

Message

**From:** O'Donnell, Sean [ODonnell.Sean@epa.gov]  
**Sent:** 8/18/2021 1:00:02 PM  
**To:** Fugh, Justina [Fugh.Justina@epa.gov]  
**CC:** May, Benjamin [May.Benjamin@epa.gov]  
**Subject:** Re: PPT Goffman Complaint

Thanks, Justina, this is helpful. I sent this to our Hotline for processing.

On Aug 17, 2021, at 11:54 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

## Ex. 5 Deliberative Process (DP)

- On 8/4/21, OGC Ethics provided an interim FOIA response to Ms. Morgan Yardis of Protect the Public's Trust (EPA-2021-004097). She had requested various ethics-related records produced by or received by the Office of General Counsel, Ethics Office (OGC/Ethics) and EPA's Designated Agency Ethics Official pertaining or relating to twelve identified political appointees, including Mr. Goffman. That's how she received the referenced documents.
- Please note that we do not assert attorney-client privilege. As set forth at 5 C.F.R. § 2635.107, "[d]isclosures made by an employee to an agency ethics official are not protected by an attorney-client privilege." We may, though, assert deliberative process privilege and privacy rights.
- With respect to Mr. Goffman, I communicated with the White House Counsel's Office, and they concurred in my approach to redress the apparent oops. That email was not included in our interim response on 8/4/21 because we had not yet received clearance from them. We have since received clearance, however, and will include that email exchange in our next interim release.
- Just so you know, Executive Order 13989 does allow for pledge waivers, and those determinations have been delegated by the Office of Management and Budget to the Agency DAEOs.

### Ex. 5 Deliberative Process (DP)

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Let me know if you want to confer about this at all, and whether you think either or both of us need to respond.

Cheers,

Justina

Justina Fugh (she/her) | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

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**From:** Morgan Yardis <morgan@protectpublictrust.org>

**Sent:** Tuesday, August 17, 2021 9:38 AM

**To:** Fugh, Justina <Fugh.Justina@epa.gov>; O'Donnell, Sean <ODonnell.Sean@epa.gov>

**Subject:** PPT Goffman Complaint

Good morning,

Please find the attached request regarding "Request for Investigation into Ethics Violation by Acting Associate Administrator Joseph Goffman."

Thank you,

Morgan Yardis

<Goffman IG complaint 1.pdf>