

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CENTER FOR
LAW AND JUSTICE,

Plaintiff,

VS.

U.S. DEPARTMENT OF EDUCATION,
1000 Independence Ave., SW,
Washington, DC 20585,

Defendant.

Case Action No. 26-cv-3150

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COMPLAINT

Plaintiff the American Center for Law and Justice (“ACLJ”) brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, challenging the failure of the U.S. Department of Education (“DoEd”) to issue a determination as to Plaintiff’s FOIA request within the statutorily prescribed time, and seeking the disclosure and release of agency records improperly withheld by Defendant. In support thereof, Plaintiff alleges and states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 552(a)(6)(C)(i), and 28 U.S.C. § 1331, because this action arises under FOIA and Plaintiff has exhausted its administrative remedies.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) and 5 U.S.C. § 552(a)(4)(B).

3. This Court has authority to award injunctive relief pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 2202.

4. This Court has the authority to award declaratory relief pursuant to 28 U.S.C. § 2201.

PARTIES

5. Plaintiff, the American Center for Law and Justice, with an office at [REDACTED], is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. Plaintiff's mission is to educate, promulgate, conciliate, and where necessary, litigate, to ensure that those rights are protected under the law. Plaintiff also regularly monitors governmental activity with respect to governmental accountability. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its dedication to the rule of law and public interest mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

6. Defendant DoEd is an agency of the United States within the meaning of 5 U.S.C. § 552(f)(1).

7. Defendant DoEd is headquartered at 1000 Independence Ave., SW, Washington, DC 20585.

8. Defendant DoEd has possession, custody and control of the records Plaintiff seeks.

FACTUAL ALLEGATIONS

9. On June 23, 2026, Plaintiff submitted a written request to Defendant in accordance with 5 U.S.C. § 552. *See* Pl.'s FOIA Request to DoEd, Ex. A, incorporated by reference as if fully set forth herein (hereinafter FOIA Request, Ex. A).

10. To summarize, Plaintiff requested records regarding enforcement or investigatory action of institutions of higher education. *Id.*

11. Plaintiff provided pertinent information in its Request as required by the relevant regulation, 28 C.F.R. § 16.3, “describ[ing] the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort.” Pl.’s FOIA Request to DoEd, Ex. A.

12. On June 23, 2026, Defendant assigned tracking number #26-02259-F to the FOIA request and referred the request to “the appropriate office(s) within the [DoEd].” Def.’s FOIA Response, Ex. B, incorporated by reference as if fully set forth herein (hereinafter FOIA Response, Ex. B).

13. Defendant responded on July 22, 2026, stating that Plaintiff’s FOIA request was still being processed. Def.’s 20 Day Status Notification, Ex. C, incorporated by reference as if fully set forth herein (hereinafter Def.’s FOIA 20 Day Status, Exh. C).

14. Defendant provided no determination or even an estimation of the date it would issue its determination or produce records for the FOIA.

15. Plaintiff has received no further response from Defendant regarding the FOIA request.

16. Defendant has not produced the requested records.

17. Defendant has not sought a clarification or a narrowing of Pl.’s FOIA Request to DoEd, Ex. A, under 5 U.S.C. § 552 (a)(6)(A)(ii)(I).

CAUSE OF ACTION

COUNT I

Violation of the Freedom of Information Act

18. Plaintiff re-alleges and incorporates by reference the preceding paragraphs of this Complaint as if fully stated herein.

19. The FOIA establishes a 20-day deadline by which a federal agency must make and issue a decision regarding compliance with a request for records made pursuant to the statute, 5 U.S.C. § 552(a)(6)(A)(i), excepting Saturdays, Sundays, and legal public holidays.

20. Pursuant to this same provision, Defendant was also required to notify Plaintiff immediately of the determination, the reasons therefor, and the right to appeal any adverse determination to the head of the agency.

21. The Defendant made no determination and gave no notice of any right to appeal. Def.'s FOIA 20 Day Status, Exh. C.

22. Defendant's 20-day period commenced June 23, 2026, and expired on July 22, 2026.

23. The FOIA permits a federal agency, in unusual circumstances, to extend the 20-day response deadline for a period not to exceed ten (10) additional business days. 5 U.S.C. § 552(a)(6)(B)(i). The FOIA states that such an extension must set forth "the date on which a determination is expected to be dispatched," which shall not be "a date that would result in an extension for more than ten working days." *Id.*

24. Defendant DoEd did not assert unusual circumstances regarding the FOIA, but if it had, the extended deadline would have ended on August 5, 2026.

25. Plaintiff has a statutory right to have Defendant process Plaintiff's FOIA request in a timely manner and in accordance with the requirements set forth in 5 U.S.C. § 552(a)(6).

26. Defendant is unlawfully withholding records requested by Plaintiff American Center for Law and Justice pursuant to the FOIA, 5 U.S.C. § 552.

27. The FOIA provides a cause of action for a requestor from whom a federal agency has withheld requested records. 5 U.S.C. § 552(a)(4)(B).

28. Pursuant to 5 U.S.C. § 552(a)(6)(C), because Defendant failed to comply with the time limit and requirements set forth in 5 U.S.C. § 552(a)(6)(A) (*i.e.*, failed to issue a determination and the reasons for that determination), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its FOIA request.

29. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of requested records.

30. Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

31. The FOIA imposes no limits on Courts' equitable powers in enforcing its terms, and this Court should exercise its equitable powers to compel Defendant to comply with the clear requirements of the FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment against Defendant, and provide Plaintiff with the following relief:

- (a) An Order that Defendant conduct a diligent, expedited search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed reasonable search methods most technologically likely to lead to the discovery of records responsive to Plaintiff's FOIA request, selected from among those methods available to Defendant;
- (b) An Order that Defendant produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA requests and a *Vaughn* index of any responsive records withheld under a claim of exemption;
- (c) An Order enjoining Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request;
- (d) A declaration that Defendant's actions violated Plaintiff's statutory rights under 5 U.S.C. § 552;
- (e) An Order awarding to Plaintiff its reasonable attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

(f) An Order granting to Plaintiff all further relief to which Plaintiff may be entitled.

Dated: September 9, 2026.

Respectfully submitted,

THE AMERICAN CENTER FOR LAW AND JUSTICE

JAY ALAN SEKULOW

COUNSEL OF RECORD

JORDAN SEKULOW

STUART J. ROTH

/s/ John A Monaghan

JOHN A. MONAGHAN

BENJAMIN P. SISNEY