



REQUEST UNDER THE ARIZONA PUBLIC RECORDS LAW

February 27, 2015

Office of the Custodian of Public Records
University of Arizona
1030 North Mountain
P.O. Box 210134
Tucson, AZ 85721-0134

VIA CERTIFIED MAIL

Dear Custodian of Records:

The Free Market Environmental Law Clinic, together with the Energy & Environment Legal Institute, as co-requesters, respectfully submit this request for public records ("Request") pursuant to Title 39, Chapter 1 of the Arizona Revised Statutes and Chapter 6 from the Arizona Agency Handbook.

For purposes of this Request, "records" encompasses, "all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media." A.R.S. §41-1350.

Please produce copies of records responsive to the following Request:

1. All documents describing the University of Arizona's policy or policies relating to disclosure that apply to faculty members Jonathan Overpack and/or Malcolm Hughes;
2. All records in the University's possession relating to outside funding, grants, or other contributions made to support Jonathan Overpack's or Malcolm Hughes' work at or relating to the University of Arizona;
3. Please provide all records reflecting Jonathan Overpack and Malcolm Hughes' sources of external funding. For purposes of this request, "outside funding" includes, but is in no way limited to, consulting fees, promotional considerations, speaking fees, honoraria, travel expenses, salary and other compensation or monies given to these two faculty members which did not originate with the University itself. Please include records reflecting:
 - a. The source of funding;
 - b. The amount of funding;
 - c. The reason for receiving the funding;;
 - d. For grants, a description of the research proposal and copy of the funded grant;
 - e. Communications regarding the funding.

3. Please provide all financial disclosure forms in which Jonathan Overpack and/or Malcolm Hughes list the University of Arizona or the State of Arizona as their affiliation;
4. Records reflecting Jonathan Overpack's and Malcolm Hughes's total annual compensation for each year at the University of Arizona.

Records responsive to ## 1-3 above will be dated from January 1, 2013 through the date you process this request. Records responsive to #4 will be dated from January 1, 2007 to the present.

Release of these records is very much in the public interest. A recent *New York Times* article highlighted relevant issues,¹ which the congressman representing Tucson, Rep. Raul Grijalva, asserts prompted him to send a similar request for records from your sister school, Arizona State University, regarding Dr. Robert Balling, an ASU faculty member performing work related to that of Profs. Hughes and Overpack.²

With all of the attention your congressman's move has already gathered, it seems reasonable to assume therefore that this request reads quite familiarly to you. The sole distinctions between our request and the requests Rep. Grijalva made to several universities including ASU are, first, that we far more narrowly tailor our request (it otherwise replicates Rep. Grijalva's near verbatim); second, our request is made pursuant to statutory authority, implementing the legislature's determination that access to public records is in the best interests of the State of Arizona. We incorporate by reference Rep. Grijalva's assertions of the importance to the public interest that information of this nature be available regarding those who inform this important issue. This is made more true in the case of those working at taxpayer-funded institutions.

We understand the University has a duty to produce records responsive to our request. In the event that the University's custodian of public records determines that a release of a given record would contain confidential or private information, the custodian is obligated to redact such information and produce the record. *Carlson v. Pima County*, 141 Ariz. 487, 491, 687 P.2d

¹ See, Justin Gillis and John Schwartz, "Deeper Ties to Corporate Cash for a Doubtful Climate Scientist", *New York Times*, February 21, 2015, <http://www.nytimes.com/2015/02/22/us/ties-to-corporate-cash-for-climate-change-researcher-Wei-Hock-Soon.html>.

² See e.g., "The other professors who are targets of Grijalva's letters are: David Legates of the University of Delaware; John Christy of the University of Alabama; Richard Lindzen of the Massachusetts Institute of Technology; Robert Balling of Arizona State University; and Steven Hayward of Pepperdine University." Ben Geman, "Democratic Congressman Draws Backlash Over Climate Funding Probe. Rep. Raul Grijalva wants to know if climate skeptics at several universities got industry funding. But is he engaged in a witch hunt?" *National Journal*, February 25, 2015, <http://www.nationaljournal.com/energy/democratic-congressman-draws-backlash-over-climate-funding-probe-20150225>.

1242, 1246 (1984). If the University decides to withhold responsive records *in toto*, the custodian of records is obligated to provide an index of said records stating the reasons for withholding. A.R.S. § 39-121.01(D)(2).

Both requesters are tax-exempt, 26 U.S.C. § 501(c)(3), non-profit public interest organizations. As such, neither seeks these records for commercial purposes. Requesters have been classified as media for FOIA purposes by federal agencies and have general public policy research missions. We seek these records to illustrate what role any outside funding might have had in research conducted by these two faculty members.

If the University declines to waive fees, and in the interests of expediting the search and processing of this Request, we are willing to pay fees up \$300. Please provide an estimate of anticipated costs in the event that fees for processing this Request will exceed \$300. We request copies of the above items in electronic format if available, which will minimize the University's administrative burdens as well as costs incurred in fulfilling this request.

If you have any questions please do not hesitate to contact Chris Horner, undersigned.

Respectfully submitted,



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for the Free Market Environmental Law Clinic

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_____/s/_____
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