

**U.S. District Court**

**District of Columbia**

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The following transaction was entered on 10/5/2022 at 5:23 PM and filed on 10/5/2022

**Case Name:** BADER FAMILY FOUNDATION v. UNITED STATES DEPARTMENT OF EDUCATION

**Case Number:** [1:21-cv-01741-DLF](#)

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**MINUTE ORDER.** Upon consideration of the defendant's [23]-2 Declaration of Suzanne Goldberg and the plaintiff's [25] Declaration of Hans Bader, the defendant is ORDERED to supplement, on or before October 18, 2022, Goldberg's declaration by addressing the specific inquiry set forth in the Court's Memorandum Opinion: whether Goldberg ever used her non-government email account for official business. See Mem. Op. at 12, Dkt. 22 (requiring the defendant to address "whether Goldberg's school email account was used, even sporadically, for official business"). The declaration that the defendant has provided, Dkt. [23]-2, is not fully responsive to the Court's directive as it states only that Goldberg did not use her non-government email account (and/or complied with forwarding procedures) with respect to emails "concerning school discipline and/or school disciplinary policies." See Goldberg Decl. at 2. The Court, however, posed a broader question in its Memorandum Opinion, Dkt. 22 at 12, because if Goldberg used her personal email account for official business, even official business unrelated to school discipline or disciplinary policies, the account is subject to a search under FOIA. See *Brennan Ctr. for Just. at N.Y. Univ. Sch. of L. v. DOJ*, 377 F. Supp. 3d 428, 435-36 (2019), *Democracy Forward Found. v. U.S. Dep't of Com.*, 474 F. Supp. 3d 69, 74 (D.D.C. 2020) ("[E]ven evidence of a single agency record on a personal account is sufficient to raise a question of compliance with recordkeeping obligations, rendering the presumption of compliance inapplicable." (quotation marks omitted)). The defendant's continued resistance on this issue "speaks volumes." Mem. Op. at 11 (quotation marks omitted). Accordingly, the defendant shall supplement the record with another declaration from Goldberg that is fully responsive to the Court's order. So Ordered by Judge Dabney L. Friedrich on October 5, 2022. (lcldf1)