

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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July 16, 2026

Dr. Neil H. Shubin
President
The National Academies of Sciences,
Engineering, and Medicine
500 Fifth St., NW
Washington, D.C. 20001

Dear Dr. Shubin,

The House Committee on Science, Space, and Technology (Committee) is continuing its oversight of the National Academies of Sciences, Engineering, and Medicine's (NASEM) administration of federally supported activities, including its stewardship of taxpayer resources, scientific advisory processes, and compliance with applicable federal requirements. The Committee appreciates NASEM's efforts to respond to requests made to date. However, the Committee is concerned that NASEM has withheld responsive information based on broad, categorical assertions of privilege or confidentiality. The Committee cannot evaluate, and will not accept, privilege claims asserted in this manner.

Congress's Article I oversight authority is broad and indispensable to its legislative responsibilities. As the Supreme Court stated in *McGrain v. Daugherty*, and has reaffirmed since, "the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function."¹ This authority extends to the affairs of private or semi-private organizations, like NASEM, that receive federal funds or perform functions on which federal agencies rely.² Confidentiality interests must be balanced against the Committee's legitimate need for information to inform legislation, appropriations, and oversight.³ Assertions of privilege

¹ *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927).

² *See Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 504 n.15 (1975) (Congress's investigatory power extends to organizations outside government where their activities bear on a legitimate legislative purpose.)

³ *Watkins v. United States*, 354 U.S. 178 (1957) (stating "The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic

cannot be used as a shield to frustrate these constitutional responsibilities.⁴ As such, the Committee notes that common-law privileges asserted by private entities do not automatically limit Congress's access to information.⁵ Congress has historically expected recipients of federal funds and organizations subject to federal oversight to cooperate fully with legitimate congressional inquiries.⁶ Assertions of privilege should therefore be narrowly construed and documented with specificity, and should not impede the Committee's ability to conduct its constitutional oversight responsibilities.

The Committee is concerned by NASEM's decision to withhold responsive information based on broad assertions of privilege. While the Committee recognizes that certain interests may warrant protection in limited circumstances, generalized or categorical assertions of privilege do not excuse noncompliance with congressional oversight requests. Privilege claims are to be asserted narrowly, substantiated on a document-by-document basis, and asserted only where legally appropriate.

As the Supreme Court has recognized, Congress possesses broad investigatory authority that is inherent in its legislative function.⁷ The Committee's request seeks information necessary to evaluate existing law, assess the effectiveness of federal programs, and determine whether legislative reforms are warranted. Assertions of privilege should therefore be evaluated in light of Congress's constitutional oversight responsibilities.

The deliberative process privilege is a qualified common-law privilege intended to protect internal Executive Branch deliberations; it is not absolute and does not automatically apply to a congressional oversight request.⁸ Courts have repeatedly recognized that the privilege

or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste.”)

⁴ In re Sealed Case, 121 F.3d 729 (D.C. Cir. 1997); Comm. on Oversight & Gov't Reform v. Lynch, 156 F. Supp. 3d 101, 104 (D.D.C. 2016); CONG. RSCH. SERV., REP. R47102, EXECUTIVE PRIVILEGE AND PRESIDENTIAL COMMUNICATIONS: JUDICIAL PRINCIPLES (2022) <https://www.congress.gov/crs-product/R47102>.

⁵ See in Trump v. Mazars, 140 S. Ct. 2019, at 2032 (2020) stating that individuals subpoenaed by Congress “have long been understood to retain common-law and constitutional privileges with respect to certain materials, such as attorney-client communications and governmental communications protected by executive privilege.” However, this language constitutes *mere dicta* has been subject to much scrutiny and in Bragg v. Jordan, 669 F. Supp. 3d 257 (2023), Southern District of New York interpreted the language to merely reiterate the *status quo*, which is that a witness has a right to invoke a privilege during a Congressional investigation, but it may ultimately be overruled by the investigating committee. As stated by Andy Wright, “In sum, the Supreme Court's assertion in Mazars that it has “long been understood” that parties retain common law privileges in congressional investigations is not supported by Congress's historical practice, litigation precedent, legal advice provided clients by the private bar, or bar association concerns about Congress's dismissiveness of these privileges.” <https://www.justsecurity.org/71970/supreme-courts-trump-v-mazars-ruling-gave-attorney-client-privilege-a-boost-in-congress/>.

⁶ See e.g. *Id.*; Watkins v. United States, 354 U.S. 178 (1957); In re Sealed Case, 121 F.3d 729 (D.C. Cir. 1997); Comm. on Oversight & Gov't Reform v. Lynch, 156 F. Supp. 3d 101, 112–14 (D.D.C. 2016); McGrain v. Daugherty, 273 U.S. 135, 174 (1927); Barenblatt v. United States, 360 U.S. 109 (1959).

⁷ McGrain v. Daugherty, 273 U.S. 135, 174 (1927).

⁸ In re Sealed Case, 121 F.3d 729 (D.C. Cir. 1997); See Assassination Archives & Research Ctr. v. CIA, No.

may yield where there is a demonstrated need for the requested information.⁹ The Committee does not agree that the deliberative process privilege justifies withholding the requested documents that may reveal the factual basis for NASEM's decisions or evidence of potential misconduct. Furthermore, factual materials generally are not protected merely because they appear alongside deliberative discussions. The deliberative process privilege serves to protect the processes by which governmental decisions as well as policies are formulated, neither of which occurs in the creation of NASEM studies. Even if such deliberations were present, this privilege would be overcome by the Committee's legitimate legislative need to ensure that a trusted scientific institution providing information represented as factual and nonpartisan to executive agencies for use in governmental decisions and policies does so in an unbiased, nonpartisan manner that is free from conflicts of interest.

Privileges asserted based on the First Amendment are limited in nature and generally focused on preventing retaliatory or adverse action against a party.¹⁰ The standard for determining the appropriate application of a First Amendment privilege examines whether the investigation is occurring for a valid legislative purpose and whether Congress's need for information outweighs First Amendment interests.¹¹ Determining whether the congressionally chartered and federally funded NASEM is producing reports that are unbiased, nonpartisan, and free from conflicts of interest and, thus, whether legislative reforms are warranted with respect to the Academies as a whole, outweighs First Amendment interests of the individual members of a scientific committee. It has long been the position of this Committee and the Executive Branch that ensuring federally funded and agency-relied-upon science is a matter of national security.¹²

18–5280, 2020 U.S. App. LEXIS 40001, 5–6 (D.C. Cir. Dec. 21, 2020) (“The privilege covers information that is both ‘predecisional’ and ‘deliberative.’ Documents are predecisional if they were ‘generated before the adoption of an agency policy,’ and deliberative if they ‘reflect the give-and-take of the consultative process.’”) (quoting *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980)).

⁹ See *Comm. on Oversight & Gov’t Reform v. Lynch*, 156 F. Supp. 3d 101, 112–14 (D.D.C. 2016) (finding that a congressional committee’s need for deliberative materials outweighed the executive branch’s interest in confidentiality); *In re Sealed Case*, 121 F.3d 729 (D.C. Cir. 1997) (establishing that the deliberative process privilege is severely weakened and even “disappears altogether” when there is any reason to believe government misconduct occurred.)

¹⁰ *Barenblatt v. United States*, 360 U.S. 109 (1959); *Watkins v. United States*, 354 U.S. 178 (1957).

¹¹ See *Barenblatt v. United States*, 360 U.S. 109 (1959) (finding that Congress’s power to legislate to protect the nation from subversion outweighs First Amendment associational and free speech rights.); see also *Eastland v. United States Servicemen’s Fund*, 421 U.S. 491 (1975) (finding that the legitimacy of a congressional investigatory action is not related to the motives of the congressional members and because the subpoena was related to a legitimate legislative purpose, it did not violate the group’s First Amendment rights of association.); see also *Watkins v. United States*, 354 U.S. 178 (1957) (acknowledged that Congress possesses vast investigatory power that can properly compel testimony, so long as the exposure of private beliefs is “persuasively shown” to be necessary to fulfill a specific, overriding legislative duty.)

¹² See Exec. Order. 10,521, 19 Fed. Reg. 1,499 (1954); Exec. Order. 14,303, 90 Fed. Reg. 22,601 (2025); Exec. Order. 14,292, 90 Fed. Reg. 19,611 (2025); Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 18,596 (2009); *Pursuing the Golden Age of Innovation: Strategies Priorities in Biotechnology*: Before the Subcomm. on Energy & the Subcomm. on Research and Tech. of the H. Comm. on Sci., Space, and Tech., 119th Cong. (2025); *Research Security: Examining the Implementation of the CHIPS and Science Act and NSPM-33*:

If one of the most trusted and respected providers of that science is producing biased, partisan, or otherwise deficient science, the United States' scientific enterprise—and, by extension, its economic, environmental, and national security interests—are threatened.

Because the Committee is examining matters involving federally funded research and the stewardship of taxpayer resources, it expects recipients of federal funding to cooperate fully with legitimate congressional oversight. The Committee remains willing to engage in reasonable accommodations to address legitimate confidentiality concerns. Such accommodations may include limited redactions, production subject to confidentiality agreements where appropriate, or other measures that protect sensitive information while preserving the Committee's ability to fulfill its constitutional oversight responsibilities. The accommodation process, however, is intended to facilitate congressional access to information—not to indefinitely delay or prevent production. Until the Committee receives all requested materials, policymakers and the public should carefully evaluate findings and recommendations that are the subject of this inquiry in light of the unresolved questions surrounding their development. Unresolved concerns regarding bias, conflicts of interest, and partisanship in connection with these materials undermine confidence in the integrity of NASEM's work and warrant careful scrutiny before their conclusions are relied upon.

Unless the Committee receives the requested materials by July 31, 2026, the Committee will consider all appropriate oversight tools to secure full compliance. If you have any questions, please contact Michael Piquero of the Committee's majority staff at (202) 225-6371.

Sincerely,



Brian Babin
Chairman
House Committee on Science, Space,
and Technology



Rich McCormick
Chairman
Subcommittee on
Investigations and Oversight
House Committee on Science, Space,
and Technology

A handwritten signature in blue ink that reads "C. Scott Franklin". The signature is written in a cursive, flowing style.

Scott Franklin
Chairman
Subcommittee on
Environment
House Committee on Science, Space,
and Technology

cc: Zoe Lofgren, Ranking Member, House Committee on Science, Space, and Technology;
Emilia Sykes, Ranking Member, Subcommittee on Investigations and Oversight, House
Committee on Science, Space, and Technology; Gabe Amo, Ranking Member, Subcommittee on
Environment, House Committee on Science, Space, and Technology