

From: [Heather A. Jones](#)
To: "[Hrvatin, Claudia](#)"; [Shashy, Hap](#); [Jason Mahar](#); [Megan V. Khaner](#); [David J. Apol](#); [\(b\)\(6\) - Marcella Keiller's email address](#)
[Sprague, Marcia](#); [Rowell, Theresa](#)
Cc: [Deborah J. Bortot](#); [Leland, Matthew](#)
Subject: RE: Note 45.1.5.1.1.
Date: Thursday, January 19, 2017 5:42:34 PM

Yes, all loose ends are tied up.

From: Hrvatin, Claudia [mailto:[\(b\) \(6\)](#)]
Sent: Thursday, January 19, 2017 5:42 PM
To: Heather A. Jones; Shashy, Hap; Jason Mahar; Megan V. Khaner; David J. Apol; [\(b\)\(6\) - Marcella Keiller's email address](#); Sprague, Marcia; Rowell, Theresa
Cc: Deborah J. Bortot; Leland, Matthew
Subject: [GRAYMAIL] RE: Note 45.1.5.1.1.

Heather – Confirming that all the loose ends are tied, and that we are all on the same email. RDV has confirmed the update, below. We have also received the email from Megan indicating that the 278 has been pre-cleared and is off to PTT. Many thanks.

From: Heather A. Jones [<mailto:hajones@oge.gov>]
Sent: Thursday, January 19, 2017 4:47 PM
To: Hrvatin, Claudia; Shashy, Hap; Jason Mahar; Heather A. Jones; Megan V. Khaner; David J. Apol; [\(b\)\(6\) - Marcella Keiller's email address](#); Sprague, Marcia; Rowell, Theresa
Cc: Deborah J. Bortot
Subject: Note 45.1.5.1.1.

We are proposing to add the line of business for the following entities for the note above. This information is in the first note for [\(b\)\(3\), \(6\)](#) but nor the second.

[\(b\)\(3\), \(5\), \(6\)](#)



Heather Jones
(202) 482-9316
Office of Government Ethics

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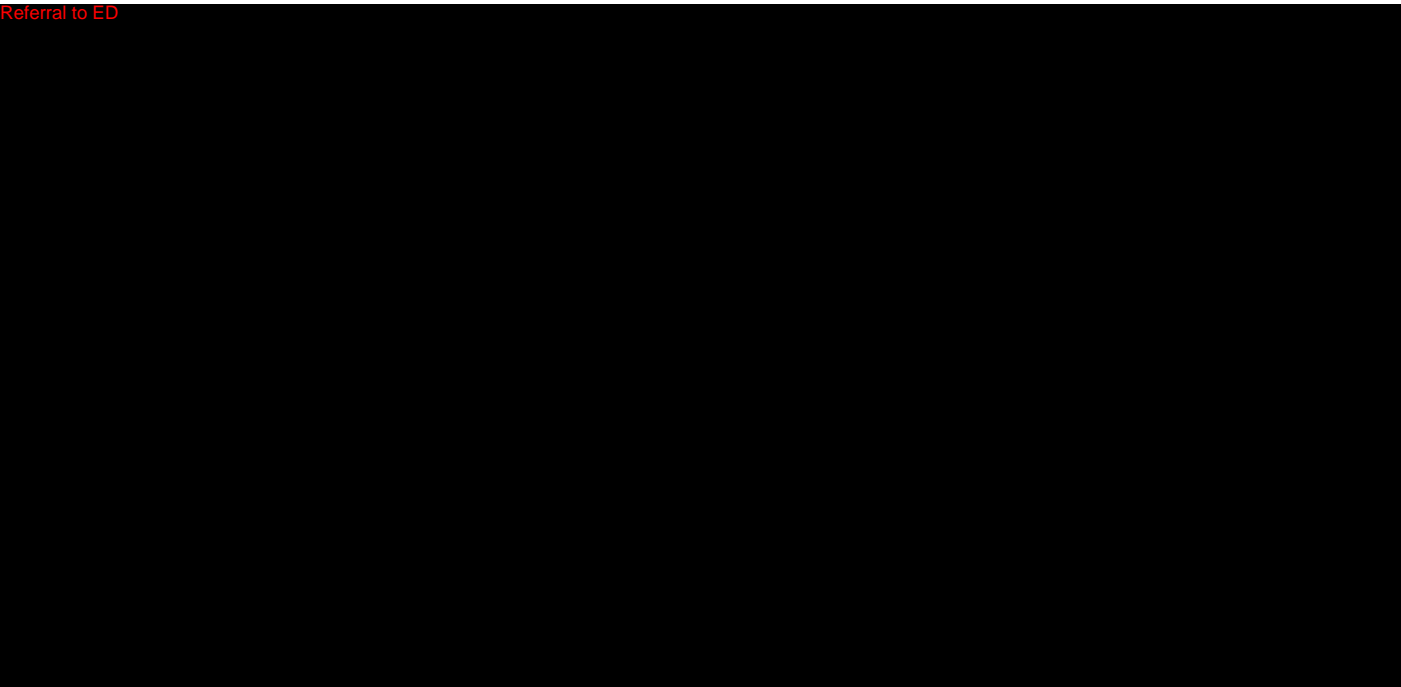
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Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Monday, March 20, 2017 4:39 PM
To: Goodridge, Marcella
Cc: Spencer, Kristina
Subject: RE: nominee report

Good afternoon Marcella,

After speaking with Kristina earlier today, I believe I misunderstood your email and need to clarify a couple of things. OGE definitely backstops the technical review, but we generally don't work directly with the nominee or nominee's representative or make changes directly to the report. That gets handled at the agency. I understand the DeVos report was handled a bit differently, but our focus on technical reporting issues is generally limited to providing the agency reviewer/s comments and questions that help the filer complete the report. To that end, I've forwarded comments and questions that address a number of the technical issues.

I'm also very willing, at the reviewer's request, to get on a call with the agency and filer or filer's representative to discuss process and potential COI issues. Different agencies and reviewers approach those direct filer communications differently.

Apologies for any misunderstandings and I'm happy to chat about this further, if you would like.

Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division

U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Friday, March 17, 2017 3:36 PM
To: Goodridge, Marcella
Subject: nominee report

Hi Marcella –

I'm working a nominee report here for a prospective Education nominee and wondered who at Education would be reviewing that?

I should have a first round of questions and comments ready later today (hopefully) which I'll send along. Just need to know to whom.

Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

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Referral to ED

Referral to ED



From: Patrick J. Lightfoot [<mailto:pjlightf@oge.gov>]

Sent: Tuesday, March 28, 2017 12:03 PM

To: McKenzie, Carla

Subject: RE: Ethics Questions

Hi Carla,

(b) (5)



Thanks!

--Patrick

Referral to ED



From: Patrick J. Lightfoot [<mailto:pjlightf@oge.gov>]

Sent: Tuesday, March 28, 2017 9:28 AM

To: McKenzie, Carla

Subject: RE: Ethics Questions

Hi Carla,

We'll call you. Thanks!

--Patrick

Referral to ED



From: Patrick J. Lightfoot [<mailto:pjlightf@oge.gov>]

Sent: Wednesday, March 22, 2017 2:14 PM

To: McKenzie, Carla

Subject: RE: Ethics Questions

Sure thing.

Referral to ED



Referral to ED



From: Patrick J. Lightfoot [<mailto:pjlightf@oge.gov>]

Sent: Wednesday, March 22, 2017 2:11 PM

To: McKenzie, Carla

Subject: RE: Ethics Questions

Great! How about 11:00 on Tuesday?

Referral to ED



From: Patrick J. Lightfoot [<mailto:pjlightf@oge.gov>]

Sent: Wednesday, March 22, 2017 1:53 PM

To: McKenzie, Carla

Subject: RE: Ethics Questions

Hi Carla,

As it turns out, due to the nature of the questions, my supervisor would like to participate in this call but will be out of the office until Monday. Would it be possible to reschedule the call on Monday or Tuesday?

--Patrick

Referral to ED



Referral to ED



From: Patrick J. Lightfoot [<mailto:pjlightf@oge.gov>]

Sent: Wednesday, March 22, 2017 9:14 AM

To: McKenzie, Carla

Subject: RE: Ethics Questions

Questions ahead of time would be helpful (and will hopefully reduce my need to do additional research to answer your questions after our phone call). Sure, feel free to send an Outlook invite my way.

--Patrick

Referral to ED



On Mar 22, 2017, at 8:48 AM, Patrick J. Lightfoot <pjlightf@oge.gov> wrote:

Hi Carla,

My apologies for not getting back to you sooner. I ran out of time on Monday and then was unexpectedly out of the office on Tuesday. I'd be happy to assist. Would a call later this afternoon work with your schedule, say 3:00 or 3:30?

Thanks,

--Patrick

--

Patrick J. Lightfoot

Assistant Counsel, Ethics Law & Policy Branch

General Counsel & Legal Policy Division

U.S. Office of Government Ethics

1201 New York Ave NW, Suite 500

Washington, DC 20005

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Visit OGE's website: www.oge.gov

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Referral to ED



Referral to ED

From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Wednesday, March 29, 2017 8:34 AM
To: Spencer, Kristina
Subject: (b) (5), (6) financial disclosure report

Good morning, Kristina –

I wanted to check in on the (b) (5), (6) report and reiterate that (b) (5). I see that the report has not yet been updated in Integrity and wonder if you would check in with the filer or filer's representative at your earliest convenience and let me know if they are having difficulties or need assistance or if something else is causing a delay that we can help resolve. It's possible the WH will need to prompt the filer from their end if he or his representatives are not responsive to the agency. It's also possible that they are simply gathering information and are not ready to update the report; In any case, it would be helpful to know their status and to be sure that they know this is a priority report.

Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

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Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Wednesday, April 5, 2017 4:12 PM
To: Spencer, Kristina
Subject: RE: (b)(5), (D) report

Confirmed. Since they have the information, they should make those revisions as that will reflect an accurate amount for the reporting period.

Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

Referral to ED



Referral to ED



Referral to ED




From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Wednesday, April 5, 2017 2:31 PM
To: Spencer, Kristina
Subject: RE: (b)(3), (5), (6) report

Thanks, Kristina.

I noticed one thing that I wanted to address ASAP.

(b)(3), (5), (6)



If you would pass along that reminder to the filer's representatives, I would greatly appreciate it.

Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Wednesday, April 5, 2017 9:25 AM
To: Spencer, Kristina
Subject: (b)(5), (6) report

Hi Kristina –

Have you heard anything from the (b)(5), (6) folks? If not, would you mind reaching out to them for a status update? Still nothing updated on the report.

Thanks,
Jim

Jim Robertson
Assistant Counsel
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Referral to ED

From: Jim Robertson [mailto:jfrobert@oge.gov]

Sent: Wednesday, April 12, 2017 1:42 PM

To: Spencer, Kristina

Subject: (b)(3), (6) issue

1 page attachment withheld in full - (b)(3), (5), (6)

Hi Kristina,

Information below re the (b)(3), (6) issues the filer's representatives asked about in their response to our questions.

Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

*****BEGIN*****

(b)(3), (5), (6)

(b)(3), (5), (6)



*****END*****

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From: [Jim Robertson](#)
To: ["Spencer, Kristina"](#)
Subject: RE: financial disclosure report
Date: Thursday, April 13, 2017 2:40:59 PM

Much appreciated.

Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Thursday, April 13, 2017 2:29 PM
To: Spencer, Kristina
Subject: financial disclosure report

Good afternoon, Kristina --

I've got adjustments on a couple of items that I wanted to pass along without further delay.

(b)(3), (5), (6)



Thanks,
Jim

Referral to ED

From: Jim Robertson [mailto:jfrobert@oge.gov]

Sent: Friday, April 14, 2017 11:35 AM

To: Spencer, Kristina

Subject: RE: (b)(3), (6) questions

Give the degree of oversight the EAs are getting, we'll work up a draft and send it your way once the preclear team has a chance to pre-review it. But we'll need the list of (b)(3), (6) ED will require.

Thanks,

Jim

Jim Robertson

Assistant Counsel

General Counsel & Legal Policy Division

U.S. Office of Government Ethics

James.robertson@oge.gov

202-482-9268

Referral to ED

From: Jim Robertson [mailto:jfrobert@oge.gov]

Sent: Friday, April 14, 2017 11:07 AM

To: Spencer, Kristina

Subject: RE: (b)(3), (6) questions

Good morning, Kristina –

(b)(3), (5), (6)

I gather that the filer's rep is still updating the report to reflect our round 1 feedback? Will they notify you when they complete those updates?

Thanks,

Jim

From: Jim Robertson

Sent: Thursday, April 13, 2017 8:51 AM

To: 'Spencer, Kristina'

Subject: RE: (b)(3), (6) questions

Kristina,

(b)(3), (5), (6)



Thanks,

Jim

Jim Robertson

Assistant Counsel

General Counsel & Legal Policy Division

U.S. Office of Government Ethics

James.robertson@oge.gov

202-482-9268

Referral to ED



Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]

Sent: Monday, April 10, 2017 2:41 PM

To: Spencer, Kristina

Subject: RE: (b)(5), (6) questions

Thanks.

Jim

Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]

Sent: Monday, April 10, 2017 11:37 AM

To: Spencer, Kristina

Subject: RE: (b)(5), (6) questions

Hi Kristina,

(b)(3), (5), (6)



Thanks,

Jim

Jim Robertson

Assistant Counsel

General Counsel & Legal Policy Division

U.S. Office of Government Ethics

James.robertson@oge.gov

202-482-9268

Referral to ED



Referral to ED

From: Jim Robertson [<mailto:jfrobert@oge.gov>]

Sent: Friday, April 07, 2017 1:48 PM

To: Spencer, Kristina

Subject: [REDACTED] questions

2 page attachment withheld in full - (b)(3),
(5), (6)

Hi Kristina –

Thanks for your time earlier.

I've attached a word doc with some additional questions for the filer's team.

Still working through a couple of other things that they asked about re [REDACTED]

Thanks,


Jim

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Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Monday, April 17, 2017 3:07 PM
To: Spencer, Kristina
Subject: RE:  Questions

Hi Kristina,

Answers inline, below.

Thanks,
Jim

Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Wednesday, April 19, 2017 11:04 AM
To: Goodridge, Marcella
Subject: FW: (b)(5), (6) report

Marcella,

Does Kristina have a backup for Mr. (b)(5), (6) report?

Thanks,
Jim

From: Jim Robertson
Sent: Wednesday, April 19, 2017 10:56 AM
To: 'Spencer, Kristina'
Subject: (b)(5), (6) report

Good morning, Kristina –

I'm told that (b)(5), (6) report is (b) (5). Just wanted to pass that along.

I'm taking another look at the report for technical issues and I'll pass along anything I notice. The report looks like it's in pretty decent shape, so not much to tweak. I'll likely have some things to confirm and possibly some language suggestions for Part 3 entries. Also, I'll get started on the ethics agreement and see if we can get some of the known things knocked out.

A couple of questions for you:

(b)(3), (5), (6)



Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
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James.robertson@oge.gov
202-482-9268

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From: [Jim Robertson](#)
To: "[Spencer, Kristina](#)"; (b)(6) - Theresa Rowlett's email address
Subject: (b)(5), (6) questions
Date: Wednesday, April 19, 2017 2:44:39 PM

Hi Kristina and Theresa,

For this first question, the follow-up question for ED is:

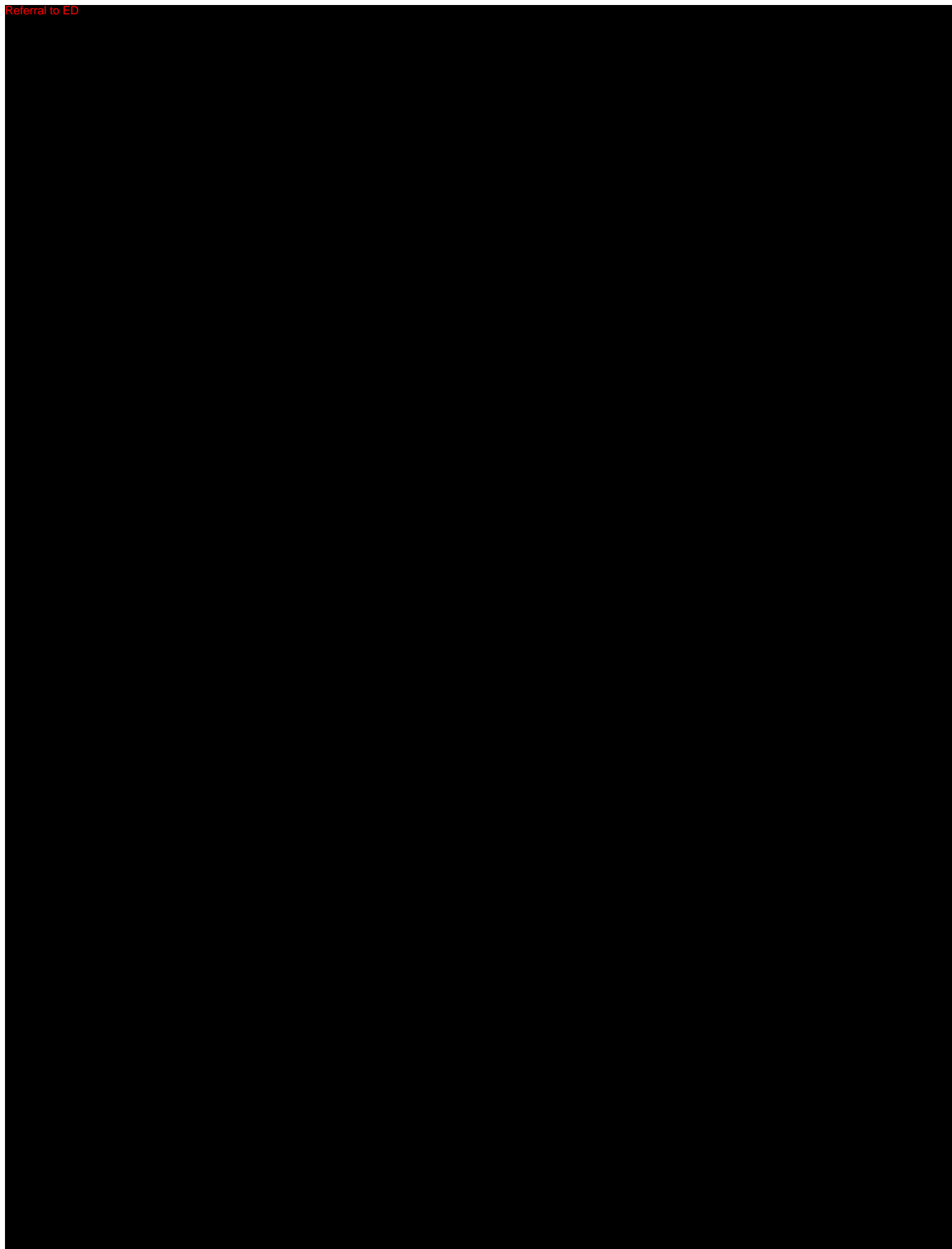
(b)(3), (5), (6)

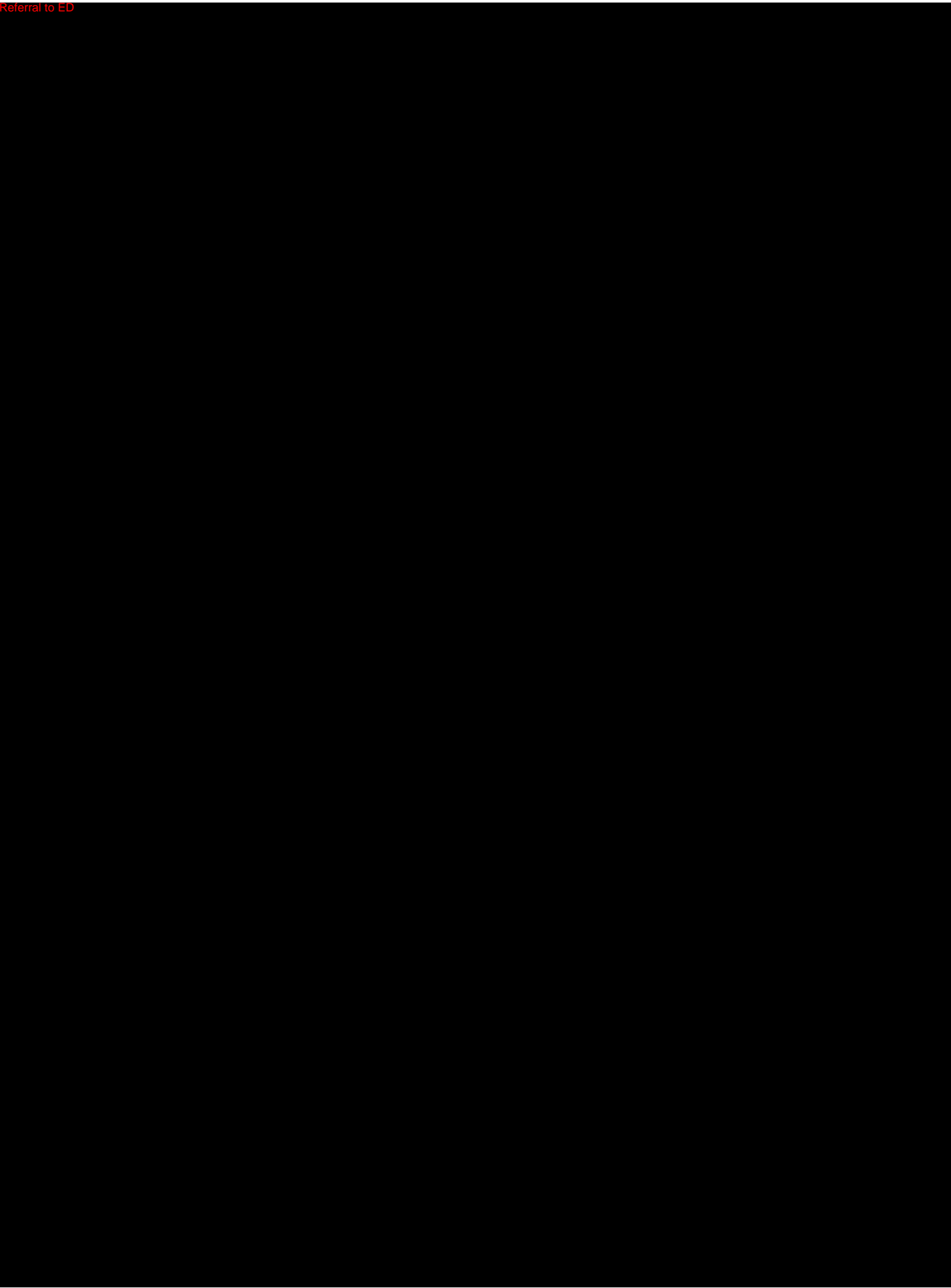


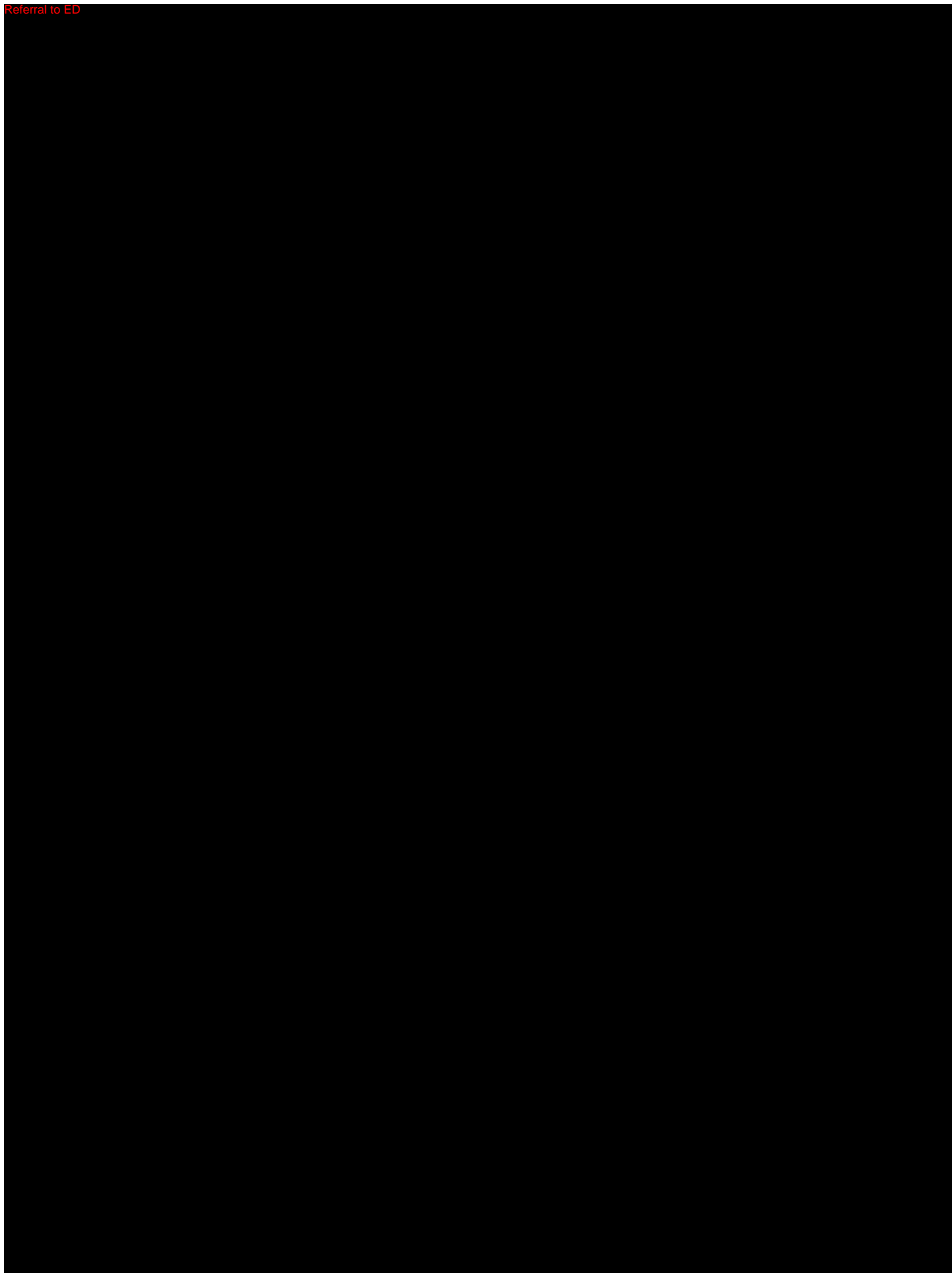
*****END*****

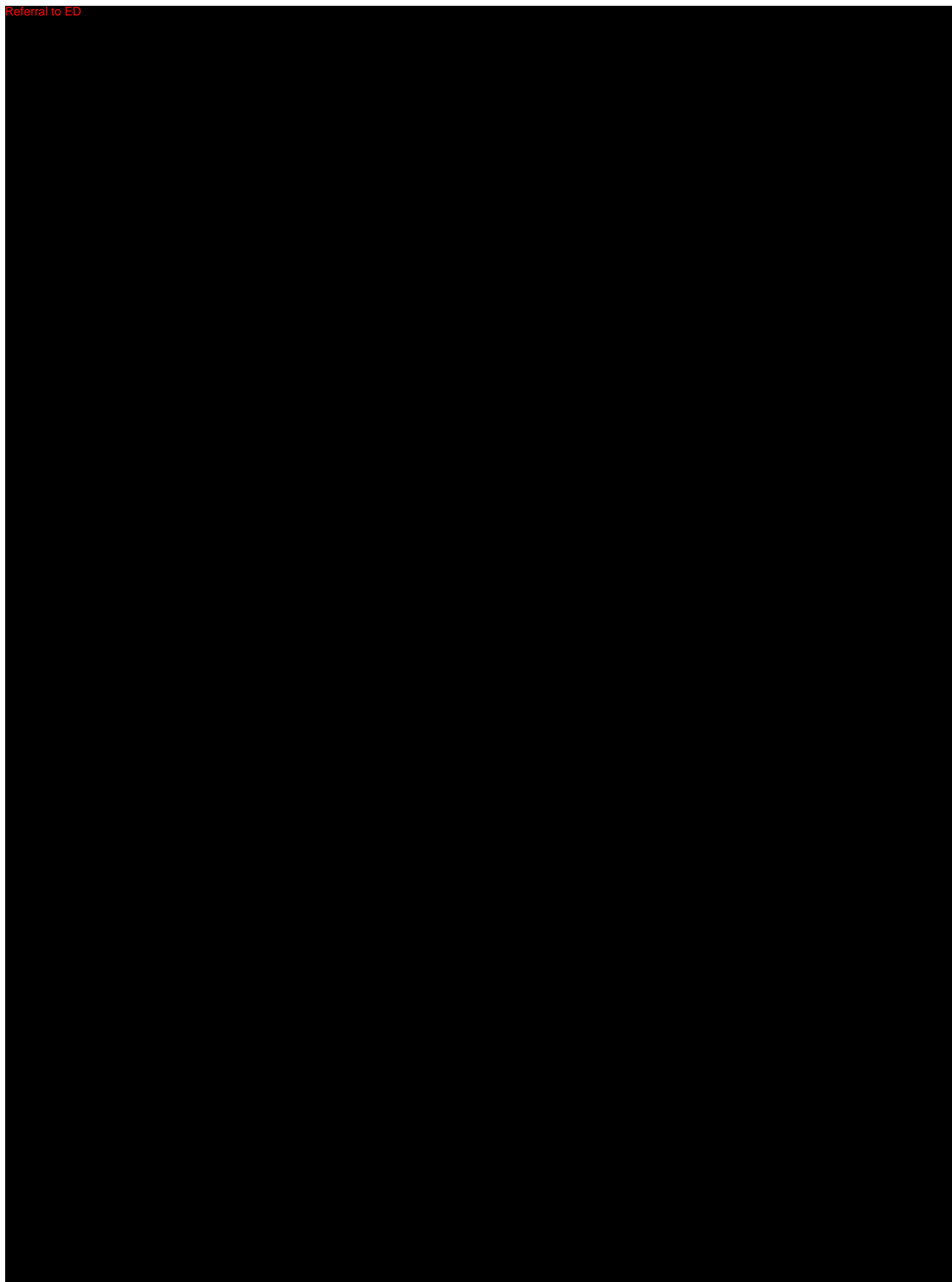
Thanks
Jim

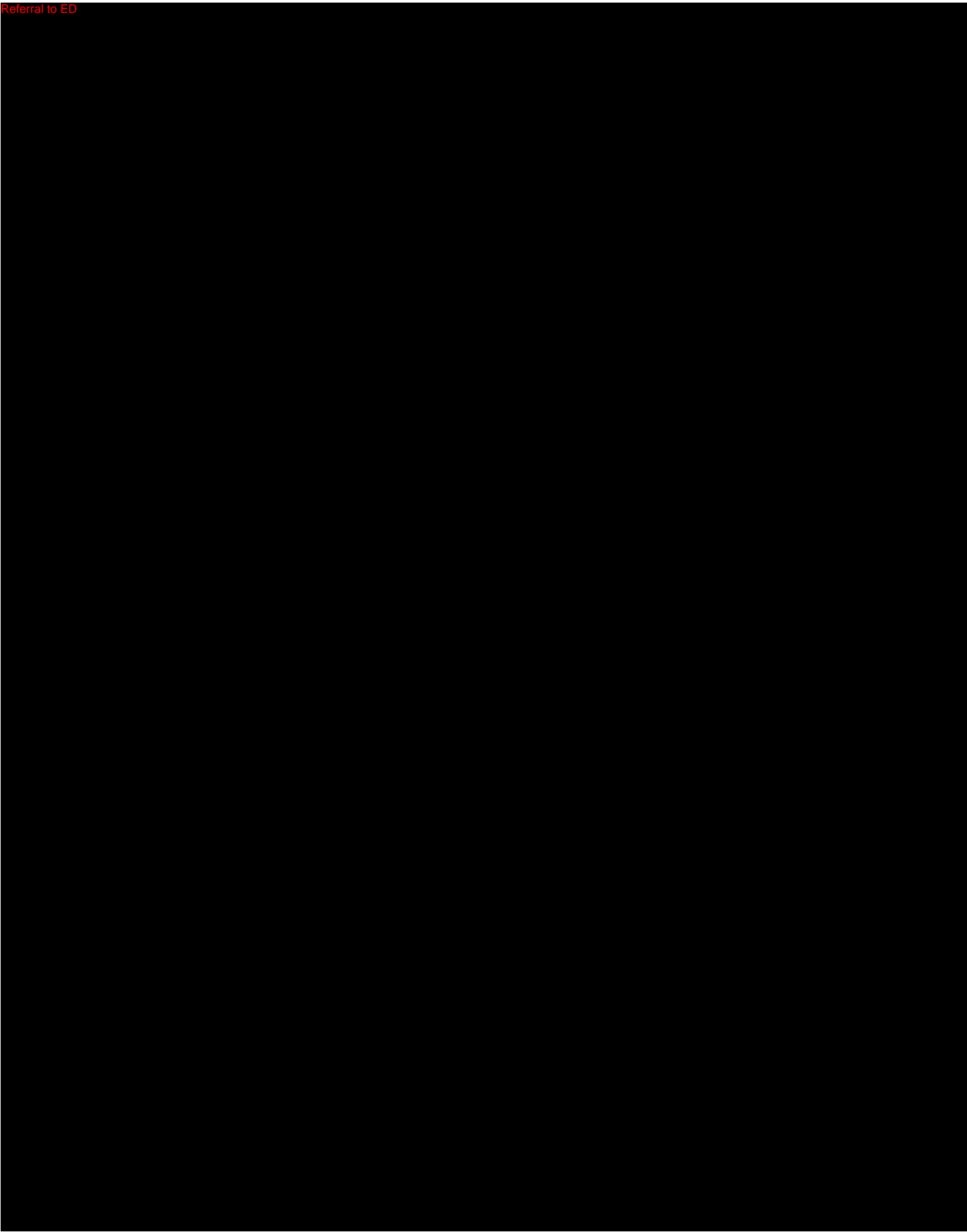
Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
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James.robertson@oge.gov
202-482-9268

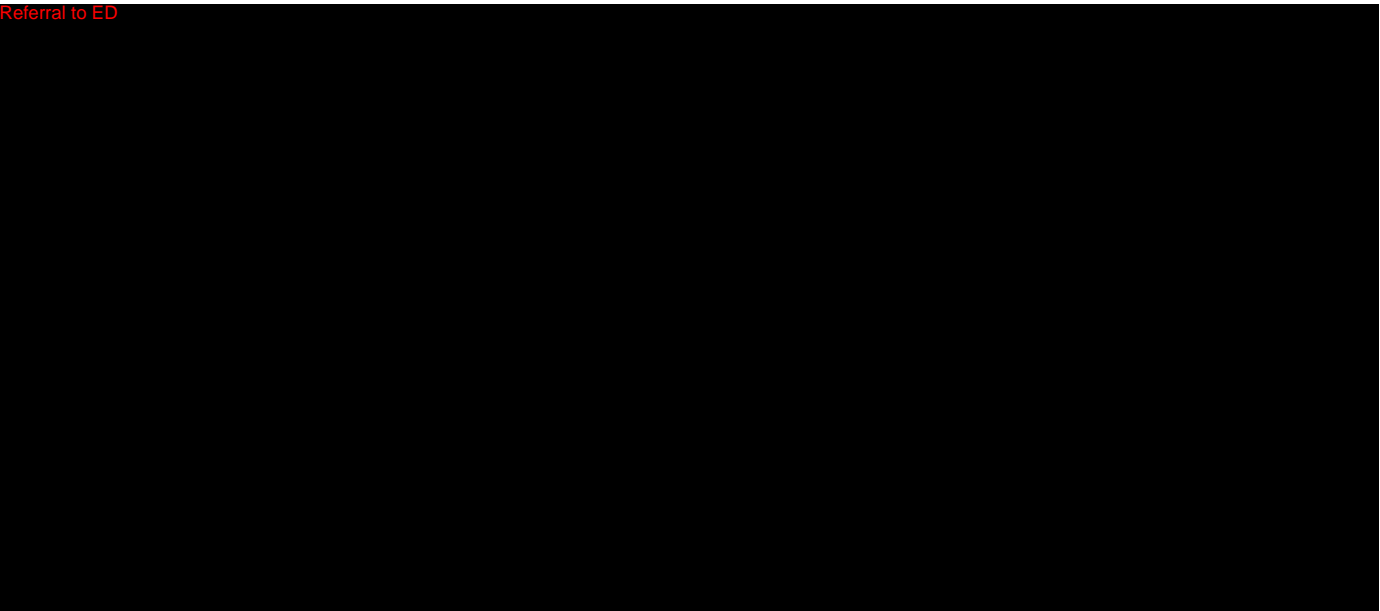












From: [Elaine Newton](#)
To: (b)(6) - Marcela Keller's email address
Bcc: [Elaine Newton](#)
Subject: Muniz
Date: Monday, April 24, 2017 2:05:18 PM
Attachments: [Muniz 278 \(4-24-17\).docx](#)

3 page attachment withheld in full -
(b)(3), (5), (6)

Good Afternoon,


Attached are my initial comments regarding Mr. Muniz's report. Please let me know if you have any questions. I will be leaving the office around 3:00 p.m. today and I will be out all day tomorrow. I will be back in the office Wednesday morning. If you need assistance while I am out, please call Vince Salamone at 202-482-9274.

Thanks, Elaine

Elaine Newton
Associate Counsel
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3915
Telephone: 202-482-9265

Referral to ED

A large black rectangular redaction box covering the top portion of the email body.

From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Thursday, April 27, 2017 9:49 AM
To: Spencer, Kristina
Subject: RE:  letter

Hi Kristina,

(b)(5)

A large black rectangular redaction box covering the middle portion of the email body.

Referral to ED

A large black rectangular redaction box covering the bottom portion of the email body.

From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Wednesday, April 26, 2017 4:52 PM
To: Spencer, Kristina
Subject: (b)(3), (6) letter


Just wanted to check in on the (b)(3), (6) letter. Were you going to draft something and send over for a quick look?

Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Thursday, April 27, 2017 9:55 AM
To: Spencer, Kristina
Subject: (b)(3), (5), (6) 

Kristina,

(b)(3), (5), (6)



Thanks,
Jim

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From: [Jim Robertson](#)
To: ["Spencer, Kristina"](#)
Subject: RE: (b)(5), (b) status
Date: Friday, April 28, 2017 11:59:29 AM

Thanks.

Jim

Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Friday, April 28, 2017 11:47 AM
To: Spencer, Kristina
Subject: (b)(5), (b) status

Hi Kristina –

Just checking in on (b)(5), (b) status. Any movement there? You mentioned you were closing in on the conflicts of interest analysis – any sense yet for potential divestitures?

Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

From: [Elaine Newton](#)
To: ["Barren, Morris"](#)
Cc: ["Goodridge, Marcella"](#)
Subject: RE: Muniz
Date: Tuesday, May 02, 2017 3:44:51 PM

Good Afternoon,

Tomorrow at 10:30 works for me. Will you call me?

Thanks, Elaine

Referral to ED



Referral to ED



From: Elaine Newton [<mailto:enewton@oge.gov>]
Sent: Tuesday, May 02, 2017 11:25 AM
To: Goodridge, Marcella
Cc: Barren, Morris
Subject: Muniz

1 page attachment withheld in
full - (b)(3), (5), (6)

Good Morning,

Attached are a few follow-up comments that I have on Mr. Muniz's report. I would also like to discuss the conflict of interest analysis when you have some time.

Thanks, Elaine

Elaine Newton
Associate Counsel
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3915
Telephone: 202-482-9265

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Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Tuesday, May 02, 2017 4:46 PM
To: Spencer, Kristina
Cc: Rowell, Theresa
Subject: (b)(3), (5), (6)

Hi Kristina,

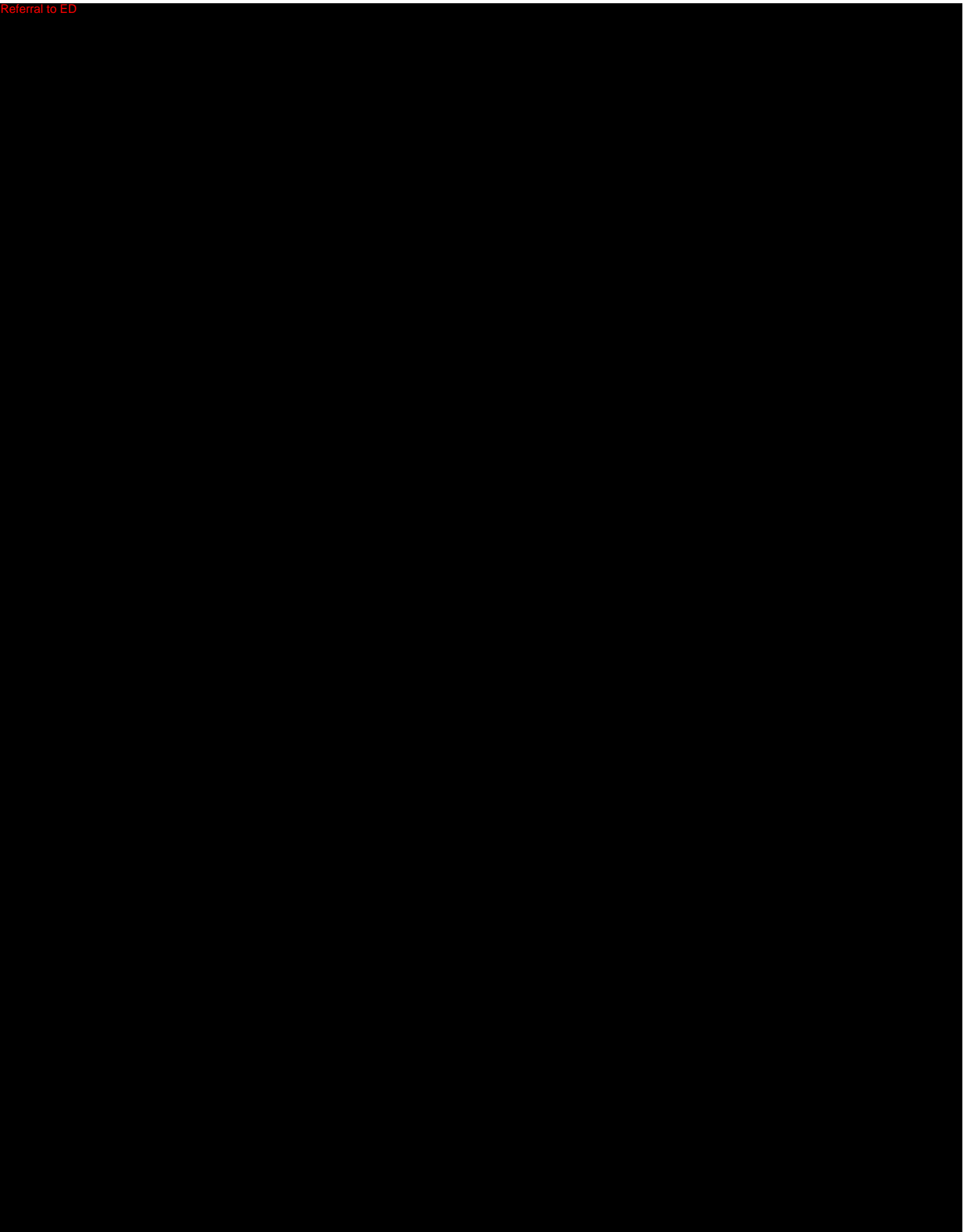
(b)(3), (5), (6)

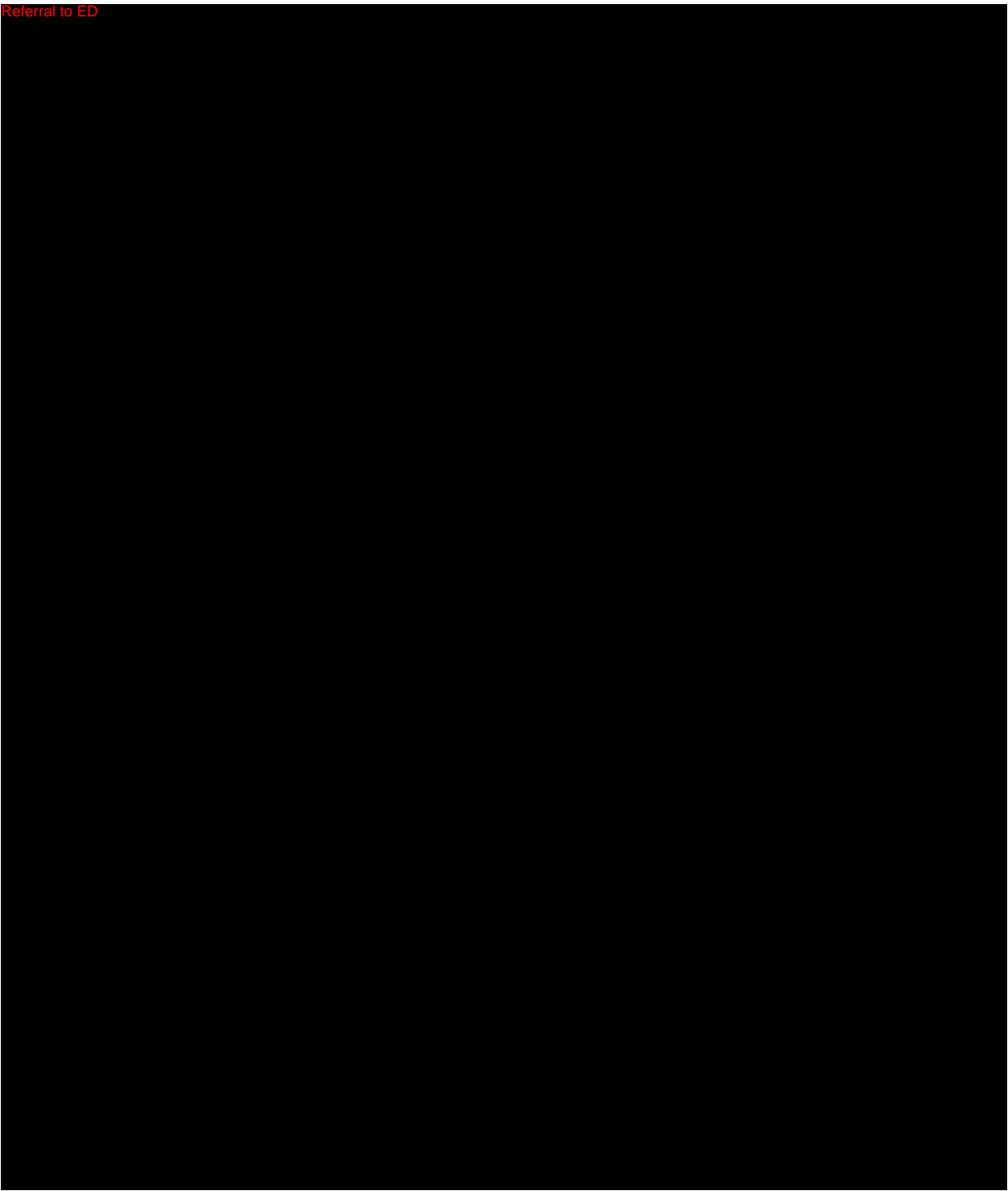


Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

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From: [Jim Robertson](#)
To: ["Spencer, Kristina"](#)
Subject: RE: (b)(5), (6)
Date: Thursday, May 04, 2017 3:18:31 PM

Got it. Thanks.

Jim


Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Wednesday, May 03, 2017 1:56 PM
To: Spencer, Kristina
Subject: (b)(5), (6)

Hi Kristina,

I'm working through the ethics agreement and we had a question about (b)(3), (5), (6)



Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

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From: [Jim Robertson](#)
To: ["Spencer, Kristina"](#)
Subject: RE: report adjustments
Date: Monday, May 08, 2017 10:52:03 AM

Thanks.

Jim

Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Monday, May 08, 2017 10:40 AM
To: Spencer, Kristina
Cc: Rowell, Theresa
Subject: report adjustments

4 page attachment withheld
in full - (b)(3), (5), (6)

Kristina,

I've got some corrections on the report to pass along. Substantial end note deletions among other things. I've attached a word doc with the corrections/questions.

(b)(3), (5), (6)



Also cc'ing Theresa for backup/awareness

Thanks,
Jim

Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Tuesday, May 09, 2017 12:35 PM
To: Spencer, Kristina
Subject: language for (b)(3), (5), (6)

Kristina,

(b)(3), (5), (6)




Thanks,
Jim

Jim Robertson
Assistant Counsel
General Counsel & Legal Policy Division
U.S. Office of Government Ethics
James.robertson@oge.gov
202-482-9268

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Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]
Sent: Tuesday, May 09, 2017 2:19 PM
To: Spencer, Kristina
Subject: RE: 

(b)(3), (5), (6)



Thanks,
Jim

Referral to ED



From: [Goodridge, Marcella](#)
To: [EA Compliance](#)
Cc: [Wallace, Taronda](#)
Subject: RE: DeVos EA
Date: Tuesday, May 09, 2017 2:45:33 PM
Attachments: [Confirmation.msg](#)

Attachment released below

Good afternoon.

Please see the attached email as evidence of Secretary DeVos' compliance with her Ethics Agreement dated January 19, 2017.

If you have any additional questions or concerns, please do not hesitate to contact me.

Regards,

Marcella Goodridge-Keiller
Assistant General Counsel
Office of the General Counsel/Ethics
U.S. Department of Education

(b) (6)

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From: EA Compliance [mailto:ecompliance@oge.gov]
Sent: Tuesday, May 02, 2017 11:58 AM
To: Goodridge, Marcella
Subject: DeVos EA

From: EA Compliance
Sent: Tuesday, May 02, 2017 11:55 AM
To: (b)(6) - Marcella Keiller's email address
Cc: (b)(6) - Marcia Sprague's email address; EA Compliance
Subject: DeVos EA

Dear Ms. Goodridge-Keiller:

Secretary DeVos is required to comply with the provisions of her ethics agreement (divestitures) within 90 days of her confirmation. The Designated Agency Ethics Official (DAEO) or the DAEO's designee is required to provide OGE with written confirmation (email is acceptable and preferred) that Secretary DeVos has complied with the terms of her ethics agreement and that compliance was achieved within the 90-day deadline. The DAEO's or designee's confirmation to OGE must be based on written notification of compliance received from Secretary DeVos. OGE should receive written confirmation from the DAEO or designee no later than seven days after the expiration of the 90-day deadline. Agencies are, however, encouraged to send written confirmation to OGE as soon as

possible.

Secretary DeVos was confirmed on February 7, 2017. This is a reminder that the 90-day deadline for compliance is approaching. Please submit confirmation that Secretary DeVos has complied with the provisions of her ethics agreement as soon as possible, but no later than 7 days after the 90-day deadline has passed.

Thank you for your attention to this matter. If you have any questions, please contact the Compliance Division at eaacompliance@oge.gov.

Sincerely,

Compliance Division
United States Office of Government Ethics
1201 New York Avenue NW
Suite 500
Washington, DC 20005

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From: [Private - Betsy DeVos](#)
To: [Goodridge, Marcella](#)
Subject: Confirmation
Date: Friday, May 05, 2017 1:09:11 PM

Dear Marcella,

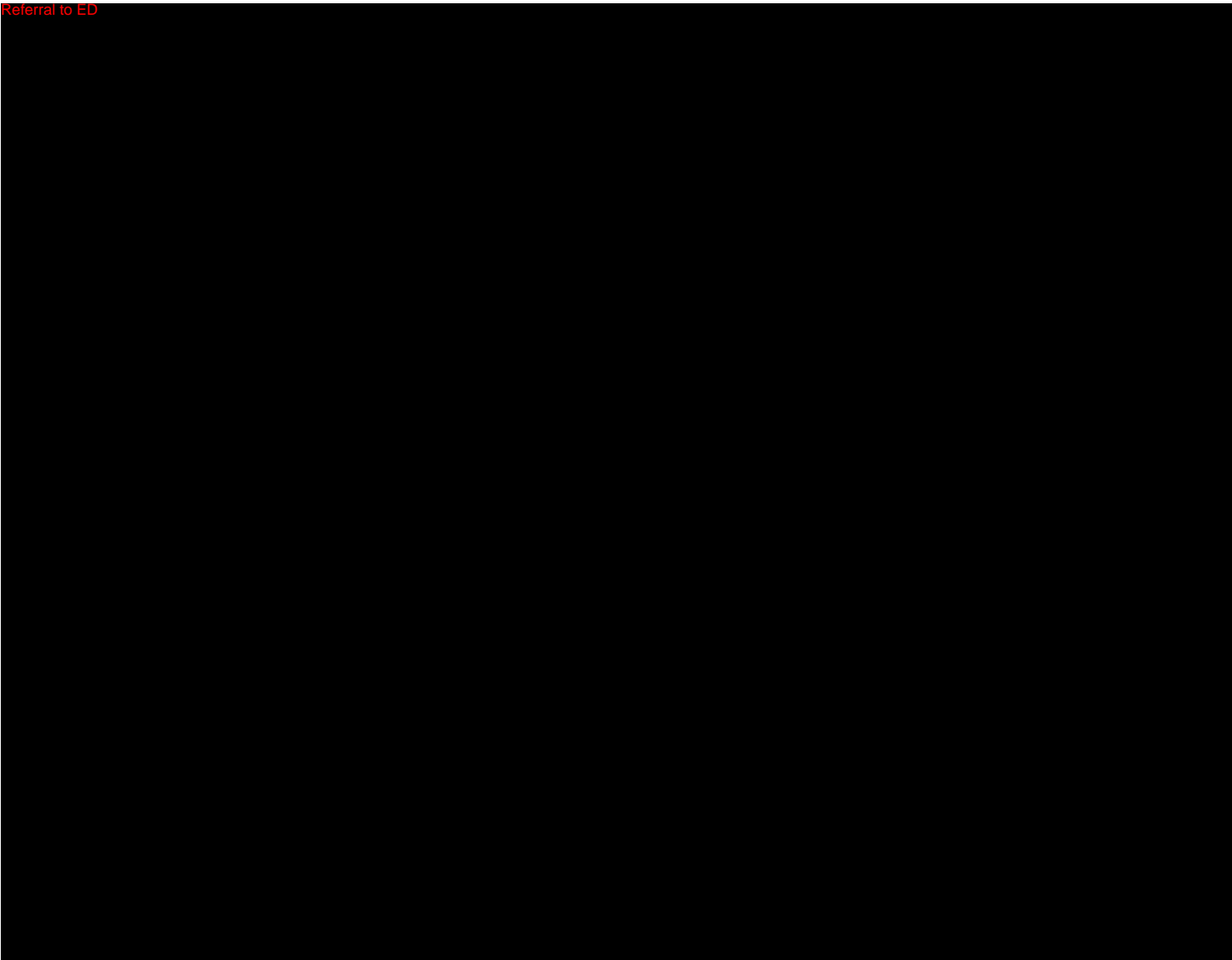
This is to confirm that I have complied with the terms of my ethics agreement dated January 19, 2017, including divestiture of all interests in entities listed in Attachment A within 90 days of my confirmation.

Please let me know if you have any questions.

Sincerely,

Betsy DeVos

Sent from my iPad



From: [Jim Robertson](#)
To: ["Spencer, Kristina"](#)
Cc: ["Rowell, Theresa"](#)
Subject: RE: [REDACTED] - List of [REDACTED]
Date: Monday, May 15, 2017 4:53:56 PM

Got it. Thank you. We'll take it up here tomorrow and be in touch soon.

Referral to ED



Referral to ED



Referral to ED



Referral to ED



Referral to ED



Referral to ED



Referral to ED

From: [Elaine Newton](#)
To: ["Barren, Morris"](#)
Bcc: [Elaine Newton](#)
Subject: RE: Muniz EA
Date: Tuesday, May 16, 2017 12:12:21 PM
Attachments: [502 - Ethics Agreement Carlos Muniz draft \(5-15-17\).docx](#)

2 page attachment withheld in full -
(b)(3), (5), (6)

FYI, here is the revised EA with a few technical changes and the 502 authorization language.

Referral to ED

From: Elaine Newton [<mailto:enewton@oge.gov>]
Sent: Monday, May 15, 2017 2:03 PM
To: Barren, Morris
Cc: Goodridge, Marcella
Subject: RE: Muniz EA

Good Afternoon,

I'm just checking in on the status of the ethics agreement. I don't think there are any unresolved issues so maybe we can get this one into preclearance this week.

Please give me a call.

Thanks, Elaine

Referral to ED

From: Elaine Newton [<mailto:enewton@oge.gov>]
Sent: Wednesday, May 10, 2017 9:21 AM

To: Barren, Morris; Goodridge, Marcella
Subject: Muniz EA

Good Morning,

2 page attachment withheld in full - (b)(3),
(5), (6)

Attached is the draft EA with two additional paragraphs. The new 2638 paragraph is required because of the revised 5 CFR 2638 regulation. (b)(3), (5), (6)

I also want to confirm the following:

(b)(3), (5), (6)

Please let me know if you have any questions.

Thanks, Elaine

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From: [Jim Robertson](#)
To: ["Spencer, Kristina"](#)
Subject: [REDACTED]
Date: Tuesday, May 16, 2017 4:30:01 PM

Kristina,

I've got a couple of things:

[REDACTED]

Thanks,
Jim

Jim Robertson
Assistant Counsel

Referral to ED



From: Jim Robertson [mailto:jfrobert@oge.gov]

Sent: Wednesday, May 17, 2017 11:26 AM

To: Spencer, Kristina

Subject: RE: Message from (b) (6) (b) (6)

Kristina,

(b)(3), (5), (6)



Thanks,
Jim

Referral to ED

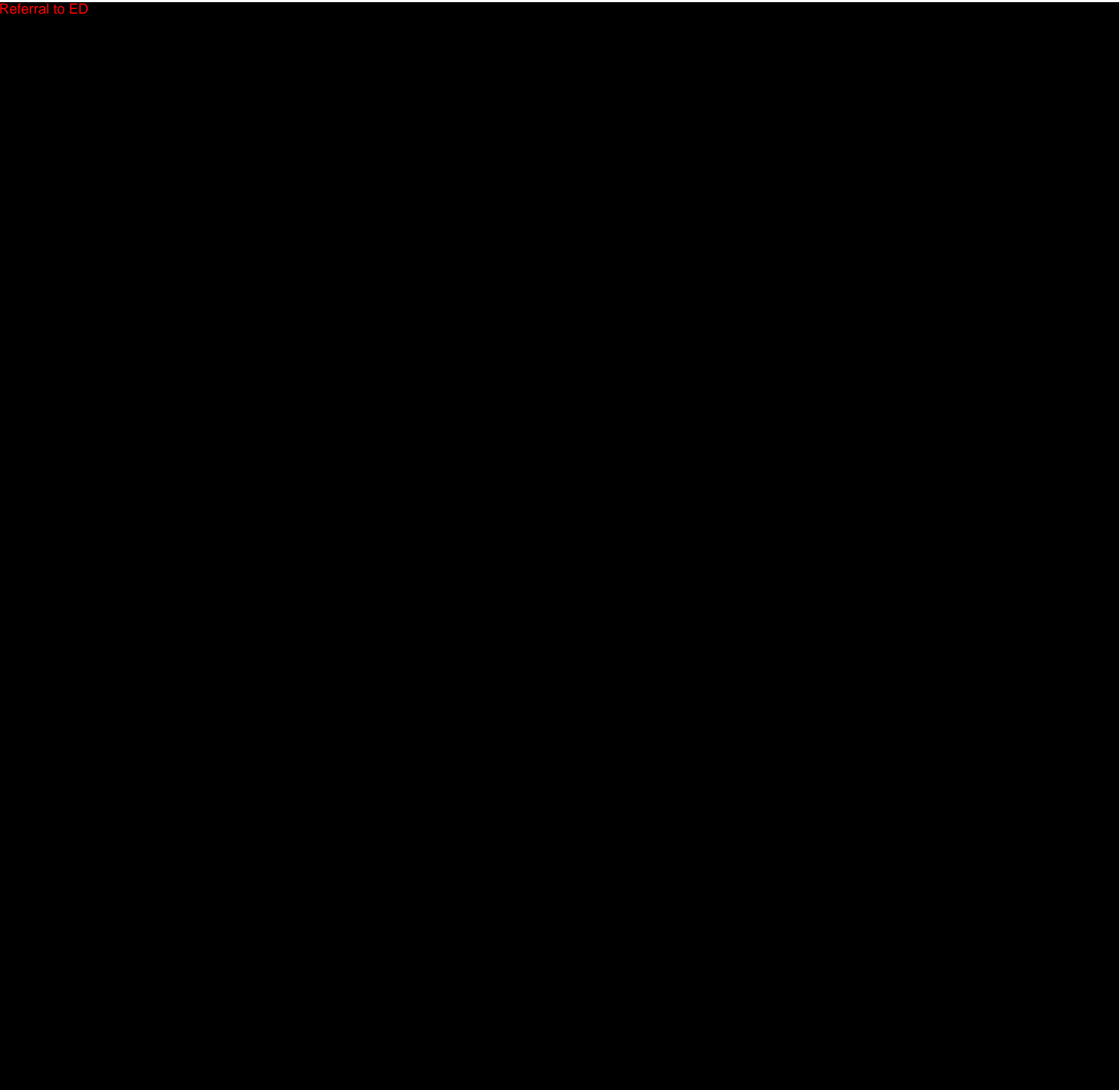


Referral to ED



Referral to ED





From: [Daniel L. Skalla](#)
To: ["Goodridge, Marcella"](#)
Cc: [Grace A. Clark](#)
Subject: RE: DeVos Transaction (Signed 4/28/17)
Date: Thursday, May 18, 2017 9:26:44 AM

Thanks again, Marcella. Though I'm certain you're aware of it, I'd be remiss if I didn't provide a

(b)(3), (5), (6)

Dan

Referral to ED

From: Daniel L. Skalla [<mailto:dlskalla@oge.gov>]
Sent: Wednesday, May 17, 2017 2:40 PM
To: Goodridge, Marcella
Cc: Grace A. Clark
Subject: RE: DeVos Transaction (Signed 4/28/17)

Thanks Marcella. (b)(3), (5), (6)

Dan

Referral to ED

From: Daniel L. Skalla [<mailto:dlskalla@oge.gov>]
Sent: Wednesday, May 17, 2017 8:34 AM
To: Goodridge, Marcella
Cc: Grace A. Clark
Subject: DeVos Transaction (Signed 4/28/17)

Hi Marcella,

We're following up on (b)(3), (5), (6)

[REDACTED]

[REDACTED]

Thanks very much,
Dan

Dan Skalla
Chief, Financial Disclosure Branch
Compliance Division
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500

Washington, DC 20005-3917

Tel. 202.482.9222

Fax 202.482.9238

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Referral to ED

From: Elaine Newton [mailto:enewton@oge.gov]
Sent: Thursday, May 18, 2017 11:50 AM
To: Barren, Morris
Subject: Revised EA

2 page attachment withheld in full -
(b)(3), (5), (6)

Please let me know if you have any questions.

Thanks, Elaine

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Referral to ED



Referral to ED



From: Elaine Newton [mailto:enewton@oge.gov]
Sent: Friday, May 19, 2017 11:09 AM
To: Barren, Morris
Subject: RE: PRECLEARED: Carlos Muniz

(b)(5)



Does that make sense?

Referral to ED



Referral to ED



From: Elaine Newton [<mailto:enewton@oge.gov>]
Sent: Friday, May 19, 2017 9:04 AM
To: Barren, Morris
Subject: RE: PRECLEARED: Carlos Muniz

Good Morning,

No attachment found in
search

Attached is the ethics agreement with the one change. I forgot to add Florida State University and the University of Florida in a second place in that paragraph.

Sorry, Elaine

From: Deborah J. Bortot
Sent: Thursday, May 18, 2017 5:53 PM
To: Passantino, Stefan C. EOP/WHO
Cc: (b)(6) - Ann Donovan's email address; Schultz, James D. EOP/WHO; David J. Apol; Heather A. Jones; Keith Labedz; Teresa L. Williamson; Rodrick T. Johnson; Elaine Newton; (b)(6) - Morris Baran's email address
Subject: PRECLEARED: Carlos Muniz

Stefan,

Carlos Muniz is precleared.

Morris, Elaine will call you with one change to the ethics agreement.

Elaine, please send the ethics agreement to the White House.

Thanks,
Deb

Deborah J. Bortot
Chief, Presidential Nominations Branch
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Telephone: (202) 482-9227
Facsimile: (202) 482-9237

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Referral to ED

A large black rectangular redaction box covers the top portion of the email body, obscuring the initial content.

From: Elaine Newton [<mailto:enewton@oge.gov>]
Sent: Friday, May 19, 2017 3:12 PM
To: Barren, Morris
Subject: RE: Confirmatory E-mail for the Filer

Morris,

I don't know the answer to this question. After I forward the report for preclearance, I don't see it again until the final is submitted. Mr. Muniz may want to reach out to the Integrity Help Desk at 202-208-0848. If the help desk asks specific questions, I would not be able to give them any information.

Elaine

Referral to ED

A large black rectangular redaction box covers the middle portion of the email body, obscuring the content between Elaine's signature and the second email header.

From: Elaine Newton [<mailto:enewton@oge.gov>]
Sent: Wednesday, May 17, 2017 2:35 PM
To: Barren, Morris
Subject: Confirmatory E-mail for the Filer

OGE will be reviewing the nominee's report for preclearance. **Please be sure to instruct the**

nominee to **personally** review the report carefully once more, given that the nominee will be personally responsible for all entries in the report as they currently appear.

Before OGE reviews this report for “preclearance,” I’m sending you a list of some of the nominee’s material representations on which we are relying. Please forward this message to the nominee and instruct him to notify us immediately if any item in this list is incorrect.

Among other material representations, we are relying on the following:

(b)(3), (5), (6)



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From: [Savage, Susannah \(Warren\)](#)
To: [Shelley K. Finlayson](#)
Cc: [Delaney, Joshua \(Warren\)](#)
Subject: Letter to ED DAEO from Sen. Warren and Murray
Date: Monday, May 22, 2017 9:27:07 PM
Attachments: [2017.05.22 Letter to ED Ethics Official re Eitel.pdf](#)

Attachment released below

Hi Shelley,

I wanted to flag this letter that Senators Warren and Murray sent to the DAEO at the Department of Education. Director Shaub is cc-ed on the letter, so we wanted to make sure he had a copy.

Best,

Susannah

United States Senate
WASHINGTON, DC 20510

May 22, 2017

Ms. Marcella Goodridge-Keiller
Designated Agency Ethics Official
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Ms. Goodridge-Keiller:

We are writing in response to your recent reply to an inquiry regarding the U.S. Department of Education's ("Department") employee, Mr. Robert Eitel, and his ability to adhere to federal personnel policies and to perform his new assignment as Senior Counselor to the Secretary without ethical violations.

As you noted in your May 8 letter, Mr. Eitel has resigned from his position at Bridgepoint Education, Inc. ("Bridgepoint") to join the Department in a permanent role. As such, Mr. Eitel must adhere to ethics standards that apply to all federal employees. Every employee, permanent or temporary, must recuse themselves from any particular matter that involves a former employer over the past two years prior to federal employment.

According to Section 6 of President Trump's Executive Order 13770, Ethics Commitments by Executive Branch Employees ("Ethics Pledge"), every appointee in every executive agency appointed on or after January 20, 2017, shall sign a pledge, and upon signing shall be contractually committed to, the following provision to become a federal government appointee:

"I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts."

Your May 8 letter also indicated that, to your knowledge, no Department official, including Mr. Eitel, has received a waiver to this Ethics Pledge, nor has a Department official received a waiver to other federal ethics statutes or regulations, such as 18 U.S.C. § 208 & 5 CFR § 2635.502.

We understand that the U.S. Office of Government Ethics has given the Department and all executive agencies until June 1 to provide waivers issued or approved under the Ethics Pledge and other federal ethics rules, and we are concerned by the Administration's reported attempts to block this legal data request as well as their overall reluctance to share information that should otherwise be public.¹ Regardless of whether a waiver has been or will be issued, it remains unclear why Mr. Eitel is advising the Department on matters pertaining to a pending regulation.

¹ Lipton, Eric. "White House Moves to Block Ethics Inquiry Into Ex-Lobbyists on Payroll." *The New York Times*. May 22, 2017. <https://www.nytimes.com/2017/05/22/us/politics/trump-white-house-government-ethics-lobbyists.html>

Mr. Eitel is reported to be actively working on an issue that is of significant interest to his previous employer, known as the “borrower defense” regulation.² This rule provides the Secretary the ability to forgive and refund the federal student loan debt of borrowers who were misled by their schools or who were the victims of unlawful and abusive practices in higher education. While apparently recusing himself from any current claims made under the 1994 regulation stemming from authority under the Higher Education Act, Mr. Eitel is reported to be still actively working on implementing the revised borrower defense rule that is scheduled to go into effect on July 1, 2017. This regulation creates a new federal standard for borrowers whose loans are disbursed on or after that date.

The borrower defense rule provides student loan borrowers with the potential to have their loans discharged if they are defrauded. The Department may then recoup funds from the school to pay for these discharges and refunds. Mr. Eitel’s former employer is the subject of multiple state and federal investigations and lawsuits that could, in fact, require the company to repay the government under the regulation at issue.

Bridgepoint is currently under investigation by the U.S. Department of Justice, Securities and Exchange Commission, and the state attorneys general of California and Massachusetts. Mr. Eitel’s former employer has also previously been fined more than \$31 million by the Consumer Financial Protection Bureau for allegedly deceiving students about the cost of their private student loans, and has been fined by the Department for incorrect and late refunds. And, a subsidiary of Bridgepoint, known as Ashford University, has provided \$7.25 million in restitution for students and remains subject to monitoring of its practices pursuant to that settlement agreement.³

To further safeguard taxpayers, the borrower defense rule also provides the Secretary tools to ensure colleges are financially responsible, such as requiring a letter of credit in the case of certain state, federal or accrediting agency actions or investigations, as well as significant fluctuations in Direct Loan and Pell Grant funds. Ashford University acquired considerable new student aid revenue by moving from a body of fewer than 1,000 students in 2005, to 77,000 students just five years later, suggesting that Bridgepoint could be subject to these enrollment-related requirements. Finally, the borrower defense rule also bans the practice of inserting clauses for mandatory arbitration and limitations on class action lawsuits into enrollment agreements, a practice known as “forced arbitration.” Bridgepoint regularly uses forced arbitration clauses. In 2015, a federal court held that a class of students suing Bridgepoint Education, Ashford University, and the University of the Rockies for alleged misrepresentations could not be properly certified because it was unclear what share of the schools’ students were bound by its currently-utilized forced arbitration agreements.⁴

Bridgepoint is affected in numerous ways by the borrower defense rule, given a) potentially significant misconduct that could be subject to borrower defense claims, b) potential financial liabilities from the recoupment of loan discharges made under the new borrower defense rule, and c) utilization of an enrollment clause that will soon become prohibited under a pending regulation. The

² Rubin, Jennifer. “Trump does his hires no favors: The ordeal of an ethical public servant.” *The Washington Post*. March 21, 2017. <https://www.washingtonpost.com/blogs/right-turn/wp/2017/03/21/trump-does-his-hires-no-favors-the-ordeal-of-an-ethical-public-servant/>

³ Miller, Tom. Attorney General of Iowa. May 16, 2014. “Ashford University and Parent Company Bridgepoint Education Agree to \$7.25 Million Payment and Major Changes after Miller Alleges Consumer Fraud.” <https://www.iowaattorneygeneral.gov/newsroom/ashford-university-and-parent-company-bridgepoint-education-agree-to-7-25-million-payment-and-major-changes-after-miller-alleges-consumer-fraud/>

⁴ *Guzman v. Bridgepoint Education, Inc.*, 305 F.R.D. 594, 612 (S.D. Cal. 2015).

company admits these interests openly. Little more than three months ago in Securities and Exchange Commission filings, Bridgepoint acknowledged that borrower defense claims under the new rule “could damage our reputation in the industry and have a material adverse effect on enrollments and our revenues, financial condition, cash flows and results of operations” and the company notes an interest in matters involving “delaying the schedule effective date or otherwise affecting the enactment of applicable regulations.”⁵

Thus it would appear that despite his conversion to a full-time government employee, Mr. Eitel remains in direct violation of the Ethics Pledge, and potentially other federal ethics rules. Our March 31 letters asked several questions to address this concern, but we received an incomplete response. As a result, we further request that you provide:

1. A copy of any paperwork submitted by Mr. Eitel to the Department related to financial disclosures, conflicts of interest, or other ethics requirements, including OGE Form 278e and a signed copy of the Ethics Pledge.
2. A description of all policy matters Mr. Eitel has worked on during his time at the Department and all matters he anticipates working on.
3. The date Mr. Eitel was first employed by the Department on any provisional basis and the date Mr. Eitel was hired on a permanent basis.
4. Clarification about the hiring authority used by the Department to hire Mr. Eitel initially, such as the Intergovernmental Personnel Act Mobility Program or as a special government employee pursuant to 18 U.S.C. § 202.

We ask that you provide all copies of requested documents and information no later than close of business on June 5, 2017. If you have any questions related to this request please contact Josh Delaney with the Office of Senator Elizabeth Warren, or Bryce McKibben and Carly Rush of the Minority Staff for the Senate Committee on Health, Education, Labor, and Pensions. We appreciate your assistance with this request.

Sincerely,


ELIZABETH WARREN
United States Senator
PATTY MURRAY
United States Senator

CC: The Honorable Kathleen S. Tighe, Inspector General
The Honorable Walter M. Shaub Jr., Director, United States Office of Government Ethics

⁵ “Form 10-K.” Bridgepoint Education, Inc. *United States Securities and Exchange Commission*. March 7, 2017. <https://www.sec.gov/Archives/edgar/data/1305323/000130532317000016/bpi201610k.htm>

From: [Jim Robertson](#)
To: ["Spencer, Kristina"](#)
Subject: RE: (b)(5), (6) report status
Date: Tuesday, May 23, 2017 1:11:35 PM

Thanks.

Referral to ED



Referral to ED



From: Jim Robertson [<mailto:jfrobert@oge.gov>]
Sent: Tuesday, May 23, 2017 11:34 AM
To: Spencer, Kristina
Subject: (b)(5), (6) report status

Hi Kristina,

Just wondering if you've heard anything from the (b)(5), (6) people? Report is still pending changes and I'm not sure what they're waiting for. Have they provided ED with COI information or still waiting on that?

Thanks,
Jim

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From: [Stephanie Nonluecha](#)
To: [Heather A. Jones](#)
Subject: FW: Nominee OGE e-Form 278 Public Financial Disclosure Report: Update and Notice of Absence
Date: Tuesday, May 30, 2017 10:15:22 AM

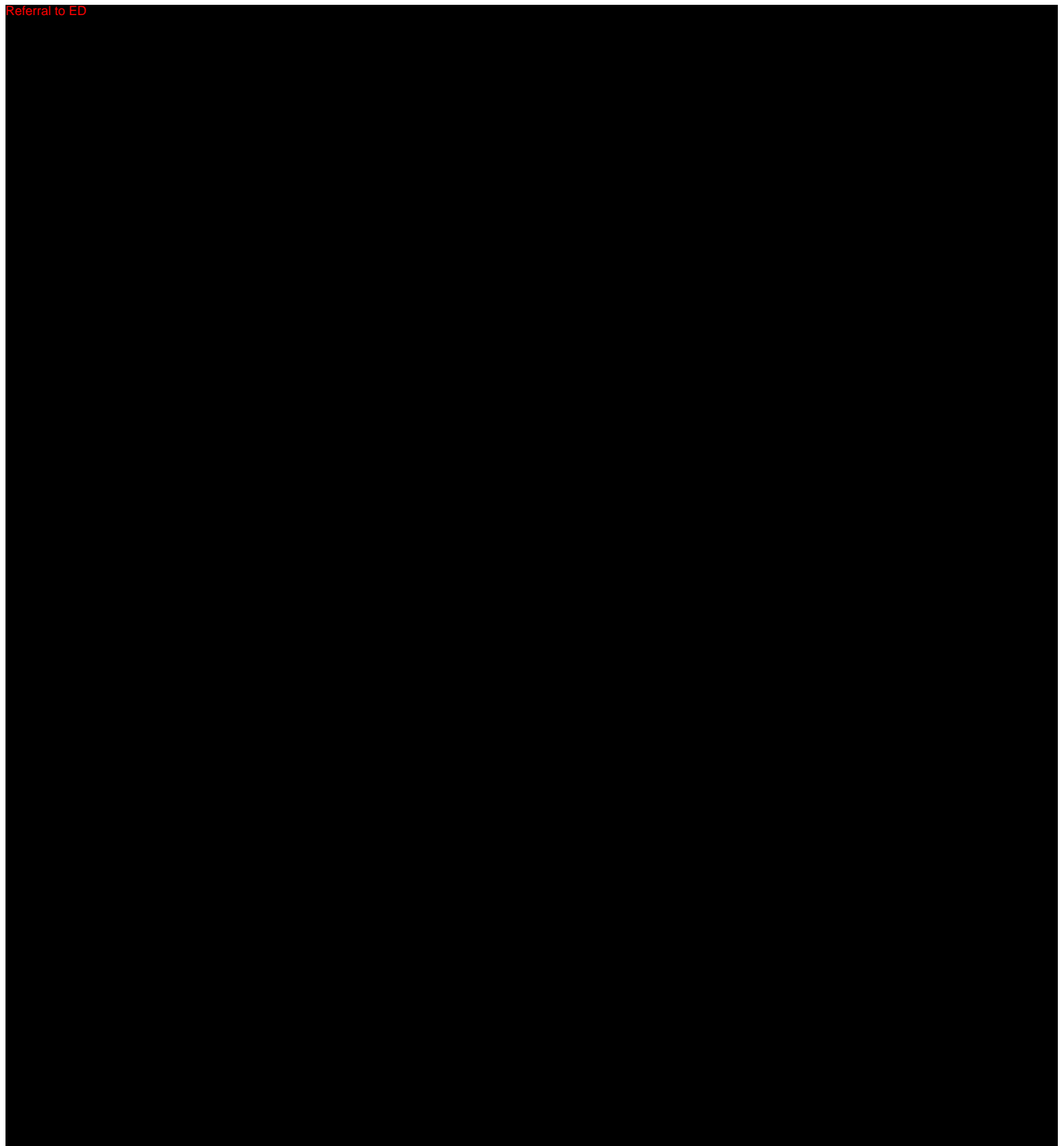
Heather, FYI.

Referral to ED



Referral to ED





From: [Heather A. Jones](#)
To: [Stefan Passantino](#) (b) (6)
Cc: [Stephanie Nonluecha](#); (b) (6) - Michael Shields email address; [Ann Donaldson](#) (b) (6); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#); [James D. Schultz](#) (b) (6); [Rodrick T. Johnson](#); [Teresa L. Williamson](#)
Subject: Precleared: Peter Oppenheim
Date: Tuesday, May 30, 2017 11:33:02 AM

Stefan-

Peter Oppenheim is precleared. Stephanie, please send the ethics agreement to the White House.

Thanks,
Heather

Heather Jones
(202) 482-9316
Office of Government Ethics

Visit OGE's website: www.oge.gov
Follow OGE on Twitter: [@OfficeGovEthics](https://twitter.com/OfficeGovEthics)

Referral to ED


From: News and Info for Ethics Officials [<mailto:oge-ethicsinfo@LISTSERV.GSA.GOV>] **On Behalf Of** Ethics Mailinglist
Sent: Thursday, May 18, 2017 4:31 PM
To: OGE-ETHICSINFO@LISTSERV.GSA.GOV
Subject: IMPORTANT Reminder to submit responses to PA-17-02: Data Call for Certain Waivers and Authorizations

This is a reminder that the deadline for submitting your agency's response, including negative responses, to [PA-17-02](#) is June 1st, except as specified in the advisory. Documents are to be submitted in Portable Document Format (PDF) through the Designated Agency Ethics Official (DAEO) or the DAEO's designee for each agency to the agency's assigned OGE Desk Officer.

Referral to ED



From: Patrick Shepherd [mailto:pshephe@oge.gov]
Sent: Monday, June 12, 2017 12:45 PM
To: McKenzie, Carla
Subject: RE: (b)(5)



Hi Carla,

(b)(5)



Thanks,
Patrick D. Shepherd

Lead Instructor

(e) patrick.shepherd@oge.gov
(p) 202-482-9206

Legal, External Affairs, and Performance Branch
Program Counsel Division
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Referral to ED



Referral to ED



From: Patrick Shepherd [<mailto:pshephe@oge.gov>]

Sent: Monday, June 12, 2017 11:39 AM



To: McKenzie, Carla

Subject: RE: (b)(5)




Hi Carla,

I am happy to assist you or refer you to the best person to do so. I have a question that will help me identify the correct person to assist you: (b)(5)

Thanks,
Patrick

Referral to ED



From: Cheryl L. Kane-Piasecki [<mailto:ckanepi@oge.gov>]

Sent: Monday, June 12, 2017 8:21 AM

To: McKenzie, Carla

Subject: Automatic reply: (b)(5)

I am out of the office until Monday, June 19th. If you need assistance in my absence you can contact Patrick Shepherd at 202-482-9206.

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From: Heather A. Jones [mailto:hajones@oge.gov]

Sent: Thursday, June 15, 2017 6:08 PM

To: Stefan Passantino (b) (6)

Cc: Stephanie Nonluecha; Sprague, Marcia; Ann Donaldson (b) (6); David J. Apol; Deborah J. Bortot; Heather A. Jones; James D. Schultz (b) (6); Rodrick T. Johnson; Teresa L. Williamson

Subject: Precleared: James Blew

Stefan-

James Blew is precleared. Stephanie, please send the ethics agreement to the White House.

Marcia - (b)(5)

Thanks,
Heather

Heather Jones
(202) 482-9316
Office of Government Ethics

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Referral to ED

From: [Integrity](#)
To: [Wallace, Taronda](#)
Cc: [Integrity](#)
Subject: Integrity Agency Periodic Registered User Security Review - Department of Education
Date: Tuesday, June 27, 2017 10:52:55 AM
Attachments: [Users Education.xlsx](#)

1 page excel spreadsheet withheld
in full - (b)(5)

Taronda:

I request your assistance to ensure that only those authorized to use Integrity and see your agency's information have access. One way to do this is to periodically review your registered filers and staff users to confirm that only authorized users have a role in Integrity.

By July 27, 2017, please reply to this email confirming you reviewed your authorized user list and that it is accurate. I need this information for the pending independent security assessment of Integrity that begins in August.

Integrity offers two management reports (Admin | Management Reports) to assist you identify who has roles:

- List of filers
- List of staff

I attached a recent list of your agency's registered users. Please review it.

Actions to take if anyone on the list should no longer have access to Integrity:

- Highlight the name(s) and email address(es) and send to integrity@oge.gov. We will coordinate with MAX.gov to remove them from the Integrity user group to prevent further access.
- Also, please remove from Integrity by editing the group(s) where the user has the role that is no longer needed. Consult the Integrity User Guide, section 7, available online <https://community.max.gov/x/SYI-Lg>.

You can use Integrity's Admin | Find User to look up a particular person to see his/her role(s) in a group.

Thank you,

George Hancock
Integrity Manager
Program Counsel Division
Legal, External Affairs and Performance Branch
1201 New York Avenue, NW, Suite 500
Washington, DC 20005
202.482.9309
Learn about [INTEGRITY](#)
OGE's website: www.oge.gov

Referral to ED



From: [201 Forms](#)
To: ["Douglas-Gabriel, Danielle"; 201 Forms](#)
Cc: [Goodridge, Marcella](#)
Subject: RE: Request for disclosure (see attached form)
Date: Monday, July 10, 2017 1:22:10 PM

Ms. Douglas-Gabriel,

As a general rule, OGE does not discuss the status of individual documents. Regarding the 201 request, OGE has no documents available for the requested individuals.

Sincerely,

Dan Skalla
Chief, Financial Disclosure Branch
Compliance Division
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9222
Fax 202.482.9238

Visit OGE's website: www.oge.gov
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From: Douglas-Gabriel, Danielle [mailto:[\(b\) \(6\)](#)]
Sent: Monday, July 10, 2017 11:35 AM
To: 201 Forms
Cc: Goodridge, Marcella
Subject: Re: Request for disclosure (see attached form)

So does this mean that none of those individuals have completed their disclosure?

From: 201 Forms <201forms@oge.gov>
Sent: Monday, July 10, 2017 10:11:56 AM
To: Douglas-Gabriel, Danielle
Cc: Goodridge, Marcella; 201 Forms
Subject: RE: Request for disclosure (see attached form)

Ms. Douglas-Gabriel,

OGE has no documents available for the requested individuals.

Since you work remotely, you may wish to use OGE's online 201 system for future document requests. Here is the link [https://extapps2.oge.gov/201/Presiden.nsf/201+Request?OpenForm\[extapps2.oge.gov\]](https://extapps2.oge.gov/201/Presiden.nsf/201+Request?OpenForm[extapps2.oge.gov])

Sincerely,

Dan Skalla
Chief, Financial Disclosure Branch
Compliance Division
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9222
Fax 202.482.9238

Visit OGE's website: www.oge.gov
Follow OGE on Twitter: @OfficeGovEthics

From: Douglas-Gabriel, Danielle [mailto:(b) (6)]
Sent: Friday, July 07, 2017 3:59 PM
To: Goodridge, Marcella; 201 Forms
Subject: Request for disclosure (see attached form)

Given that I work remotely, I'd greatly appreciate if I can have electronic copies of the requested forms.

Danielle Douglas-Gabriel

Washington Post
1301 K St. NW
Washington, DC 20071

(b) (6)

(b) (6)

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> On Jul 19, 2017, at 8:09 PM, Rachel K. Dowell <rkdownell@oge.gov> wrote:

>

> Hi Marcella - Hope all is well!

>

> I'm the OGE reviewer assigned to Mr. Zais's report. Can you please share my attached first round comments with the assigned reviewer on your end?

>

> Thank you in advance,

> Rachel

>

> --

> Rachel K. Dowell

> Assistant Counsel

> Office of Government Ethics

> General Counsel & Legal Policy Division

> Ethics Law and Policy Branch

> (202) 482-9267

>

> Visit OGE's website: www.oge.gov

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>

>

> -----Original Message-----

> From: Integrity.gov [<mailto:notifications@integrity.gov>]

> Sent: Tuesday, July 18, 2017 2:07 PM

> To: Rachel K. Dowell

> Subject: Integrity.gov: Report Pending Action

>

> A 2017 Nominee report for Zais, Mitchell M is pending your action as OGE Nominee Reviewer. You may access the report by logging into integrity at <https://integrity.gov>.

>

>

>

>

>

> _____
> OGE Confidential Notice: This message may contain Controlled Unclassified Information (CUI) that requires safeguarding or dissemination control under applicable law, regulation, or Government-wide policy. This email, including all attachments, may constitute a Federal record or other Government property that is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the employee or agent

5 page attachment withheld in full -
(b)(3), (5), (6)

From: [Heather A. Jones](#)
To: [Stefan Passantino](#); (b) (6)
Cc: [Brandon L. Bunderson](#); [Rowell, Theresa](#); [Ann Donaldson](#); (b) (6); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#); [James D. Schultz](#); (b) (6); [Rodrick T. Johnson](#); [Teresa L. Williamson](#)
Subject: Precleared: (b) (6)
Date: Monday, July 24, 2017 5:09:10 PM

Stefan-

(b)(5), (6) is precleared. Brandon, please send the ethics agreement to the White House.

Theresa, Brandon will call about (b)(5)

Thanks,
Heather

Heather Jones
(202) 482-9316
Office of Government Ethics

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From: [Patrick Shepherd](#)
To: ["Erceg, Marta"](#)
Subject: RE: (b)(5)
Date: Thursday, July 27, 2017 10:57:41 AM

Hi Marta,

Thank you for sending over this detailed question. Before I respond, may I ask (b)(5)

[REDACTED]

Thanks,

Patrick D. Shepherd
Lead Instructor
(e) patrick.shepherd@oge.gov
(p) 202-482-9206
Legal, External Affairs, and Performance Branch
Program Counsel Division
[U.S. Office of Government Ethics](#)
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[Youtube](#)

Referral to ED

[REDACTED]

Referral to ED



Remaining of the chain partially released above



From: [Patrick Shepherd](#)
To: [Seth Jaffe](#)
Cc: [Nicole Stein](#)
Subject: (b)(5)
Date: Thursday, July 27, 2017 11:18:54 AM

Hi Seth,

I have a question about (b)(5)

[REDACTED]

Can you advise?

Thanks,
Patrick

Referral to ED

[REDACTED]

From: Patrick Shepherd [<mailto:pshephe@oge.gov>]
Sent: Thursday, July 27, 2017 10:58 AM
To: Erceg, Marta
Subject: RE: (b)(5)

Hi Marta,

Thank you for sending over this detailed question. Before I respond, may I ask (b)(5)

[REDACTED]

Thanks,

Patrick D. Shepherd
Lead Instructor
(e) patrick.shepherd@oge.gov
(p) 202-482-9206
Legal, External Affairs, and Performance Branch
Program Counsel Division
[U.S. Office of Government Ethics](#)
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[Youtube](#)

Remaining of the chain partially released above

[REDACTED]

Referral to ED



From: Patrick Shepherd [mailto:pshephe@oge.gov]
Sent: Thursday, July 27, 2017 3:23 PM
To: Erceg, Marta
Subject: RE: (b)(5)

No problem. Are you free at 4?

Referral to ED



From: Patrick Shepherd [<mailto:pshephe@oge.gov>]
Sent: Thursday, July 27, 2017 12:21 PM
To: Erceg, Marta
Subject: RE: (b)(5)

Hi Marta,

Do you have a few minutes this afternoon to discuss your question?

Thanks,

Patrick

Referral to ED



Remaining of the chain partially released above



From: [Daniel L. Skalla](#)
To: ["Goodridge, Marcella"](#)
Cc: [278Tracking; Wallace, Taronda](#)
Subject: RE: ED Outstanding 278 Reports - 2017 Filing Season
Date: Tuesday, August 01, 2017 12:21:46 PM

Hi Marcella,

I'm hanging in there (after sending about 70 reminder emails this morning). I've updated Ms. Lhamon in our system to reflect her move to another covered position, and we'll await Mr. Mitchell's report.

For Mr. Horwich, it appears the report may have been filed under the wrong group in Integrity (a non-PAS group that doesn't come to OGE). Give me a few days to sort out all my reminder responses and get with the Integrity folks to confirm those filers that may have ended up in the wrong group, and I'll get back to you.

Dan

Referral to ED



From: Daniel L. Skalla [<mailto:dlskalla@oge.gov>]
Sent: Tuesday, August 01, 2017 9:22 AM
To: Goodridge, Marcella
Cc: 278Tracking
Subject: ED Outstanding 278 Reports - 2017 Filing Season

Hi Marcella,

The Office of Government Ethics' Financial Disclosure Tracking System has identified the following filers whose public financial disclosure reports are due to OGE in CY 2017 but have not yet been received by OGE as of 8/1/2017 at 9:00am:

Filer(s):

Horwich, Julius L
Lhamon, Catherine E
Mitchell, Theodore R

We understand there are a number of reasons why a report might not yet have been submitted, including:

- *The filer has not yet filed a report in CY 2017*
- *The agency has not completed its review and certification of the filer's CY 2017 filing*
- *The filer has moved to another 278 filing position (within 30 days of leaving their previous position) for which submission of their 278 to OGE is not required*
- *OGE's system may have incorrectly identified a report as outstanding – please let us know if a report has already been submitted so we can troubleshoot any technical problems on our end*


Please review the list of filers and let us know the status of their reports as soon as possible.

Sincerely,

Dan Skalla
Chief, Financial Disclosure Branch
Compliance Division
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9222

Referral to ED



From: Cheryl L. Kane-Piasecki [mailto:clkanepi@oge.gov]
Sent: Wednesday, August 2, 2017 4:11 PM
To: Rowell, Theresa
Subject: RE: (b)(5) 

Hi Theresa—

(b)(5)



Best,
Cheryl

Referral to ED



Referral to ED

Referral to ED

On Aug 3, 2017, at 1:24 PM, Megan V. Granahan <mvgranah@oge.gov> wrote:

Sorry, wrong Marcella. Please disregard!!

From: Megan V. Granahan
Sent: Thursday, August 03, 2017 1:23 PM
To: (b)(6) Marcella Keller's email address
Subject: (b) (6)

5 page attachment withheld in full
- (b)(3), (5), (6)

One tweak to the ea language (attached, also found two typos) and if you're good with that it will preclear.

Megan Granahan
Program Analyst (Finance)
Presidential Nominations Branch
General Counsel and Legal Policy Division
202.482.9204

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From: [Rachel K. Dowell](#)
To: ["Barren, Morris"; "Shields, Michael L. \(OGC\)"](#)
Subject: RE: Mitchell Zais Nominee Report: Status Report
Date: Thursday, August 03, 2017 5:06:50 PM
Attachments: [Zais draft 2 oge follow-up notes.docx](#)

2 page attachment withheld in full -
(b)(3), (5), (6)

Hi Michael and Morris,

I've taken a look at the updates and the filer's responses, and am attaching a list of pending questions/edits at this stage. Some of which will be resolved after you get his (b)(3), (6) paperwork, for example. A few are just confirmations that I need for my notes. Please let me know if you have any questions.

Thanks!
Rachel

Referral to ED



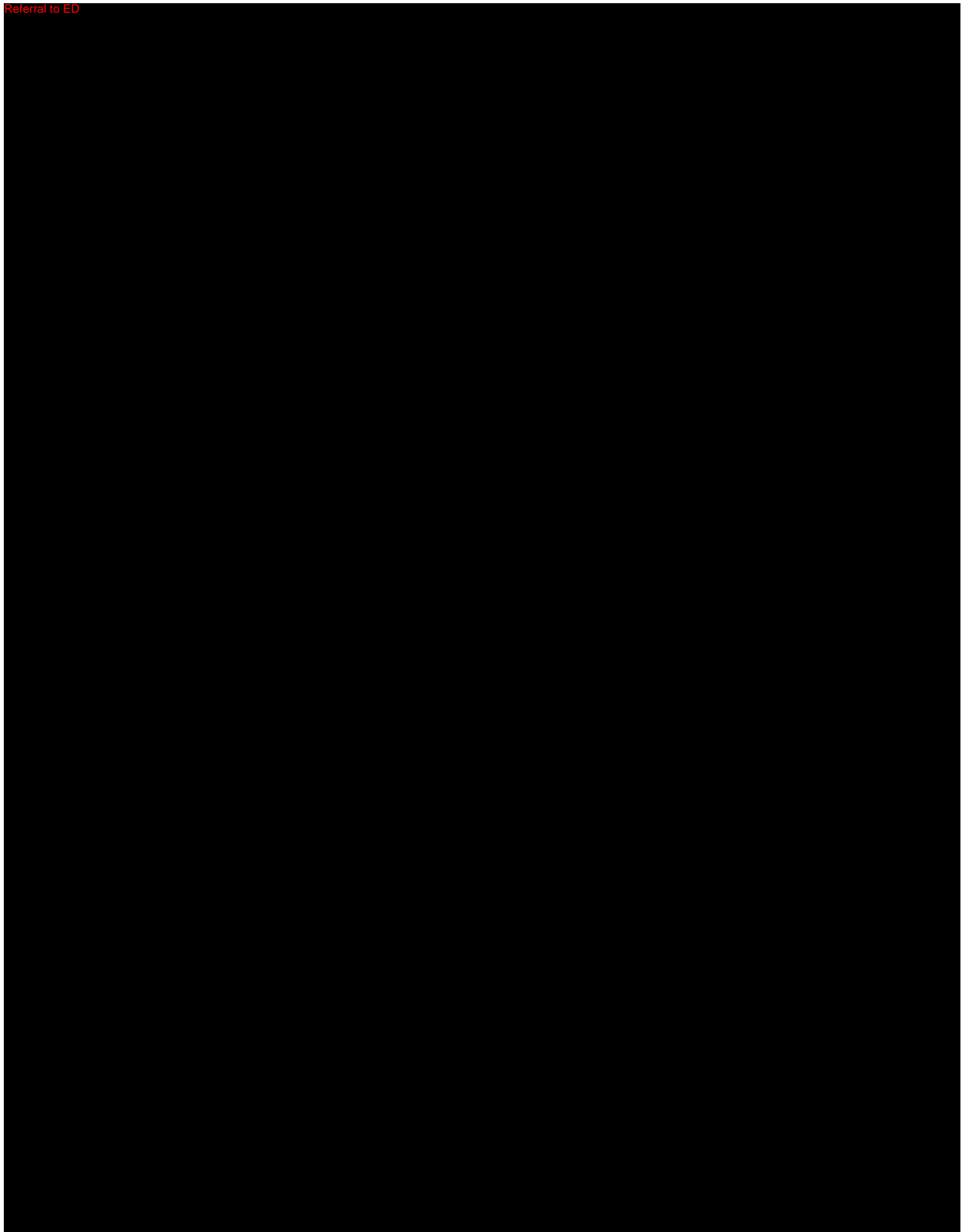
From: Rachel K. Dowell [<mailto:rkdownell@oge.gov>]
Sent: Friday, July 28, 2017 7:57 AM
To: Shields, Michael L. (OGC)
Cc: Barren, Morris
Subject: RE: Mitchell Zais Nominee Report: Status Report

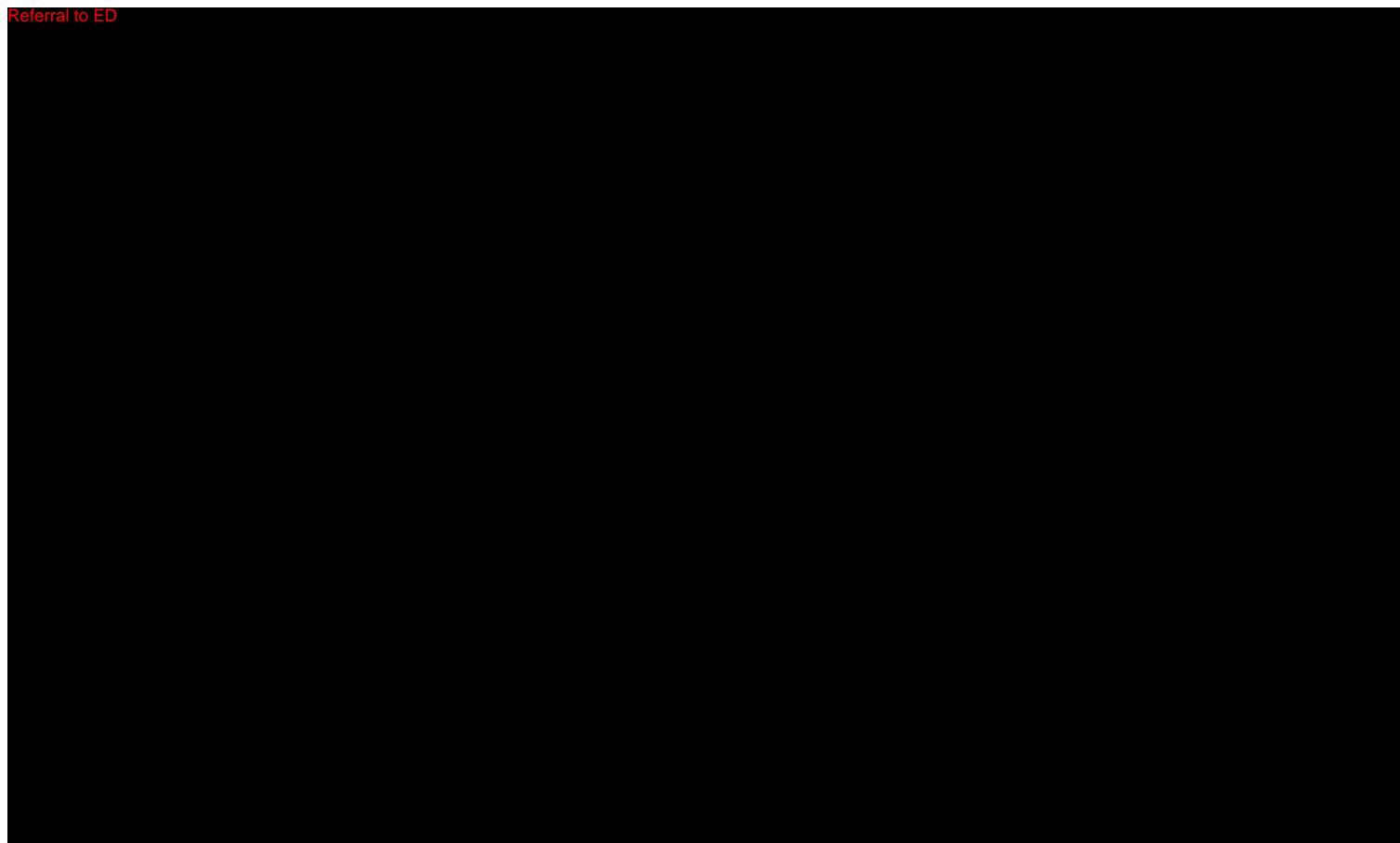
Thank you for the update!

Referral to ED



Referral to ED





From: [Integrity](#)
To: "Wallace Taronda"; [Integrity](#)
Subject: RE: New PAS (Education) - Merge Complete
Date: Tuesday, August 08, 2017 12:09:54 PM
Attachments: [image005.png](#)

Taronda:

As requested, I merged the filer's IDs. The surviving account is (b) (6). Any previously completed and/or assigned reports are linked to it. Designee access *does not carry over with the merge* - if the filer previously registered a designee they will need to register the designee again.

If the filer has yet to set a password for the new MAX account the filer will need to select **Forgot, Set, or Change Your Password** on the *Integrity* login page:

The screenshot shows the MAX.GOV login interface. On the left, the 'MAX.GOV USER ID & PASSWORD' section has a 'User ID' field with a red arrow pointing to the 'Forgot, Set, or Change Your Password?' link below it. There is also a 'Password' field and a checkbox for 'Set a Personal Username'. On the right, the 'PIV OR CAC CARD' section shows an image of a PIV/CAC card and a 'LOGIN WITH YOUR PIV OR CAC' button. Both sections have a checkbox for 'Use MAX Secure+ SMS 2-Factor (BETA)' and a 'LOGIN WITH USER ID' or 'LOGIN WITH PIV/CAC' button at the bottom.

MAX will send the filer an email with a link to set the password. Once the password is set the filer can return to the *Integrity* login page using the new email address as the user ID and the newly set password.

You can remove the filer from the Nominees group.

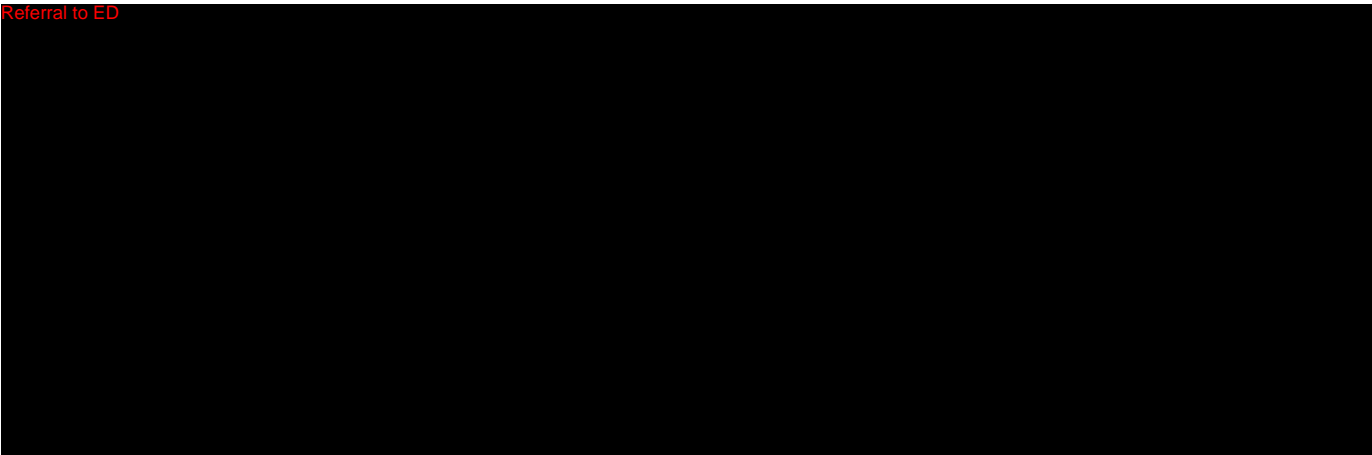
Please let me know if you have any questions.

Thank you,

George Hancock
Integrity Manager
Program Counsel Division
Legal, External Affairs and Performance Branch
1201 New York Avenue, NW, Suite 500
Washington, DC 20005
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Referral to ED



Referral to ED

Referral to ED



Remaining of the chain partially released above



From: [EA Compliance](#)
To: (b)(6) - Michael Shields's email address
Cc: [EA Compliance](#)
Subject: Oppenheim EA - 90 Day Reminder - EA Certification Attached
Date: Thursday, August 10, 2017 3:53:15 PM
Attachments: [EA Certification \(June 2017 version\) - Assistant Secretary Oppenheim - ED .pdf](#)

[https://extapps2.oge.gov/2017/Presiden.nsf/DFCDC11F7F5932D5852581C4002C20D1/\\$FILE/Oppenheim%20EA%20Certification%201%20of%201.pdf](https://extapps2.oge.gov/2017/Presiden.nsf/DFCDC11F7F5932D5852581C4002C20D1/$FILE/Oppenheim%20EA%20Certification%201%20of%201.pdf)

Dear Mr. Shields:

Mr. Peter L. Oppenheim was confirmed as Assistant Secretary for Legislation and Congressional Affairs on August 3, 2017. This is a reminder that Assistant Secretary Oppenheim has 90 days from the date of confirmation (August 3, 2017) to comply with the terms of his ethics agreement, unless an extension is granted by the Office of Government Ethics (OGE). Agency ethics officials do not have the authority to extend the compliance deadline; in rare circumstances of unusual hardship, OGE may decide to extend the deadline. See 5 C.F.R. § 2634.802(b). Please advise OGE via eacompliance@oge.gov as soon as possible if an extension will be requested.

Assistant Secretary Oppenheim is required to complete and sign the attached Certification of Ethics Agreement Compliance (See OGE's Program Advisory [PA 17-03](#)). Assistant Secretary Oppenheim should provide the completed and signed Certification to ethics officials as soon as possible but not later than November 1, 2017. The Certification should then be submitted to OGE no later than November 8, 2017, via email to eacompliance@oge.gov.

Thank you for your assistance in this matter, and please contact eacompliance@oge.gov if you have any questions. If you are not the point of contact for this matter, please advise eacompliance@oge.gov and forward this email to the appropriate ethics official.

Sincerely,

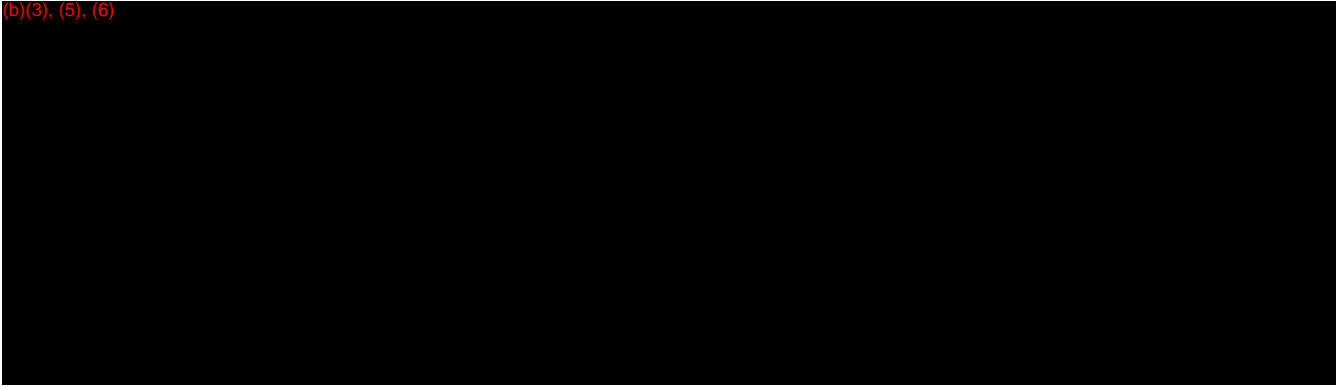
Compliance Division
United States Office of Government Ethics
1201 New York Avenue NW
Suite 500
Washington, DC 20005

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From: [Kimberley H. Kaplan](#)
To: ["Rowell, Theresa"](#)
Cc: ["Spencer, Kristina"](#)
Subject: RE: Nominee report - (b)(3), (5), (6)
Date: Wednesday, August 16, 2017 3:43:06 PM

Thanks, Theresa!

(b)(3), (5), (6)



Best,

Kim

Kim H. Kaplan

Senior Government Ethics Specialist

U.S. Office of Government Ethics

(202) 482-9269 phone

(202) 482-9238 fax

khkaplan@oge.gov

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Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Monday, August 14, 2017 5:07 PM

To: Spencer, Kristina

Cc: Rowell, Theresa

Subject: RE: Nominee report - (b)(3), (5), (6)

Hi Kristina,

Thanks for the updates!

Best,

Kim

Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Friday, August 11, 2017 11:58 AM

To: Spencer, Kristina

Subject: RE: Nominee report - (b)(5), (b)

Great!

Thanks for this additional information/context on (b) (5).

Best,

Kim

Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Friday, August 11, 2017 11:11 AM

To: Spencer, Kristina

Subject: RE: Nominee report - (b)(5), (b)

Thanks, Kristina! If it continues that there is no response, we will ask the White House to reach out to him at the end of next week. But, hopefully he will follow up with you so we can keep the report review going.

Referral to ED



Referral to ED



Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Wednesday, August 2, 2017 11:48 AM

To: Spencer, Kristina

Subject: RE: Nominee report - (b)(5), (6)

Tomorrow at 2 would be great. I'll call you then.

Thank you!

Kim

Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Wednesday, August 2, 2017 11:25 AM

To: Spencer, Kristina

Subject: RE: Nominee report - (b)(5), (6)

Hi Kristina,

It looks like the filer has made some of the changes noted below but not all. The attached is a recap of what's pending from that list as well as some additional comments/questions based on his edits to date. I also included the confirmation items from my initial e-mail that he did not respond to directly in his response.

Do you have some time today or tomorrow to discuss the position and conflicts analysis? I'm available today before 2 pm, or tomorrow my schedule is flexible.

Thanks!

2 page attachment withheld in full - (b)(3), (5), (6)

Kim


Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Monday, July 24, 2017 3:19 PM


To: Spencer, Kristina

Subject: RE: Nominee report - 

Thanks, Kristina!

A few items to keep him moving along –

(b)(3), (5), (6)



(b)(3), (5), (6)



Kim

Referral to ED



Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Monday, July 17, 2017 6:05 PM

To: Spencer, Kristina

Subject: RE: Nominee report - (b)(5), (6)


Thanks, Kristina.

Do you have a sense of when he'll be able to get the other information needed entered into Integrity? (e.g., underlying holdings of accounts, other information needed based on the confirmation questions)

Re: his other responses—

Part 1:

(b)(3), (5), (6)



(b)(3), (5), (6)



Kim

Kim H. Kaplan

Senior Government Ethics Specialist

U.S. Office of Government Ethics

(202) 482-9269 phone

(202) 482-9238 fax

khkaplan@oge.gov

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Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Wednesday, July 12, 2017 5:43 PM

To: Spencer, Kristina

Subject: RE: Nominee report - (b)(5), (6)

Super, thank you!

Referral to ED



Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Wednesday, July 12, 2017 5:20 PM

To: Goodridge, Marcella; Spencer, Kristina

Subject: RE: Nominee report - (b)(5), (6)

Thanks, Marcella!

Kristina, I look forward to working with you!

Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Wednesday, July 12, 2017 5:11 PM

To: Goodridge, Marcella

Subject: Nominee report - (b)(5), (6)

3 page attachment withheld in full - (b)(3), (4), (5), (6)

Hi Marcella,

I will be the OGE reviewer on (b)(5), (6) report. My initial questions are attached. (if a member of the ethics staff, rather than you directly, will be working with me as the agency reviewer, I would much appreciate your assistance to forward this to him or her).

Additionally, so that we may send the filer a nominee guide, is (b) (6) the best mailing address for him?

Thanks!

Kim

Kim H. Kaplan

Senior Government Ethics Specialist

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Nonresponsive record

From: Weinstock, Samuel (Warren) [mailto:(b) (6)]
Sent: Wednesday, August 16, 2017 10:04 AM
To: Director of OGE; David J. Apol
Cc: Delaney, Joshua (Warren); Cohen, Brian (Warren); Savage, Susannah (Warren)
Subject: Letter from Sen. Warren to Sec. DeVos

Attachment released below

Good morning,

Attached to this email please find a letter from Senator Elizabeth Warren to Secretary of Education Betsy DeVos. Acting Director Apol is CC'ed.

Thank you,
Sam Weinstock

Sam Weinstock

Legislative Correspondent
Office of Senator Elizabeth Warren
317 Hart Senate Office Building
Washington, DC 20510
p: 202-224-5211

August 15, 2017

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary DeVos:

I write to obtain information on the ethics rules that apply to Mr. Robert Eitel, a Senior Counselor to the Secretary of Education, and to determine whether he may have violated criminal conflict-of-interest statute 18 U.S.C. § 208 by working on the Department of Education's ("the Department") Borrower Defense to Repayment ("borrower defense") rules while simultaneously employed by the Department and by Bridgepoint Education, Inc. ("Bridgepoint").

The Education Department Delayed the Implementation of Rules Designed to Protect Students and Taxpayers from Fraudulent Colleges

Under your direction, the Department has delayed the implementation of all or key parts of two regulations designed to protect students from fraudulent or poorly-performing colleges.

In March, just a few weeks after you were confirmed by the Senate, you delayed two critical deadlines essential to the implementation of the gainful employment (GE) rule. You delayed the deadline for failing programs to submit final alternative earnings appeals from March 10, 2017 to July 1, 2017. You also delayed the deadline by which GE programs would have to update their disclosure templates and disclose them to students from April 3, 2017 to July 1, 2017. In your announcement of these delays, you said that they were in order to "allow the Department to further review the GE regulations and their implementation."¹ On June 30th,

¹ DeSantis, N. "U.S. Gives Colleges More Time for Appeals Under Gainful-Employment Rule." *The Chronicle of Higher Education* (March 6, 2017). Online at: <http://www.chronicle.com/blogs/ticker/u-s-gives-colleges-more-time-for-appeals-under-gainful-employment-rule/117200>; Mahaffie, L. "Gainful Employment Electronic Announcement

you again delayed the deadline for certain disclosures, this time for a full year, to July 1, 2018.² The Department also announced plans to extend the deadline for all GE programs to file alternate earnings appeals.³

The delays and regulatory rollbacks were not limited to the GE regulation. In June, you also delayed all parts of the borrower defense regulations “until further notice.”⁴ In announcing this delay, the Department of Education also announced that it would begin the process to rewrite both the GE and borrower defense rules through a new round of negotiated rulemaking.⁵

Mr. Eitel Was Simultaneously Employed by the Department of Education and Bridgepoint Education, Inc. from February 2017 to April 2017

From July 2015 until April 2017, Mr. Eitel served as the Vice President of Regulatory Legal Services at Bridgepoint, a company that owns several for-profit colleges. In September 2016, the Consumer Financial Protection Bureau fined Bridgepoint for “deceiving students into taking out private student loans that cost more than advertised.”⁶ During Eitel’s tenure, Bridgepoint’s SEC filings highlighted the company’s belief that the GE and borrower defense regulations could adversely impact the company’s operations and financial interests. In November 2016, Bridgepoint noted that the borrower defense rule would “**expand the circumstances in which students may assert a defense to repayment against an institution...that could result in the imposition of significant restrictions on us and our ability to operate.**”⁷ As recently as March 2017, Bridgepoint expressed concern that the borrower defense rule “could damage our reputation in the industry and **have a material**

#105 - Additional Time for Submission of an Alternate Earnings Appeal and to Comply with Gainful Employment (GE) Disclosure Requirements.” Federal Student Aid. *U.S. Department of Education* (March 6, 2017). Online at: <https://ifap.ed.gov/cannouncements/030617GEAnnounce105AddtlSubTimeAEAandGEDisReq.html>

² “DeVos Presses Pause on Burdensome Gainful Employment Regulations” [press release]. *U.S. Department of Education* (June 30, 2017). Online at: <https://content.govdelivery.com/accounts/USED/bulletins/1a6a438>

³ “Program Integrity: Gainful Employment” [rule]. 82 F.R. 30975. *U.S. Department of Education* (July 5, 2017). Online at: <https://www.federalregister.gov/documents/2017/07/05/2017-14186/program-integrity-gainful-employment>

⁴ “Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Teacher Education Assistance for College and Higher Education Grant Program” [final rule]. 82 F.R. 27621 (June 16, 2017). Online at:

<https://www.federalregister.gov/documents/2017/06/16/2017-12562/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>; “Secretary DeVos Announces Regulatory Reset to Protect Students, Taxpayers, Higher Ed Institutions” [press release]. *U.S. Department of Education* (June 14, 2017). Online at: <https://www.ed.gov/news/press-releases/secretary-devos-announces-regulatory-reset-protect-students-taxpayers-higher-ed-institutions>

⁵ “Negotiated Rulemaking Committee; Public Hearings” [proposed rule]. 82 F.R. 27640 (June 16, 2017). Online at: <https://www.federalregister.gov/documents/2017/06/16/2017-12555/negotiated-rulemaking-committee-public-hearings>

⁶ “Consumer Financial Protection Bureau Takes Action Against Bridgepoint Education, Inc. for Illegal Student Lending Practices.” *Consumer Financial Protection Bureau* (Sept. 12, 2016). Online at: <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-takes-action-against-bridgepoint-education-inc-illegal-student-lending-practices/>

⁷ “Form 10-Q.” Bridgepoint Education, Inc. *United States Securities and Exchange Commission* (Nov. 8, 2016). Online at: <https://www.sec.gov/Archives/edgar/data/1305323/000130532316000139/bpi093016form10-q.htm>

adverse effect on enrollments and our revenues, financial condition, cash flows and results of operations.”⁸

You appointed Mr. Eitel as Special Assistant to the Secretary on February 13, 2017 under the Temporary Transition Senior Executive Service hiring authority. In early April, you appointed Mr. Eitel as your Senior Counselor.⁹ So, from February 13, 2017 to April 5, 2017, Mr. Eitel simultaneously served as an employee of the Department and an employee of Bridgepoint. Mr. Eitel was reportedly “on an unpaid leave of absence” from Bridgepoint during this seven-week period before officially resigning from Bridgepoint.¹⁰

The Department Has Not Required Mr. Eitel to Recuse Himself from Certain Issues Related to Borrower Defense Claims

I have sent multiple letters to you and the Department’s Designated Agency Ethics Official (DAEO) in the Department following Mr. Eitel’s appointment regarding his compliance with federal conflict-of-interest statutes and regulations.¹¹ These rules are designed to ensure that public officials act, and appear to act, in the interests of the America public, rather than in the interests of individuals or companies with which officials are currently or formerly affiliated.

In a June 21, 2017 letter, the Department’s DAEO wrote, “In accordance with the Ethics Pledge at paragraph 6 and 18 U.S.C. § 208, Mr. Eitel is disqualified from working on particular matters involving specific parties that are directly and substantially related to his former employers,” and is “thus recused from the borrower defense claims filed by students under the current borrower defense regulation because students of schools at these former employers have claims under the current rules.” The DAEO also stated that Mr. Eitel “has gone above and beyond that to recuse himself from all such claims filed by any students from any school under the 1994 regulation.”¹²

⁸ “Form 10-K.” Bridgepoint Education, Inc. *United States Securities and Exchange Commission* (March 7, 2017). Online at: <https://www.sec.gov/Archives/edgar/data/1305323/000130532317000016/bpi201610k.htm>

⁹ “U.S. Secretary of Education Announces Chief of Staff and Additional Staff Hires” [press release]. *U.S. Department of Education* (Apr. 12, 2017). Online at: <https://www.ed.gov/news/press-releases/us-secretary-education-announces-chief-staff-and-additional-staff-hires>

¹⁰ Eitel, R. “Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e).” *U.S. Office of Government Ethics* (June 5, 2017).; Cohen, P. “Betsy DeVos’s Hiring of For-Profit College Official Raises Impartiality Issues.” *The New York Times* (March 17, 2017). Online at: <https://www.nytimes.com/2017/03/17/business/education-for-profit-robert-eitel.html>

¹¹ Letter from Senator Elizabeth Warren to Secretary of Education Betsy DeVos (March 17, 2017). Online at: https://www.warren.senate.gov/files/documents/2017-3-17_Letter_to_DeVos_re_ED_official_hires.pdf; “Murray, Warren Question Department of Education Official’s Ties, Conflicts of Interest with For-Profit College Chain” [press release]. *Office of U.S. Senator Elizabeth Warren* (March 31, 2017). Online at: https://www.warren.senate.gov/?p=press_release&id=1526; “Warren, Murray Raise Concerns about Potential Ethics Violations by Education Dept. Advisor Eitel” [press release]. *Office of U.S. Senator Elizabeth Warren* (May 23, 2017). Online at: https://www.warren.senate.gov/?p=press_release&id=1640

¹² Letter from Marcella Goodridge-Keiller, Assistant General Counsel & Designated Agency Ethics Official, Department of Education, to Senator Elizabeth Warren (June 21, 2017).

But the same letter indicated that the Department “informed Mr. Eitel that he is not subject to disqualification under...the conflict of interest statute in regard to review of and any possible changes to the borrower defense regulations that were to be effective July 1, 2017, and now delayed.”¹³ In other words, based on the information provided to my office, Mr. Eitel was never required by the Department to recuse himself from the borrower defense rules that the Department is now re-writing.

And, according to public reports, Mr. Eitel appears to have aided your effort to delay the borrower defense rule. Mr. Eitel is a “key figure in the Education Department’s regulatory rollback” efforts and serves as a Co-Chair of the Department’s Regulatory Reform Task Force.¹⁴ In May 2017, for example, Mr. Eitel co-authored a “Progress Report” on regulatory reform, which cites the borrower defense rule as among regulations that the Task Force may recommend “for repeal, replacement, or modification.”¹⁵ Given this information and the Department’s failure to require his recusal, it appears highly likely that Mr. Eitel was involved in the implementation and delay of the borrower defense rule before April 5, when he was still employed at Bridgepoint.

Applicable Ethics Rules Required Mr. Eitel to Be Recused from Participation in Matters Involving the Borrower Defense Regulation During the Seven-Week Period When He Was Employed by both the Department and by Bridgepoint

While I appreciate the Department DAEO’s explanation of the ethics laws that apply to Mr. Eitel as a sole employee of the Department of Education, I am concerned that you and your staff have not adequately explained the additional rules Mr. Eitel was subject to during the seven-week period he was employed at both Bridgepoint and the Education Department. This set of rules applied to the Mr. Eitel from the day of his appointment at the Department until April 5th, when he formally resigned from Bridgepoint, because they concerned his then-current outside employer.

18 U.S.C. § 208, the federal financial conflict-of-interest law, prohibits Mr. Eitel’s involvement in any “particular matter” in which a current employer had a financial interest. While Mr. Eitel was still employed at Bridgepoint, whether or not he was paid and on leave,

¹³ *Id.* Prior to April 5, 2017, Mr. Eitel’s primary ethics recusal obligations with respect to Bridgepoint would be governed by 18 U.S.C. 208. Once Mr. Eitel resigned from Bridgepoint, his financial interest in that entity appeared to be severed for purposes of 18 U.S.C. 208. After April 5, 2017, Mr. Eitel’s ethics recusal obligations with respect to his former employer are governed by 5 C.F.R. 2635.502 and Section 6 of the Ethics Pledge (Executive Order 13770, January 28, 2017).

¹⁴ Cowley, S. & Cohen, P. “U.S. Halts New Rules Aimed at Abuses by For-Profit Colleges.” *The New York Times* (June 14, 2017). Online at: <https://www.nytimes.com/2017/06/14/business/student-loans-for-profit-schools-colleges.html>; Venable, J. “Appointment of the Department of Education (ED) Regulatory Reform Officer and Establishment of the Regulatory Reform Task Force in accordance with the Presidential Executive Order Enforcing the Regulatory Reform Agenda dated February 24, 2017” [memorandum]. *U.S. Department of Education* (Apr. 25, 2017). Online at: <https://www2.ed.gov/policy/gen/leg/foia/reg-reform-task-force.html>

¹⁵ Eitel, R. S. “Regulatory Reform Task Force Progress Report” [Memorandum for the Secretary]. *U.S. Department of Education* (May 25, 2017). Online at: <https://www2.ed.gov/documents/press-releases/regulatory-reform-task-force-progress-report.pdf>

these regulations consider any and all financial interests of Bridgepoint as financial interests of Mr. Eitel himself.

The prohibition on involvement in any “particular matter” related to current employees requires broader recusals than those outlined in Mr. Eitel’s Ethics Pledge. According to 5 C.F.R. § 2640.103, **“The term [particular matter] may include matters which do not involve formal parties and may extend to legislation or policy making that is narrowly focused on the interests of a discrete and identifiable class of persons.”**¹⁶ Examples of particular matters identified in the regulation include “a regulation...applicable only to companies that operate meat packing plants” and the “implementation” of legislation that “is sufficiently focused on the interests of pharmaceutical companies.”¹⁷

Clearly, the term “particular matter” is sufficiently broad to include any “review of and any possible changes to the borrower defense regulations” with regard to Bridgepoint’s financial interests—particularly since the borrower defense regulations contain certain provisions that only apply to for-profit colleges, an “identifiable class of persons” that included Mr. Eitel’s then-current employer.

The penalties for a violation of 18 U.S.C. § 208, which are detailed in 18 U.S.C. § 216, are imprisonment for no more than a year or a fine, or both, for a violation that is not willful, and imprisonment for no more than five years, or a fine, or both, if the violation is willful. The statute also allows the Department of Justice to bring a civil suit against the violator in the appropriate United States district court.¹⁸

Questions about Mr. Eitel's Involvement with Borrower Defense Rules and Ethics Compliance

I have repeatedly sought information from the Department on the nature of Mr. Eitel’s involvement with the borrower defense regulation and the timeline of his involvement, but you have so far failed to provide me with this information.

If Mr. Eitel provided any written or verbal advice to the Secretary of Education and Department or Administration Staff on any aspect of the borrower defense rule—a “particular matter” that affects the financial interest of Bridgepoint—between February 13, 2017, and April 5, 2017, including on implementation, delay, or rulemaking while employed both at the Department and at Bridgepoint, and did so without receiving any relevant waiver, then it appears that Mr. Eitel may have violated the criminal conflict-of-interest statute 18 U.S.C. § 208.

Given this concern, I request that you answer the following questions no later than September 1, 2017:

¹⁶ 5 CFR § 2640.103. <https://www.gpo.gov/fdsys/pkg/CFR-2017-title5-vol3/pdf/CFR-2017-title5-vol3-sec2640-103.pdf>

¹⁷ *Id.*

¹⁸ 18 U.S.C. § 216. [http://uscode.house.gov/view.xhtml?req=\(title:18%20section:216%20edition:prelim\)](http://uscode.house.gov/view.xhtml?req=(title:18%20section:216%20edition:prelim))

1. Did Mr. Eitel have *any* involvement in discussion or decision making regarding the borrower defense rule during the period from February 13, 2017 to April 5, 2017? If so, what was the timeframe and nature of his involvement?
2. The Department's June 21, 2017 letter appears to address Mr. Eitel's potential conflicts of interest under the Ethics Pledge and 18 U.S.C. § 208 with regard to Bridgepoint's status as Mr. Eitel's *former* employer, but it does not address how 18 U.S.C. § 208 applied to Bridgepoint's status as Mr. Eitel's *current* employer when Mr. Eitel was employed by that entity between February 13 and April 5.

Please describe the Department's determination as to whether Mr. Eitel's involvement with borrower defense rulemaking while still employed at Bridgepoint before April 5 violated 18 U.S.C. § 208, as well as the justification for that conclusion.

3. Since Mr. Eitel began working at the Department, have Department ethics officials made a determination as to whether or not borrower defense implementation, delay, or other rulemaking qualified as a "particular matter" with regard to the financial interests of Bridgepoint, as it is defined in 5 C.F.R. § 2640.103?
 - a. If so, please describe your conclusion and justification for that determination.
 - b. If not, why not?
4. Did any Department ethics official issue any waiver to Mr. Eitel that might exempt him from the aforementioned prohibitions in 18 U.S.C. § 208? If not, did any ethics official determine that an exemption outlined in 5 C.F.R. §§ 2640.201–205 or 18 U.S.C. § 208 applied to Mr. Eitel?
5. What actions will you take if Mr. Eitel is found to have violated 18 U.S.C. § 208 between February and April of this year?
6. When and how did Mr. Eitel recuse himself from matters involving the GE regulations?
 - a. Please provide a copy of Mr. Eitel's ethics agreement or ethics counseling memorandum.
 - b. Please provide any other documentation addressing his ethics obligations or commitments involving the GE regulations or any other matters. If no such documents exist, please provide a detailed explanation from the DAEO as to how and when his recusal from the GE regulations was implemented and made effective.
 - c. Please confirm that Mr. Eitel did not participate in the GE regulation at any time prior to April 5, 2017.

I appreciate your attention to this important matter and look forward to your prompt response.

Sincerely,



Elizabeth Warren
United States Senator

CC: The Honorable Kathleen Tighe, Inspector General, U.S. Department of Education
Mr. David J. Apol, Acting Director, U.S. Office of Government Ethics

Referral to ED

Referral to ED



From: Patrick J. Lightfoot [mailto:pjlightf@oge.gov]
Sent: Wednesday, August 23, 2017 12:08 PM
To: Goodridge, Marcella
Cc: Rowell, Theresa
Subject: RE: Initial Questions/Confirmations for Mark Schneider

Great! It will be nice working with you all again before my desk officer duties come back to me.

--Patrick

Referral to ED



From: Patrick J. Lightfoot [mailto:pjlightf@oge.gov]
Sent: Wednesday, August 23, 2017 12:02 PM
To: Goodridge, Marcella
Subject: Initial Questions/Confirmations for Mark Schneider

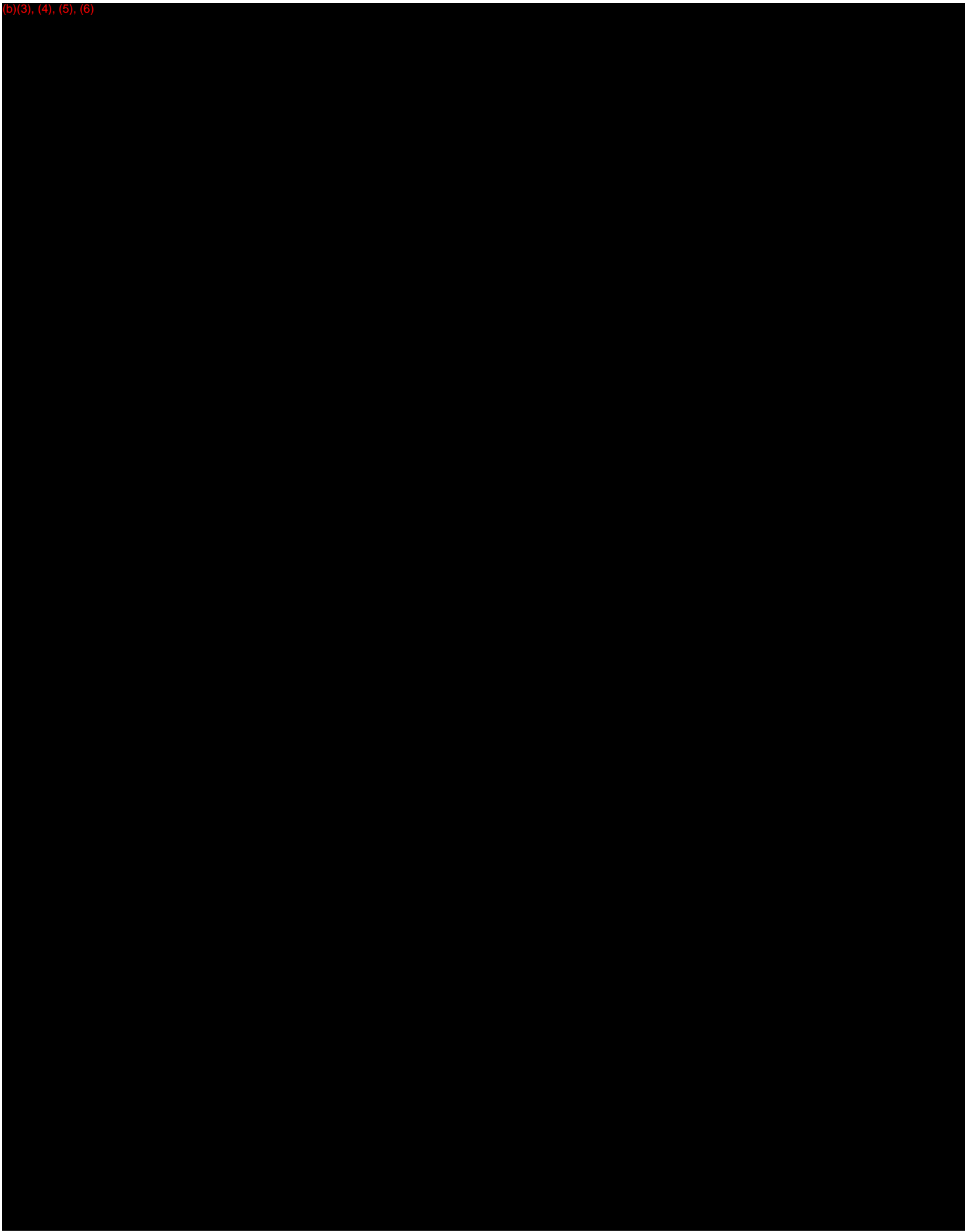
Hi Marcella,

I hope all is well! Below are my initial questions/confirmations for Mr. Schneider's report.

Thanks!

--Patrick

TECHNICAL QUESTIONS/CHANGES/CONFIRMATIONS:

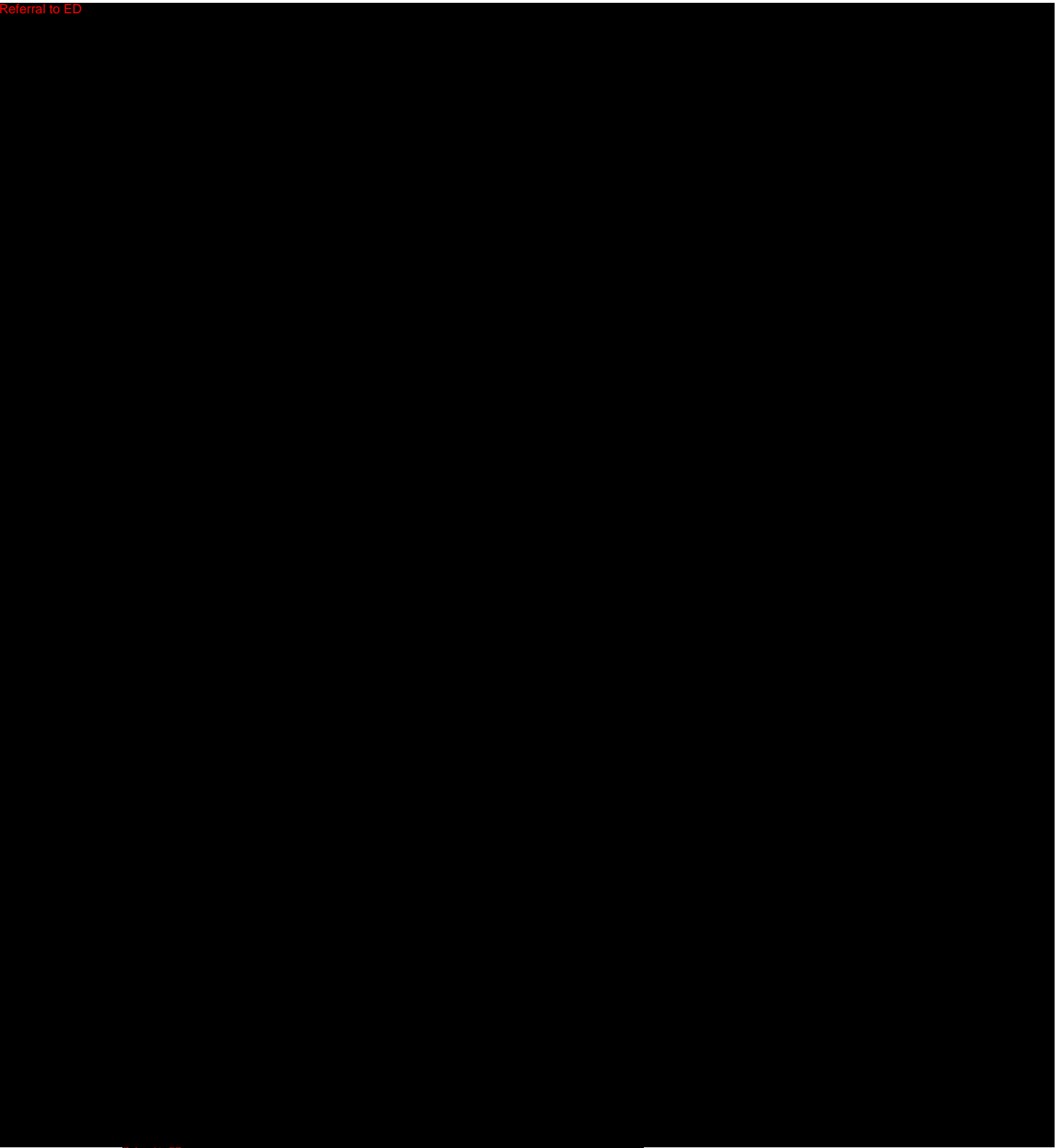


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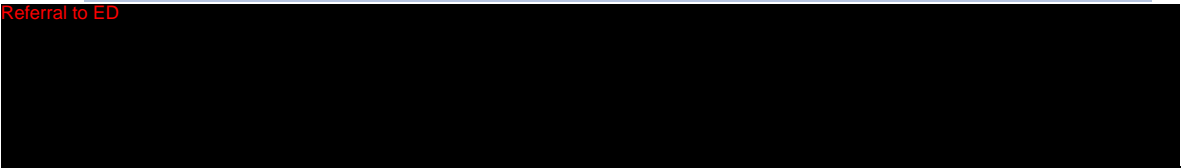
Referral to ED

Referral to ED

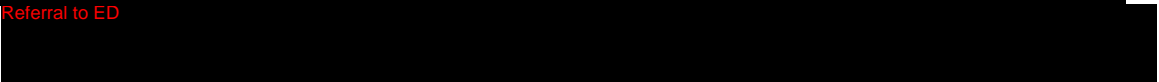
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Referral to ED



Remaining of the chain partially released above



From: [George Hancock](#)
To: ["Wallace, Taronda"](#)
Cc: ["Goodridge, Marcella"](#)
Subject: 2017 Termination - Should be PAS
Date: Monday, August 28, 2017 12:12:44 PM
Attachments: [Change Report Workflow.pptx](#)

12 page attachment withheld in full - (b)(5)

Taronda:

Dan Skalla, Chief, Financial Disclosure Branch, Compliance Division, informed me that the 2017 Termination report for (b) (6) was filed as a General 278 and it should have been PAS/DAEO so OGE could review it.

We now have a new tool that lets you as the agency Integrity DAEO "change" it to a PAS filing. The attached slides explain the process step-by-step.

Since the filer is no longer registered as a filer, please add him to your PAS group before trying to change the workflow on the 2017 Termination.

Let me know if you need assistance or have questions.

Thank you.

Referral to ED



Remaining of the chain partially released above



Referral to ED



From: Wendy G. Pond [mailto:wgpond@oge.gov]

Sent: Monday, August 28, 2017 4:06 PM

To: Barren, Morris

Subject: RE: Mr. Marcus

Thanks, Morris.

Referral to ED



From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Monday, August 28, 2017 9:59 AM
To: Barren, Morris
Subject: RE: Mr. Marcus

Hi Morris – just checking in in the hopes that Mr. Marcus responded over the weekend. Thanks.

Referral to ED



From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Thursday, August 24, 2017 11:22 AM
To: Barren, Morris
Subject: RE: Mr. Marcus

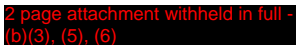
Also, Morris, I was thinking further on the conflicts analysis (b)(3), (5), (6)



Wendy

From: Wendy G. Pond
Sent: Thursday, August 24, 2017 11:10 AM
To: 'Barren, Morris' (b) (6)
Subject: RE: Mr. Marcus

2 page attachment withheld in full -
(b)(3), (5), (6)



Hi Morris – thanks for your time on the phone.

Attached is the updated ethics agreement. Please confirm with the filer that he agrees to it.

Once you've made the last change to the report (b)(3), (6) then please have the filer confirm review the report and confirm that it's accurate.

The only other pending item is the (b)(3), (6)

With that, I can send the package up for preclearance.

Wendy

Referral to ED

From: Wendy G. Pond [<mailto:wgpond@oge.gov>]

Sent: Monday, August 21, 2017 4:43 PM

To: Barren, Morris

Subject: RE: Mr. Marcus

2 page attachment withheld in full -
(b)(3), (5), (6)

Hi Barren –

See attached for draft ethics agreement. (b)(3), (5), (6)

(b)(3), (5), (6)

A large black rectangular redaction box covering the top portion of the page.

Wendy

Referral to ED

A large black rectangular redaction box covering the majority of the page content.

From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Friday, August 18, 2017 1:12 PM
To: Barren, Morris
Subject: RE: Mr. Marcus

Thanks, Morris. Look forward to hearing back from you.

Referral to ED

A large black rectangular redaction box covering the bottom portion of the page.

From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Thursday, August 17, 2017 10:17 AM
To: Barren, Morris
Subject: RE: Mr. Marcus

Hi Morris – just checking status on Mr. Marcus' report. Were you able to address the items from the Word document I sent last week?

Thanks,
Wendy

Referral to ED



From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Thursday, August 10, 2017 5:19 PM
To: Barren, Morris
Subject: RE: Mr. Marcus

6 page attachment withheld in full - (b)(3), (5), (6)

Hi Morris – see attached Word document. I highlighted items that needed follow up. Can we discuss by phone tomorrow? I have two tentative calls tomorrow, one at 9am and one at 10am. Could we shoot for 11am?

Wendy

Wendy Pond
Senior Desk Officer &
International Assistance and Outreach Team Lead
U.S. Office of Government Ethics (OGE)
202-482-9285
wgpond@oge.gov

Follow OGE on Twitter @OfficeGovEthics

Referral to ED



Referral to ED



From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Wednesday, August 09, 2017 8:19 AM
To: Barren, Morris
Subject: RE: Mr. Marcus

Thanks for the update, Morris. Much appreciated.

Wendy

Referral to ED



From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Friday, August 04, 2017 12:07 PM
To: Barren, Morris
Subject: RE: Mr. Marcus

I'll call you at 1:30. Thanks.

Referral to ED



From: Wendy G. Pond [<mailto:wgpond@oge.gov>]

Sent: Friday, August 04, 2017 12:02 PM
To: Barren, Morris
Subject: RE: Mr. Marcus

Morris – sorry I keep missing your calls. Can we plan for a call at 1:30? If that doesn't work for you, feel free to propose an alternative time.

Referral to ED



From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Thursday, August 03, 2017 11:30 AM
To: Barren, Morris
Cc: Goodridge, Marcella
Subject: Mr. Marcus

5 page attachment withheld in full - (b)(3), (5), (6); 4 page attachment withheld in full - (b)(5)

Hi Morris:

I am the OGE reviewer for the Kenneth Marcus report. Attached are my first round of questions. Could you give me a call when you have a moment?

Best,

Wendy

Wendy Pond
Senior Desk Officer &
International Assistance and Outreach Team Lead
U.S. Office of Government Ethics (OGE)
202-482-9285
wgpond@oge.gov

Follow OGE on Twitter @OfficeGovEthics

From: [Wendy G. Pond](#)
To: ["Barren, Morris"](#)
Subject: RE: Nominee Questions
Date: Tuesday, August 29, 2017 8:35:17 AM

Also, while I'm thinking about it: I'm curious from a practical perspective, (b) (5)

[REDACTED]

Referral to ED

[REDACTED]

Referral to ED

[REDACTED]

Referral to ED

[REDACTED]

Referral to ED



Referral to ED



From: [Kimberley H. Kaplan](#)
To: ["Spencer, Kristina"](#)
Subject: RE: (b)(3), (6) report
Date: Wednesday, August 30, 2017 3:09:16 PM

Thanks, Kristina!

Please have him update the description in Integrity (b)(3), (6)
(b)(3), (6)

Referral to ED



On Aug 30, 2017, at 13:59, Kimberley H. Kaplan <khkaplan@oge.gov> wrote:

Thanks, Kristina.

I've sent the report of with change for a second-level review. Will follow up if we end up needing more information. (it looks like, from online searching, that (b)(5)
(b)(5)

Referral to ED



Referral to ED



From: Spencer, Kristina
Sent: Tuesday, August 29, 2017 10:20 AM
To: Kimberley H. Kaplan
Subject: RE: (b)(5), (6) report

Hi Kim,

I've passed along the information below and will let you know when I hear back from (b)(5), (6) .

Thanks,
Kristina

From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]
Sent: Monday, August 28, 2017 6:10 PM
To: Spencer, Kristina
Subject: RE: (b)(5), (6) report

Hi Kristina,

I had a chance to go through these changes.

Progress! But we still need:

(b)(3), (5), (6)



Best,
Kim

Referral to ED



From: Kimberley H. Kaplan [<mailto:khkaplan@oge.gov>]

Sent: Thursday, August 24, 2017 3:09 PM

To: Spencer, Kristina

Subject: (b)(3), (5), (6) report

2 page attachment withheld in full - (b)(3), (5), (6)

Hi Kristina,

Have you heard from (b)(5), (6) on the status of his changes? I've attached a draft ethics agreement based on the current version of the report and his prior responses.

(b)(3), (5), (6)



Thanks!

Kim

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