

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

DEMOCRACY FORWARD FOUNDATION,
P.O. Box 34553
Washington, D.C. 20043,

Plaintiff,

vs.

U.S. DEPARTMENT OF EDUCATION
400 Maryland Ave SW,
Washington, DC 20202

Defendant.

Case No. 25-cv-940

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff Democracy Forward Foundation brings this action against Defendant U.S. Department of Education (“ED”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Plaintiff alleges as follows.

Jurisdiction and Venue

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper under 28 U.S.C. § 1391(e), as Defendant’s headquarters are located in Washington, D.C., within this district, and a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred here.

Parties

3. Plaintiff Democracy Forward Foundation (“Democracy Forward”) is a not-for-profit organization incorporated under the laws of the District of Columbia and based in

Washington, D.C. Plaintiff works to promote transparency and accountability in government, in part, by educating the public on government actions and policies.

4. Defendant ED is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. ED has possession, custody, and control of records to which Plaintiff seeks access.

Facts

5. Democracy Forward filed several FOIA requests to Defendant following two dramatic actions in February 2025, which call into question whether ED will continue to carry out its legally required research and civil rights enforcement functions.

6. First, on February 10, 2025, ED's Institute of Education Sciences ("IES") abruptly cancelled contracts through which it carried out critical education research, data collection, data analysis, and dissemination functions. IES plays the crucial role of informing the nation of the status and progress of our students' education and of carrying out research to allow policymakers and educators to improve students' performance.

7. ED's mass cancellation of 89 contracts worth nearly \$900 million was abrupt and came without any meaningful statement of reasoning. It appears that critical IES functions will not continue following these cancellations. Reports indicated that a Department of Government Efficiency ("DOGE") staffer arrived at ED and demanded cancellation of these contracts without providing any reasons. The contracts were cancelled the same day that demand was made.

8. Second, on February 14, 2025, ED issued a Dear Colleague Letter ("DCL") from Acting Assistant Secretary for Civil Rights Craig Trainor.¹ This letter changed ED's

¹ Craig Trainor, *Dear Colleague Letter*, United States Department of Education Office of Civil Rights (February 14, 2025), <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>.

interpretation of civil right laws and the constitution and threatened to withhold federal funds from institutions that failed to comply with this reinterpretation within two weeks, as well as promising to conduct investigations and support prosecutions of educators and schools.

9. Despite the threats made by the DCL, the letter was unclear about what conduct would violate ED's new interpretation. Millions of educators and institutions are left in the dark about this policy of potentially enormous consequence.

IES Contract Cancellations FOIA (25-02408-F)

10. On February 13, 2025, Democracy Forward sent a FOIA request to ED seeking the following on an expedited basis given the urgent need to inform the public:

- (1) All documentation of contract terminations for any Institute of Education Sciences ("IES") contracts terminated on or around Monday, February 10, 2025. This would include forms for Amendment of Solicitation/Modification of Contract forms terminating such contracts.
- (2) All underlying contracts of any IES contract terminated on or around Monday, February 10, 2025.
- (3) Any list of contracts to be terminated delivered to the Acting Director of IES or Acting Secretary on or around February 10, 2025, by any individual associated with DOGE, whether in electronic or hard copy format.

11. In seeking expedited processing of the request, Democracy Forward certified and explained that:

Given IES's role as the "statistics, research, and evaluation arm of the U.S. Department of Education" and its duty in providing "scientific evidence on which to ground education practice and policy" in formats that are "useful and accessible," the public urgently needs to understand which IES contracts have been terminated. The termination of this work may have broad implications on educational research and decision making given the widespread usage of IES work. Its work is used by "educators, state and local departments of education, school districts, colleges and other researchers who use this work to better understand student achievement, enrollment and a host of other important functions that shape the education system in this country." This work has been

used for decades to shape the educational system of this country, but given the result of these terminations it may become difficult to access and could impact the future collection of such data. These examples highlight the potential broad implications of these decisions and highlight the urgent need for the public to understand which contracts and work is being terminated. (footnotes omitted)

12. On February 14, 2025, ED acknowledged Democracy Forward's request, assigning it tracking number 25-02408-F, and denied Democracy Forward's request for expedited processing with a conclusory statement that Democracy Forward's request did not qualify for either of the two possible expedition categories.

13. On March 14, 2025, ED sent a form "20 Day Notification" stating that Democracy Forward's request was "forwarded to the appropriate office(s)" and was "still being processed."

14. Democracy Forward has received no further communication from ED regarding request number 25-02408-F.

Dear Colleague Letter and External Communications Request (25-02493-F)

15. On February 21, 2025, Democracy Forward sent a FOIA request to ED seeking the following:

- (1) All electronic communications (including email messages, complete email chains, calendar invitations, or attachments thereto, as well as any text messages or messages sent on messaging platforms such as Microsoft Teams, Skype, WhatsApp, Signal, or GChat) between (a) specified agency custodians and (b) the following organizations:
 - a. Agency Custodians
 - i. Acting Secretary Denise Carter
 - ii. Chief of Staff Rachel Oglesby
 - iii. Deputy Chief of Staff for Policy and Programs
Jonathan Pidluzny
 - iv. Assistant Secretary for Elementary and Secondary
Education Kirsten Baesler
 - v. Under Secretary of Education Nicholas Kent
 - vi. Assistant Secretary for Career and Technical

Education Kevin O'Farrell

- vii. Assistant Secretary for Civil Rights Kimberly Richey
- viii. General Counsel Jennifer Mascott
- ix. Principal Deputy General Counsel Tom Wheeler
- x. Deputy General Counsel Candice Jackson
- xi. Deputy General Counsel Joshua Kleinfeld
- xii. White House Liaison Steve Warzoha
- xiii. Assistant Secretary for Legislation and Congressional Affairs Mary Christina Riley
- xiv. Deputy Assistant Secretary for Policy, Office for Civil Rights Craig Trainor
- xv. Deputy Assistant Secretary, Office of Communications and Outreach Madi Biedermann
- xvi. Senior Advisor, Office of Communications and Outreach Julie Hartman
- xvii. Special Assistant, Office of Communications and Outreach Savannah Newhouse

b. Organizations:

- i. Alliance Defending Freedom (including any email address ending in @ADFlegal.org).
- ii. America First Legal (including any email address ending in @aflegal.org).
- iii. Anti-Defamation League (including any email address ending in @adl.org).
- iv. Concerned Women For America (including any email address ending in @cwfa.org).
- v. Defense of Freedom Institute (including any email address ending in @dfipolicy.org).
- vi. Equal Protection Project, including William "Bill" Jacobson.
- vii. Faculty, Alumni, & Students Opposed to Racial Preferences (including any email address ending in @fasorg.org).
- viii. Pacific Legal Foundation (including any email address ending in @pacificlegal.org).
- ix. Parents Defending Education (including any email address ending in @defendinged.org).
- x. Students for Fair Admissions, including Edward Blum, edwardjayblum@gmail.com.

- xi. The Brandeis Center (including any email address ending in @brandeiscenter.com).
- xii. The Ethics & Religious Liberty Commission (including any email address ending in @erlc.com).
- xiii. The Foundation Against Intolerance & Racism (including any email address ending in @fairforall.org).
- xiv. United With Israel (including any email address ending in @unitedwithisreal.org).
- xv. Young America's Foundation (including any email address ending in @yaf.org).
- xvi. Zionist Organization of America (including any email address ending in @zoa.org).

(2) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) of the ED officials listed in Item 1 regarding the Dear Colleague Letter Acting Assistant Secretary for Civil Rights Craig Trainor released on February 14, 2025. (footnote omitted)

(3) All electronic communications (including emails, email attachments, complete email chains, calendar invitations, calendar invitation attachments, text messages, or messages on messaging platforms) of the ED officials listed in Item 1 regarding the descriptions and/or definitions of discrimination included within the Dear Colleague Letter. Specific examples of terms may include, but are not limited to:

- a. "Race-based decision-making"
- b. "Non-racial information"
- c. "Overt and covert racial discrimination"
- d. "Antidiscrimination requirements"
- e. "Racial balancing"
- f. "Reliance on third-party contractors, clearing houses, or aggregators"

16. The request sought records from January 20, 2025, to the date of the search.

17. On February 24, 2025, ED acknowledged Democracy Forward's request, assigning it tracking number 25-02493-F.

18. Democracy Forward has received no further communication from ED regarding request number 25-02493-F.

Exhaustion of Administrative Remedies

19. As of the date of the Complaint, Defendant has failed to notify Democracy Forward of determinations regarding Democracy Forward's FOIA requests. Through Defendant's failure to respond within the time limits required by law, Democracy Forward has constructively exhausted administrative remedies.

CLAIM FOR RELIEF

Count 1 (Violation of FOIA, 5 U.S.C. § 552)

20. Plaintiff incorporates by reference the foregoing paragraphs as though fully set forth herein.

21. By failing to respond to Plaintiff's requests with determinations within the statutorily mandated time period, Defendant has violated its duties under 5 U.S.C. § 552, including but not limited to, its duties to conduct a reasonable search for responsive records, to take reasonable steps to release all nonexempt information, and to not withhold responsive records.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

1. Order Defendant to conduct searches for any and all responsive records to Plaintiff's FOIA requests using search methods reasonably calculated to lead to discovery of all responsive records;
2. Order Defendant to produce, by a date certain, any and all non-exempt responsive records and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. Enjoin Defendant from continuing to withhold any and all non-exempt responsive records;

4. Order Defendant to grant Plaintiff's requests for fee waivers;
5. Award Plaintiff its costs, attorneys' fees, and other disbursements for this action; and
6. Grant any other relief this Court deems appropriate.

Dated: March 31, 2025

Respectfully submitted,

/s/ Daniel A. McGrath

Daniel A. McGrath (D.C. Bar No.
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Robin F. Thurston (Bar No. 7268942)

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