political action websites. Exhibit E.

28. Email communications, such as the ones targeted by the narrowed request, are clearly public records subject to FOIA. 5 ILCS 140/2(c). Further, the records related to the obligation, receipt and use of public funds, and the FOIA statute (and Illinois Constitution) command that all such records are subject to inspection and copying by the public. 5 ILCS 140/2.5. FOIA also makes clear that the disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. 5 ILCS 140/7(c). Thus, there can be no question that the email communications sought in SALAITA's requests are a proper subject for a FOIA request. The University has at no point claimed otherwise, either verbally or in writing.

29. SALAITA's attorneys reached out by phone and email to the University and the University's outside counsel Perkins Coie (a 950-lawyer firm with 19 offices) once the University instructed SALAITA's attorneys that communications about his FOIA request would be handled by outside counsel, on October 20, October 23, October 29, October 31, and November 4 to try to reach an agreement regarding the request or at least obtain a written response from the University as required by FOIA. Exhibit F (email correspondence).

30. Despite these repeated efforts by SALAITA to resolve this matter amicably or at least to obtain a legally sufficient response to his October 15 request, the University has not provided a written response that complies with FOIA Section 3(d). Instead, it has vaguely objected orally that the request would require the review of 8,000-10,000 emails, though the number is likely far less once emails are de-duplicated through tools that are surely available to the University's highly-sophisticated outside counsel.

31. The University wrongly contends that public disclosure of this information is not worth the effort to collect and produce the highly-tailored set of email communications requested, a project that would take a week or two of effort at most.

32. Nevertheless, on November 5, 2014, SALAITA asked the University to identify the actual number of emails for review after de-duplicating the 8,000-10,000 emails, and offered to be flexible in providing the University the time it needed to comply with the request. To that end, SALAITA made an additional narrowed request. For 14 of the 15 custodians, the additional narrowed request limited the timeframe of his request from three months to just over two months. For the only other custodian, Chancellor Wise, the additional narrowed request reduced the timeframe from three months to just over one month. SALAITA also expressed a willingness to make further modifications if the University had a proposal to narrow the requests to address specific burden concerns with any of the 14 keywords. Exhibit G.

33. The University has not responded orally or in writing to SALAITA's November 5 letter and additional narrowed request.

34. As a result of its failure to provide the required written responses to SALAITA's October 15 and November 5 requests, under FOIA Section 3(d), the University has waived the right even to assert the undue burden provision of Section 3(g).

COUNT I – WILLFUL VIOLATION OF FOIA

35. The above paragraphs are incorporated by reference.

36. THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS is a public body under FOIA.

37. The records sought in SALAITA's October 15 and November 5 FOIA requests are public records of THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS.

38. THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS has violated FOIA by refusing to produce the requested records and by refusing to produce a timely, written response as required.

39. The public interest in disclosure of the requested records outweighs the burden on THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS to collect and produce them.

40. THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS' violation was willful and intentional and in bad faith.

WHEREFORE, SALAITA asks that the Court:

- i. in accordance with FOIA Section 11(f), afford this case precedence on the Court's docket except as to causes the Court considers to be of greater importance, assign this case for hearing and trial at the earliest practicable date, and expedite this case in every way;
- ii. declare that THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS has violated FOIA;
- iii. order THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS to produce the requested records under FOIA;
- iv. enjoin THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS from withholding non-exempt public records under FOIA;
- v. order THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS to pay civil penalties for its willful and intentional violations;
- vi. award SALAITA reasonable attorneys' fees and costs; and
- vii. award such other relief the court considers appropriate.

RESPECTFULLY SUBMITTED,

Attorneys for Plaintiff

Jon Loevy
Anand Swaminathan
Gretchen Helferich
LOEVY & LOEVY
312 North May St., Suite 100
Chicago, IL 60607
(312) 2435900
anand@loevy.com
gretchen@loevy.com
Atty. No. 6305088

EXHIBIT A

3. In addition to myself, The Electronic Intifada's writers, reporters, and contributors include Americans, Palestinians, journalists from several

other countries, and people living inside Palestine and everywhere else that news about Palestine and Palestinians is made.

4. Many of EI's writers, including myself, have been investigating and reporting on the University of Illinois' decision to fire Professor Steven Salaita from a tenured position in the University's American Indian Studies Program based on his views about Palestine and Israel. This issue is extremely important to our readers.

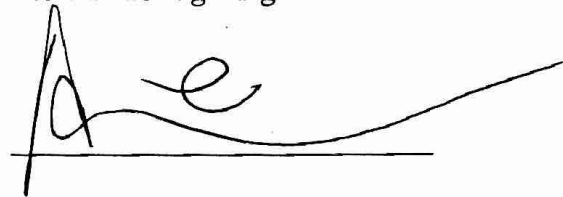
5. As a critical part of that investigation, I personally have filed 2 requests under the Illinois Freedom of Information Act with the University of Illinois for documents related to the firing of Professor Salaita. I have in one case filed a Request for Review with the Illinois Attorney General's Public Access Bureau regarding the University's failure to produce a public record I requested.

6. The email communications that Professor Salaita himself now seeks are similarly important and central to the continuing investigation into this matter. If Professor Salaita had not requested them, I would have sought them myself.

7. I intend to review these documents when they are made public, and, to the extent warranted, to publish additional reports and articles about the University's decisions based on information contained in these materials.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 14, 2014

A handwritten signature in black ink, appearing to read 'Ae', is written over a horizontal line.

Ali Abunimah
Executive Director
The Electronic Intifada
www.electronicintifada.net

**IN THE CIRCUIT COURT OF CHAMPAIGN, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

STEVEN SALAITA,)	
)	
Plaintiff,)	
)	
v.)	No:
)	
THE BOARD OF TRUSTEES OF)	
THE UNIVERSITY OF ILLINOIS,)	
)	
Defendant.)	

DECLARATION OF PHILIP WEISS

I, Philip Weiss, declare as follows:

1. I am an adult over 18 years of age.
2. I am a journalist and the Founder and Co-Editor of Mondoweiss, a news website that covers American foreign policy in the Middle East, primarily from a progressive Jewish perspective. Mondoweiss contains posts from a diverse array of authors in order to promote dialogue on important issues related to Israel/Palestine, the American Jewish community, and the shifting debate over U.S. foreign policy. Mondoweiss is made possible by the support of its readers, and is part of The Center for Economic Research and Social Change, a 501(c)(3) organization. It is available at Mondoweiss.net.
3. Mondoweiss has published approximately twenty-five posts related to the University of Illinois' decision to fire Professor Steven Salaita

from a tenured position based on his tweets criticizing Israel's attacks on Gaza, and the active movement that has condemned the University's decision and called for his reinstatement. This issue is one that Mondoweiss readers are extremely concerned about. The attempt to label Professor Salaita anti-Semitic and uncivil in order to silence him at the behest of wealthy donors is emblematic of widespread repression against advocates of Palestinian rights.

4. I understand that Professor Salaita is seeking email communications to and from administrators and Trustees of the University of Illinois regarding his termination, which could reveal further information about the University's decision and the pressure on the University.

5. I plan to review and analyze any records that are released in response to Professor Salaita's request, and I believe many of the contributors to Mondoweiss would do the same. Mondoweiss would also publish posts about any new and significant information that is made public regarding Professor Salaita's termination.

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in dark ink, appearing to read 'Philip Weiss', with a long horizontal line extending to the right.

Executed on November 17, 2014

Philip Weiss
Founder and Co-Editor
Mondoweiss

3. Worldview has been on the air since 1994. In those twenty years, the program has regularly addressed the conflict between Israel and Palestine, as well as other issues in the Middle East. It has also addressed

the US-Israeli relationship, and the domestic political context that shapes U.S. policy and discourse on the Middle East.

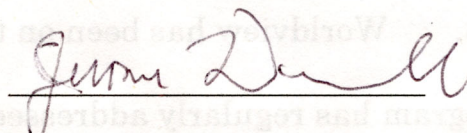
4. The firing of Professor Steven Salaita from the University of Illinois because of his Tweets critical of Israel is an issue that I believe would be of interest to listeners of *Worldview*. Salaita's firing is an illustration of the domestic political context in which discussions of the conflict between Israel and Palestine occurs, and the consequences of taking certain positions on that conflict.

5. I understand that Professor Salaita currently seek numerous email communications by officials at the University of Illinois regarding the decision to terminate him. The emails may provide important information about that decision.

6. My staff at *Worldview* and I intend to read these records as they become public. If the information in the emails warrants, we intend to include reporting and analysis of those records on our radio program.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 14, 2014



Jerome McDonnell
Host and Executive Producer
Worldview
91.5 FM WBEZ Chicago
Chicago Public Media

EXHIBIT B

Salaita FOIA request

1 message

Maria LaHood <Mlahood@ccrjustice.org>

Wed, Sep 17, 2014 at 2:51 PM

To: "foia@uillinois.edu" <foia@uillinois.edu>

Cc: "Anand Swaminathan (anand@loevy.com)" <anand@loevy.com>

Please find attached a request under the Illinois Freedom of Information Act by the Center for Constitutional Rights. Please do not hesitate to contact me if you have any questions.

Best,

Maria LaHood

MARIA C. LAHOOD | SENIOR STAFF ATTORNEY | CENTER FOR CONSTITUTIONAL RIGHTS

666 BROADWAY, 7TH FL., NEW YORK, NY 10012 | T: 212-614-6430 | F: 212-614-6499

**9.17.14 Salaita FOIA request.pdf**

130K



September 17, 2014

By Email

Thomas P. Hardy
108 Henry Administration Building
506 South Wright St, MC-370
Urbana, IL 61801

Re: Request for documents under the Illinois Freedom of Information Act

Dear Mr. Hardy:

The Center for Constitutional Rights (CCR), which is representing Steven Salaita, requests the following documents under the Illinois Freedom of Information Act:

1. All public records concerning Steven Salaita – including but not limited to public records related to the decision making relating to his hiring, cessation of appointment, and denial of appointment. This should include the records of the University of Illinois (including all of its boards, commissions, departments, and other bodies), its foundation, and its alumni foundation, including the employees, board members, and consultants or advisors to those bodies, as well as all entities performing a governmental function related to this subject matter on behalf of those bodies.
2. All public records resulting from an electronic search of all folders of all email accounts used to transact University business of the following people containing the following keywords and sent or received January 1, 2013 to present.

Custodians:

- a. Christopher Kennedy
- b. Ricardo Estrada
- c. Patrick Fitzgerald
- d. Karen Hasara
- e. Patricia Brown Holmes
- f. Timothy Koritz
- g. Edward McMillan
- h. James Montgomery, Sr.
- i. Pam Strobel
- j. Cary Nelson
- k. Susan Kies

- l. Walter K. Knorr
- m. Lester McKeever, Jr.
- n. Phyllis Wise
- o. Robin Kaler
- p. Ilesanmi Adesida
- q. Reginald Alston
- r. Michael DeLorenzo
- s. Menah Pratt-Clarke
- t. Robert Easter
- u. Michael Devocelle
- v. Debbie L. Clabaugh
- w. Roger Plummer
- x. Jane Phillips Donaldson
- y. Thomas Farrell
- z. Jacqueline Schweighart
- aa. Walter Knorr
- bb. Sidney S. Micek
- cc. Edward Ewald
- dd. Dan Peterson
- ee. Jeff Nearhoof
- ff. Jeff Lorber
- gg. Leanne Barnhart
- hh. Travis Michael Smith
- ii. Mark Filip
- jj. William Stratton
- kk. Jill Smart
- ll. Thomas Livingston

Keywords (not case sensitive):

- a. Salaita
- b. “Steve Miller”
- c. Palestine
- d. Palestinian
- e. Palestinians
- f. Israel
- g. Israeli
- h. Gaza
- i. Jew
- j. Jews
- k. Jewish

- l. Netanyahu
- m. Settler
- n. Settlers
- o. Anti-Semite
- p. Anti-Semitic
- q. Civil & professor
- r. Civil & professors
- s. Civil & instructor
- t. Civil & instructors
- u. Civil & faculty
- v. Uncivil
- w. Civility
- x. Twitter
- y. Tweet
- z. Tweets

3. All public records – including but not limited to statutes, regulations, bylaws, handbooks, policies, procedures, and/or any other type of rule, standard or guideline – setting forth the process for approving appointments of tenured faculty or the Board of Trustees’ delegation of any part of the faculty hiring process.

4. All public records concerning the recruitment, hiring and appointment of Kristen Lee Bub, Patrick H. Smith, Eboni Miel Zamani-Gallaher, Paul Fischer, Deborah Levin Fliflet, Vidya Madhaven, Andrew Donald Megill, Dolores Albarracin, Travis L. Dixon, Christopher P. Dunn, Faye V. Harrison, Candace M. Jenkins, Sonia Lasher-Trapp, Robert Trapp, Derek Wildman, and Bertram Ludaescher.

5. All public records concerning every instance since January 1, 2004, in which an individual offered a tenured faculty position at the University of Illinois was not approved for appointment by the Board of Trustees.

6. All public records concerning every instance since January 1, 2004, in which an individual offered a tenured faculty position at the University of Illinois was not recommended for appointment by the Chancellor or President.

7. All public records concerning every instance in which the Chancellor, or any Vice Chancellor or Associate Chancellor, was made aware of actual or alleged uncivil comments by any University of Illinois faculty member or person being considered to join the faculty. This request includes but is not limited to any decisionmaking and actions taken in response to each such instance.

8. All public records concerning every instance in which the Chancellor, or any Vice Chancellor or Associate Chancellor, was made aware of actual or alleged racist, bigoted, rude or inflammatory comments by any University of Illinois faculty member or person being considered to join the faculty. This request includes but is not limited to any decisionmaking and actions taken in response to each such instance.

9. All public records reflecting communications with Steven Salaita or any of the individuals listed in Request No. 4, concerning the University's adherence to principles of academic freedom, including but not limited to the 1940 Statement of Principles on Academic Freedom and Tenure. This includes but is not limited to public records reflecting any communications about the applicability of such principles prior to formal appointment.

Electronic records should be produced in their unlocked native format with all original metadata and original filenames, except that you should contact me regarding the format of production of any database records to discuss how those records can be produced in a form comprehensible to persons lacking knowledge of computer language. Paper records should be scanned and produced as PDF files and should include a scan of the file folder labels from which the records were taken. Please deliver the records by email to me, or if that is not possible, through a file-sharing service such as Drop Box. Do not redact any non-responsive information from any records; we request the complete copies of any records with any responsive information. Please keep email families together; an email and all of its attachments should be produced so long as at least one of those is responsive. When searching emails, please search all folders, including inbox, subject matter folders, sent items, archived items, and deleted items. Please produce all metadata fields for emails, including BCC and all others.

Please organize the production in such a way that we can tell to which request each record is responsive. To the extent any records are withheld, we will be seeking an index in compliance with FOIA Section 11(e) and ask that you provide that now so we can avoid burdening a court if possible.

We note that CCR is a not-for-profit, public interest, legal, and public education organization that engages in litigation, public advocacy, and the production of publications in the fields of civil rights and international human rights. One of CCR's primary activities is the publication of materials for public dissemination, including newsletters, know-your-rights handbooks, legal analysis of current issues, and other similar materials. These and other materials are available through CCR's Development, Communications, and Education & Outreach Departments. CCR operates a website, www.ccrjustice.org, which includes material on topical civil and human rights issues and material concerning CCR's work, freely available to the public. CCR regularly issues press releases and operates a listserv of over 50,000 members and issues "action alerts" that notify supporters and the general public about developments pertaining to CCR's work. CCR staff members often serve as sources for journalist and media outlets.

Please let me know if you have any questions. I look forward to your response within five business days as required by law.

Sincerely,

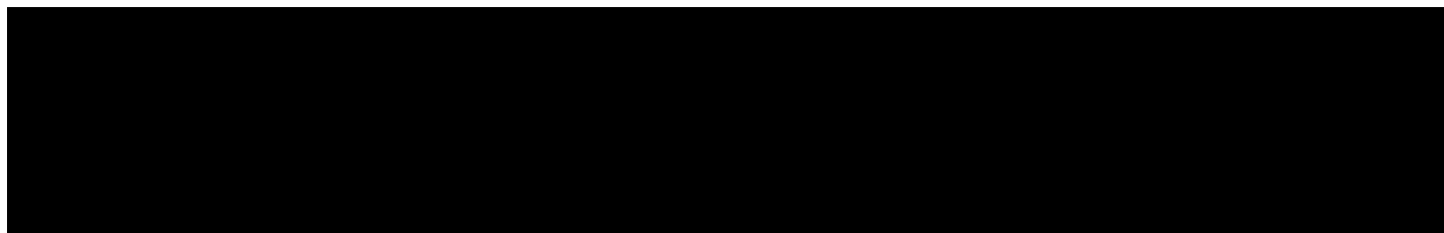
A handwritten signature in black ink, appearing to read "Maria C. LaHood". The signature is fluid and cursive, with the first name "Maria" and last name "LaHood" clearly distinguishable.

Maria C. LaHood
Senior Staff Attorney

cc: Steven Salaita
Anand Swaminathan, Loevy & Loevy

EXHIBIT C

FW: FOIA Request (14-628)1 message



From: University of Illinois FOIA [mailto:FOIA-OUR@mx.uillinois.edu]
Sent: Wednesday, September 24, 2014 5:30 PM
To: Maria LaHood
Cc: University of Illinois FOIA
Subject: FOIA Request (14-628)

September 24, 2014

Maria LaHood

Center for Constitutional Rights

666 Broadway, 7th Floor

New York, NY 10012

Mlahood@ccrjustice.org

Re: FOIA 14-628

Dear Ms. LaHood:

I am responding to your request dated September 17, under the Illinois Freedom of Information Act in which you request:

“1. All public records concerning Steven Salaita – including but not limited to public records related to the decision making relating to his hiring, cessation of appointment, and denial of appointment. This should include the records of the University of Illinois (including all of its

boards, commissions, departments, and other bodies), its foundation, and its alumni foundation, including the employees, board members, and consultants or advisors to those bodies, as well as all entities performing a governmental function related to this subject matter on behalf of those bodies.

2. All public records resulting from an electronic search of all folders of all email accounts used to transact University business of the following people containing the following keywords and sent or received January 1, 2013 to present.

Custodians:

- a. Christopher Kennedy
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- h. James Montgomery, Sr.
- i. Pam Strobel
- j. Cary Nelson
- k. Susan Kies
- l. Walter K. Knorr
- m. Lester McKeever, Jr.
- n. Phyllis Wise
- o. Robin Kaler
- p. Ilesanmi Adesida
- q. Reginald Alston
- r. Michael DeLorenzo
- s. Menah Pratt-Clarke
- t. Robert Easter
- u. Michael Devocelle
- v. Debbie L. Clabaugh
- w. Roger Plummer

x. Jane Phillips Donaldson

y. Thomas Farrell

z. Jacqueline Schweighart

aa. Walter Knorr

bb. Sidney S. Micek

cc. Edward Ewald

dd. Dan Peterson

ee. Jeff Nearhoof

ff. Jeff Lorber

gg. Leanne Barnhart

hh. Travis Michael Smith

ii. Mark Filip

jj. William Stratton

kk. Jill Smart

ll. Thomas Livingston

Keywords (not case sensitive):

a. Salaita

b. "Steve Miller"

c. Palestine

d. Palestinian

e. Palestinians

f. Israel

g. Israeli

h. Gaza

i. Jew

j. Jews

k. Jewish

l. Netanyahu

m. Settler

- n. Settlers
- o. Anti-Semite
- p. Anti-Semitic
- q. Civil & professor
- r. Civil & professors
- s. Civil & instructor
- t. Civil & instructors
- u. Civil & faculty
- v. Uncivil
- w. Civility
- x. Twitter
- y. Tweet
- z. Tweets

3. All public records – including but not limited to statutes, regulations, bylaws, handbooks, policies, procedures, and/or any other type of rule, standard or guideline – setting forth the process for approving appointments of tenured faculty or the Board of Trustees’ delegation of any part of the faculty hiring process.

4. All public records concerning the recruitment, hiring and appointment of Kristen Lee Bub, Patrick H. Smith, Eboni Miel Zamani-Gallaher, Paul Fischer, Deborah Levin Fliflet, Vidya Madhaven, Andrew Donald Megill, Dolores Albarracin, Travis L. Dixon, Christopher P. Dunn, Faye V. Harrison, Candace M. Jenkins, Sonia Lasher-Trapp, Robert Trapp, Derek Wildman, and Bertram Ludaescher.

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8. All public records concerning every instance in which the Chancellor, or any Vice Chancellor or Associate Chancellor, was made aware of actual or alleged racist, bigoted, rude

or inflammatory comments by any University of Illinois faculty member or person being considered to join the faculty. This request includes but is not limited to any decision making and actions taken in response to each such instance.

9. All public records reflecting communications with Steven Salaita or any of the individuals listed in Request No. 4, concerning the University's adherence to principles of academic freedom, including but not limited to the 1940 Statement of Principles on Academic Freedom and Tenure. This includes but is not limited to public records reflecting any communications about the applicability of such principles prior to formal appointment."

I am writing to invoke an extension of the deadline for responding to the request under the following section(s) of the Act, which allow for additional time when:

- 140/3(e)(ii) the request requires the collection of a substantial number of specified records;
- 140/3(e)(iii) the request is couched in categorical terms and requires an extensive search for the records responsive to it;
- 140/3(e)(v) the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions;
- 140/3(e)(vi) the request for records cannot be complied with by the public body within the time limits prescribed by paragraph (c) of this Section without unduly burdening or interfering with the operations of the public body.

I am taking the additional five days allowed by law to review information. The revised deadline will now be October 1.

Sincerely,

Jaclyn Banister

FOIA Coordinator

On behalf of

Thomas P. Hardy

Executive Director, University Relations

EXHIBIT D

FW: FOIA 14-628

1 message



From: McCarthy, Kathleen Elizabeth [mailto:mccarthk@illinois.edu]
Sent: Wednesday, October 01, 2014 6:01 PM
To: Maria LaHood
Cc: University of Illinois FOIA; Rice, Scott; McCarthy, Kathleen Elizabeth
Subject: FOIA 14-628

October 1, 2014

Maria LaHood

Center for Constitutional Rights

666 Broadway, 7th Floor

New York, NY 10012

Mlahood@ccrjustice.org

Re: FOIA 14-628

Dear Ms. LaHood:

I am responding to your request dated September 17, under the Illinois Freedom of Information Act in which you request:

"1. All public records concerning Steven Salaita – including but not limited to public records related to the decision making relating to his hiring, cessation of appointment, and denial of appointment. This should include the records of the University of Illinois (including all of its boards, commissions, departments, and other bodies), its foundation, and its alumni foundation, including the employees, board members, and consultants or advisors to those bodies, as well as all entities performing a governmental function related to this subject matter on behalf of those bodies.

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- b. Ricardo Estrada
- c. Patrick Fitzgerald
- d. Karen Hasara
- e. Patricia Brown Holmes
- f. Timothy Koritz
- g. Edward McMillan
- h. James Montgomery, Sr.
- i. Pam Strobel
- j. Cary Nelson
- k. Susan Kies
- l. Walter K. Knorr
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- n. Phyllis Wise
- o. Robin Kaler
- p. Ilesanmi Adesida
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x. Jane Phillips Donaldson
y. Thomas Farrell
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aa. Walter Knorr
bb. Sidney S. Micek
cc. Edward Ewald
dd. Dan Peterson
ee. Jeff Nearhoof
ff. Jeff Lorber
gg. Leanne Barnhart
hh. Travis Michael Smith
ii. Mark Filip
jj. William Stratton
kk. Jill Smart
ll. Thomas Livingston

Keywords (not case sensitive):

a. Salaita
b. "Steve Miller"
c. Palestine
d. Palestinian
e. Palestinians
f. Israel
g. Israeli
h. Gaza
i. Jew

- j. Jews
- k. Jewish
- l. Netanyahu
- m. Settler
- n. Settlers
- o. Anti-Semite
- p. Anti-Semitic
- q. Civil & professor
- r. Civil & professors
- s. Civil & instructor
- t. Civil & instructors
- u. Civil & faculty
- v. Uncivil
- w. Civility
- x. Twitter
- y. Tweet
- z. Tweets

3. All public records – including but not limited to statutes, regulations, bylaws, handbooks, policies, procedures, and/or any other type of rule, standard or guideline – setting forth the process for approving appointments of tenured faculty or the Board of Trustees’ delegation of any part of the faculty hiring process.

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Our office has conducted a preliminary search for the documents.

Your request for documents and information is considered unduly burdensome to the University. Compliance with your request would require a search for a broad range of records covering, in some instances, an unspecified time period, located in numerous offices on the Urbana campus as well as in the University administration. We estimate that there are potentially thousands of records responsive to your request. Due to the number of employees that would have to be contacted combined with the limited number of staff available to perform a review of the responsive records, compliance with your request would unduly burden the University and impede its daily operations.

Pursuant to Section 3(g) of the Act, we would like to extend to you an opportunity to modify your request to make it of more manageable proportions. If you do not reduce the request, it shall be treated as a denial.

You have a right, under the law, to seek a review of this response by the Public Access Counselor (PAC) in the Office of the Attorney General. The PAC may be reached by phone at [217-782-1396](tel:217-782-1396), by email to publicaccess@atg.state.il.us, or by postal mail at the Public Access Bureau, 500 S. 2nd Street, Springfield, Illinois 62706. You also have the right to seek judicial review under section 11 of this Act.

If you have any questions, or would like to discuss how to narrow the scope of your request, please contact me at [217-333-6400](tel:217-333-6400).

Sincerely,

Thomas P. Hardy
Executive Director
and Chief Records Officer

cc: Scott Rice

EXHIBIT E



Anand Swaminathan <anand@loevy.com>

Re: FW: FOIA 14-628

1 message

Anand Swaminathan <anand@loevy.com>
To: mccarthk@uillinois.edu
Cc: Maria LaHood <Mlahood@ccrjustice.org>

Wed, Oct 15, 2014 at 11:06 AM

Ms. McCarthy, thank you for speaking with me today. As I mentioned, I represent Steven Salaita. If there is any reason I should be communicating through counsel with regard to this FOIA request, please let me know.

As discussed, we are willing to dramatically narrow the request in the interest of resolving this matter. To that end, if the University will agree, we would limit our request to only #2, and further limit #2 to a three-month period, and to a smaller number of keywords and custodians. We would also agree to exclude emails that reference "Change.org" or "MoveOn.org" to address the specific burden concern that you raised.

I attach two copies of the narrowed FOIA based on our proposal, subject to the University's agreement. One is a clean copy of the narrowed request, and the other is a track changes version that shows the portions of the original request that we would be willing to forego.

Please let me know if you have any questions.

Thanks,
Anand

—
Anand Swaminathan
Loevy & Loevy
312 N. May Street, Suite 100
Chicago, Illinois 60607
(312) 243-5900
anand@loevy.com

From: McCarthy, Kathleen Elizabeth [mailto:mccarthk@uillinois.edu]
Sent: Wednesday, October 01, 2014 6:01 PM
To: Maria LaHood
Cc: University of Illinois FOIA; Rice, Scott; McCarthy, Kathleen Elizabeth
Subject: FOIA 14-628

October 1, 2014

Maria LaHood

Center for Constitutional Rights

666 Broadway, 7th Floor

New York, NY 10012

Mlahood@ccrjustice.org

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- d. Karen Hasara
- e. Patricia Brown Holmes
- f. Timothy Koritz
- g. Edward McMillan
- h. James Montgomery, Sr.
- i. Pam Strobel
- j. Cary Nelson

k. Susan Kies
l. Walter K. Knorr
m. Lester McKeever, Jr.
n. Phyllis Wise
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q. Reginald Alston
r. Michael DeLorenzo
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t. Robert Easter
u. Michael Devocelle
v. Debbie L. Clabaugh
w. Roger Plummer
x. Jane Phillips Donaldson
y. Thomas Farrell
z. Jacqueline Schweighart
aa. Walter Knorr
bb. Sidney S. Micek
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dd. Dan Peterson
ee. Jeff Nearhoof
ff. Jeff Lorber
gg. Leanne Barnhart
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ii. Mark Filip
jj. William Stratton
kk. Jill Smart
ll. Thomas Livingston

Keywords (not case sensitive):

- a. Salaita
- b. "Steve Miller"
- c. Palestine
- d. Palestinian
- e. Palestinians
- f. Israel
- g. Israeli
- h. Gaza
- i. Jew
- j. Jews
- k. Jewish
- l. Netanyahu
- m. Settler
- n. Settlers
- o. Anti-Semite
- p. Anti-Semitic
- q. Civil & professor
- r. Civil & professors
- s. Civil & instructor
- t. Civil & instructors
- u. Civil & faculty
- v. Uncivil
- w. Civility
- x. Twitter
- y. Tweet
- z. Tweets

3. All public records – including but not limited to statutes, regulations, bylaws, handbooks, policies, procedures, and/or any other type of rule, standard or guideline – setting forth the process for approving appointments of tenured faculty or the Board of Trustees' delegation of any part of the faculty hiring process.

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You have a right, under the law, to seek a review of this response by the Public Access Counselor (PAC) in the Office of the Attorney General. The PAC may be reached by phone at [217-782-1396](tel:217-782-1396), by email to publicaccess@atg.state.il.us, or by postal mail at the Public Access Bureau, 500 S. 2nd Street, Springfield, Illinois 62706. You also have the right to seek judicial review under section 11 of this Act.

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Sincerely,

Thomas P. Hardy
Executive Director
and Chief Records Officer

cc: Scott Rice

2 attachments



Narrowed FOIA_clean.docx
13K



Narrowed FOIA_tracked.docx
17K

Narrowed FOIA

2. All public records resulting from an electronic search of all folders of all email accounts used to transact University business of the following people containing the following keywords and sent or received July 1, 2014 to September 30, 2014.

Custodians:

- a. Christopher Kennedy
- c. Patrick Fitzgerald
- j. Cary Nelson
- k. Susan Kies
- n. Phyllis Wise
- o. Robin Kaler
- p. Ilesanmi Adesida
- q. Reginald Alston
- t. Robert Easter
- u. Michael Devocelle
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- hh. Travis Michael Smith

Keywords (not case sensitive):

- a. Salaita
- b. "Steve Miller"
- c. Palestine
- d. Palestinian
- f. Israel
- h. Gaza
- j. Jews
- k. Jewish
- v. Uncivil
- w. Civility
- x. Twitter
- y. Tweet
- z. Tweets

CAN EXCLUDE "moveon.org" and "change.org"

Narrowed FOIA

~~"1. All public records concerning Steven Salaita—including but not limited to public records related to the decision making relating to his hiring, cessation of appointment, and denial of appointment. This should include the records of the University of Illinois (including all of its boards, commissions, departments, and other bodies), its foundation, and its alumni foundation, including the employees, board members, and consultants or advisors to those bodies, as well as all entities performing a governmental function related to this subject matter on behalf of those bodies.~~

2. All public records resulting from an electronic search of all folders of all email accounts used to transact University business of the following people containing the following keywords and sent or received ~~January-July~~ 1, 2013~~4~~ to ~~present~~September 30, 2014.

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c. Patrick Fitzgerald

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~~e. Patricia Brown Holmes~~

~~f. Timothy Koritz~~

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~~ll. Thomas Livingston~~

Keywords (not case sensitive):

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b. "Steve Miller"

c. Palestine

d. Palestinian

~~e. Palestinians~~

f. Israel

~~g. Israeli~~

h. Gaza

~~i. Jew~~

j. Jews

k. Jewish

~~l. Netanyahu~~

~~m. Settler~~

~~n. Settlers~~

~~o. Anti Semite~~

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~~q. Civil & professor~~

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~~s. Civil & instructor~~

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EXHIBIT F

Anand Swaminathan <anand@loevy.com>

Re: FW: FOIA 14-628

1 message

Anand Swaminathan <anand@loevy.com>
To: "McCarthy, Kathleen Elizabeth" <mccarthk@illinois.edu>
Cc: Maria LaHood <Mlahood@ccrjustice.org>

Mon, Oct 20, 2014 at 1:44 PM

Ms. McCarthy,

Thanks for the update. Can I expect a call today or tomorrow? I would like to get clarity on the University's willingness to produce documents by the end of this week.

Anand

—
Anand Swaminathan
Loevy & Loevy
312 N. May Street, Suite 100
Chicago, Illinois 60607
(312) 243-5900
anand@loevy.com

On Fri, Oct 17, 2014 at 4:19 PM, McCarthy, Kathleen Elizabeth <mccarthk@illinois.edu> wrote:

Mr. Swaminathan,

Thank you for discussing the problems the University is confronting in responding to the recent FOIA request submitted by the Center for Constitutional Rights. I have raised these issues with our legal counsel as well. They will be following up with you directly to discuss your requests as well as your recent suggestions for narrowing the scope of some of the information you have requested.

Regards,

Kathleen McCarthy
Assistant Director, FOIA Administration
Office for University Relations
University of Illinois
Urbana-Champaign, Chicago, Springfield
[312-996-3773](tel:312-996-3773) mccarthk@uillinois.edu

From: Anand Swaminathan [<mailto:anand@loevy.com>]

Sent: Wednesday, October 15, 2014 11:07 AM

To: McCarthy, Kathleen Elizabeth

Cc: Maria LaHood

Subject: Re: FW: FOIA 14-628

Ms. McCarthy, thank you for speaking with me today. As I mentioned, I represent Steven Salaita. If there is any reason I should be communicating through counsel with regard to this FOIA request, please let me know.

As discussed, we are willing to dramatically narrow the request in the interest of resolving this matter. To that end, if the University will agree, we would limit our request to only #2, and further limit #2 to a three-month period, and to a smaller number of keywords and custodians. We would also agree to exclude emails that reference "Change.org" or "MoveOn.org" to address the specific burden concern that you raised.

I attach two copies of the narrowed FOIA based on our proposal, subject to the University's agreement. One is a clean copy of the narrowed request, and the other is a track changes version that shows the portions of the original request that we would be willing to forego.

Please let me know if you have any questions.

Thanks,

Anand

--

Anand Swaminathan

Loevy & Loevy
312 N. May Street, Suite 100
Chicago, Illinois 60607
(312) 243-5900
anand@loevy.com

From: McCarthy, Kathleen Elizabeth [mailto:mccarthk@illinois.edu]

Sent: Wednesday, October 01, 2014 6:01 PM

To: Maria LaHood

Cc: University of Illinois FOIA; Rice, Scott; McCarthy, Kathleen Elizabeth

Subject: FOIA 14-628

October 1, 2014

Maria LaHood

Center for Constitutional Rights

666 Broadway, 7th Floor

New York, NY 10012

Mlahood@ccrjustice.org

Re: FOIA 14-628

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ll. Thomas Livingston

Keywords (not case sensitive):

a. Salaita

b. "Steve Miller"

c. Palestine

d. Palestinian

e. Palestinians

f. Israel

g. Israeli

h. Gaza

i. Jew

j. Jews

k. Jewish

l. Netanyahu

m. Settler

n. Settlers

o. Anti-Semite

p. Anti-Semitic

q. Civil & professor

r. Civil & professors

s. Civil & instructor

t. Civil & instructors

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9. All public records reflecting communications with Steven Salaita or any of the individuals listed in Request No. 4, concerning the University’s adherence to principles of academic freedom, including but not limited to the 1940 Statement of Principles on Academic Freedom and Tenure. This includes but is not limited to public records reflecting any communications about the applicability of such principles prior to formal appointment.”

Our office has conducted a preliminary search for the documents.

Your request for documents and information is considered unduly burdensome to the University. Compliance with your request would require a search for a broad range of records covering, in some instances, an unspecified time period, located in numerous offices on the Urbana campus as well as in the University administration. We estimate that there are potentially thousands of records responsive to your request. Due to the number of employees that would have to be contacted combined with the limited number of staff available to perform a review of the responsive records, compliance with your request would unduly burden the University and impede its daily operations.

Pursuant to Section 3(g) of the Act, we would like to extend to you an opportunity to modify your request to make it of more manageable proportions. If you do not reduce the request, it shall be treated as a denial.

You have a right, under the law, to seek a review of this response by the Public Access Counselor (PAC) in the Office of the Attorney General. The PAC may be reached by phone at [217-782-1396](tel:217-782-1396), by email to publicaccess@atg.state.il.us, or by postal mail at the Public Access Bureau, 500 S. 2nd Street, Springfield, Illinois 62706. You also have the right to seek judicial review under section 11 of this Act.

If you have any questions, or would like to discuss how to narrow the scope of your request, please contact me at [217-333-6400](tel:217-333-6400).

Sincerely,

Thomas P. Hardy
Executive Director
and Chief Records Officer

cc: Scott Rice



Anand Swaminathan <anand@loevy.com>

Salaita case

1 message

Anand Swaminathan <anand@loevy.com>

Wed, Oct 29, 2014 at 10:57 AM

To: "Wilson, Christopher B. (Perkins Coie)" <CWilson@perkinscoie.com>

Chris, I have left a few messages for you and have not heard back. I am expecting to hear from you on a couple of issues. When are you available to talk?

Thanks,
Anand

—

Anand Swaminathan
Loevy & Loevy
312 N. May Street, Suite 100
Chicago, Illinois 60607
(312) 243-5900
anand@loevy.com



Anand Swaminathan <anand@loevy.com>

Salaita follow up

1 message

Anand Swaminathan <anand@loevy.com>

Fri, Oct 31, 2014 at 2:38 PM

To: "Wilson, Christopher B. (Perkins Coie)" <CWilson@perkinscoie.com>

Chris, looking forward to hearing back today about the FOIA timeline.

Thanks,
Anand

—
Anand Swaminathan
Loevy & Loevy
312 N. May Street, Suite 100
Chicago, Illinois 60607
[\(312\) 243-5900](tel:(312)243-5900)
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EXHIBIT G

November 5, 2014

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November 5, 2014

By Email

Chris Wilson
Perkins Coie
131 South Dearborn Street
Chicago, IL 60603

Re: Steven Salaita FOIA Requests

Dear Chris:

I write to follow up on our discussion yesterday regarding Mr. Salaita's pending FOIA requests, which you are handling on behalf of the University of Illinois.

As you know, the University first took an extension of time to respond to the September 17 request, then claimed that the request was unduly burdensome on October 1. On October 15, we provided a narrowed request addressing the University's perceived burden concerns. Over the next two weeks, we made a number of attempts to get a response to our October 15 request. In violation of FOIA, the University did not provide a written or even verbal response to the October 15 request.

You informed me on October 31 that the University has decided to deny the FOIA request in its entirety, without producing any documents even on the dramatically narrowed request. This comes after we were told on October 29 that the University had applied the narrowed set of search terms, which reduced the pool of records to 8-10,000 emails; and based on the number of documents, the University needed more than two weeks to comply. We informed you that we were amenable to a reasonable extension and asked you how long the University needed to perform the review. You said you would check with the University and let me know. Instead, the University now claims that the narrowed request is too burdensome and has decided to deny the request entirely.

As an initial matter, the University has waived any claim of undue burden because it failed to respond in writing within five days of our October 15 narrowed request, pursuant to FOIA Section 3(d). Further, the University has failed to account for the tremendous public interest in full disclosure about the Salaita matter, as evidenced by the significant media attention this matter has garnered and the very important First Amendment and academic freedom issues implicated. If forced to litigate, we will press these issues. If the University is willing to work with us towards a prompt resolution, however, we would be willing to consider further efforts to reduce the perceived burden, with the understanding that

November 5, 2014

we are under no obligation to further accommodate the University.

The University claims that our narrowed request captures 8-10,000 emails. Please clarify whether this is after removing duplicates. We suspect it is not. This “de-duplication” process is extremely common, and we expect that the University – and certainly its highly sophisticated counsel – have this capability. If the University has not yet “de-duplicated” the emails, please do so and let us know how many records remain for review so we can assess its claim of burden.

Even if there are 8-10,000 emails after removing duplicates, we disagree that the review and production of this many emails is burdensome. Nevertheless, if we can reach a prompt resolution, we would be willing to further narrow our request to the time period from July 1, 2014 through August 3, 2014 for Chancellor Wise; and to July 1 through September 11, 2014 for all other custodians. This should substantially reduce the total number of documents. We would also be willing to consider a reasonable extension of the production deadline once you tell us how many documents (after de-duplication) are captured by the further narrowed request.

If the University has any other proposals for further narrowing the requests, we are willing to consider them, but the University has thus far refused to do so. Please understand that we are not withdrawing our October 15 request, and if forced to litigate, reserve the right to litigate that request as well the proposal set forth in this letter.

Please let us know the University’s response by Friday, November 7, 2014.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anand Swaminathan', with a stylized, cursive script.

Anand Swaminathan