

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

_____)	
PUBLIC CITIZEN, INC.,)	
1600 20th Street NW)	
Washington, DC 20009,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 18-1047
)	
UNITED STATES DEPARTMENT OF)	
EDUCATION,)	
400 Maryland Avenue SW)	
Washington, DC 20202,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to compel the Department of Education (ED) to produce records responsive to a FOIA request for records concerning an October 2, 2017 event hosted by ED, concerning regulation and the agency’s deregulatory agenda.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B). Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Public Citizen is a national non-profit public-interest organization founded in 1971. Among other things, Public Citizen works to promote openness in government and collects and disseminates information to advance government accountability. Public Citizen submitted the FOIA request at issue.

4. Defendant ED is an agency of the federal government of the United States and has possession of and control over the records plaintiff seeks.

STATEMENT OF FACTS

5. On October 3, 2017, Public Citizen submitted a FOIA request to ED requesting communications, policies, procedures, and/or guidance related to a widely-publicized October 2, 2017 event hosted by ED, where agency officials met with representatives of regulated industries to discuss ED's regulatory agenda and its plans for deregulation.

6. Specifically, Public Citizen requested:

- (1) All communications between any employee of the immediate Office of the Secretary, Office of Communications & Outreach, or Office of Planning, Evaluation & Policy Development, and any non-Department of Education (ED) entity or individual concerning "breakout sessions," "break-out sessions" or "roundtables" scheduled for October 2, 2017, relating to the regulatory agenda, regulatory reform, deregulation, rulemaking, and/or the regulatory process.
- (2) Any ED policies, procedures, or guidance regarding which individuals or organizations would be invited to the October 2, 2017 break-out sessions.
- (3) Any policies, procedures, or guidance received from the White House, Office of Management and Budget, and/or other non-ED individual or entity regarding which individuals or organizations should be invited to the October 2, 2017 break-out sessions.

7. Public Citizen included a request for a waiver of all fees in its FOIA request.

8. By letter dated October 17, 2017, ED responded to Public Citizen's request with an "interim response," indicating that the Office of Planning, Evaluation, & Policy Development had not located any responsive documents. The letter indicated that ED was continuing to process the request and would not close the request "until the Department provides [Public Citizen] with a response regarding outstanding responsive documents from [the other specified components of ED]."

9. No further response has been provided by ED in the intervening seven months.

10. On February 1, 2018, Public Citizen requested that ED provide it with an update as to the status of the request.

11. On February 8, 2018, ED replied via email that “the program office is still conducting searches for responsive records,” and further stated that ED did not have a “specific completion time available.”

12. More than 20 working days have passed since ED received Public Citizen’s FOIA request, and ED has neither made a final determination nor produced any records in response to Public Citizen’s request.

**CAUSE OF ACTION
(FOIA – Failure to Disclose Responsive Records)**

13. Under 5 U.S.C. § 552(a)(6)(C)(i), Public Citizen has exhausted all administrative remedies with respect to its FOIA request for records regarding the October 2, 2017 event.

14. Public Citizen has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records it requested, and there is no legal basis for ED’s failure to disclose them.

PRAYER FOR RELIEF

WHEREFORE, Public Citizen requests that this Court:

- (1) Declare that ED’s withholding of the requested records is unlawful;
- (2) Order ED to make the requested records available to Public Citizen at no cost and without delay;
- (3) Award Public Citizen its costs and reasonable attorneys’ fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as this Court may deem just and proper.

Dated: May 3, 2018

Respectfully submitted,

/s/ Adam R. Pulver

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