

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

AMERICA FIRST LEGAL FOUNDATION  
611 Pennsylvania Ave. SE #231  
Washington, D.C. 20003

*Plaintiff,*

v.

DEPARTMENT OF EDUCATION  
400 Maryland Ave. SW  
Washington, D.C. 20202

*Defendant.*

Civil Action No.: 24-1224

**COMPLAINT**

1. Plaintiff America First Legal Foundation (hereinafter “AFL”) brings this action against the Department of Education (hereinafter “the Department”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief under 28 U.S.C. § 2201, *et seq.*

3. Venue is proper in this District under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PARTIES**

4. The Plaintiff, AFL, is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, ensure due process and

equal protection for all Americans, and encourage public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States. AFL's mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and other media, including social media platforms, all to educate the public.

5. The Defendant, the Department of Education, is an agency under 5 U.S.C. § 552(f) headquartered at 400 Maryland Ave. SW, Washington, D.C. 20202.

6. The Defendant has possession, custody, and control of the requested records.

### **AFL'S FOIA REQUESTS**

#### *Pro-Hamas Activity Request*

7. On November 6, 2023, AFL submitted a FOIA request to the Department seeking communications related to pro-Hamas activity on United States college campuses. Ex. 1.

8. American university presidents have failed to enforce their campus conduct policies against pro-Hamas students, at least some of whom are in the United States on student visas. Ex. 1 at 3.

9. These demonstrators have caused Jewish, pro-Israel, and pro-American students across the United States to suffer unlawful intimidation and violence, often by foreign visa holders. Ex. 1 at 3.

10. The nonenforcement against those violating campus rules is causing Jewish students to endure harassment and to perceive harassment as a threat to their safety. Ex. 1. at 4.

11. This request sought a fee waiver. Ex. 1 at 3.

12. On November 7, 2023, AFL received a letter from the Department acknowledging the request and assigning it tracking number 24-00356-F. Ex. 2.

13. On December 8, 2023, AFL received an update from the Department which stated that the request was “still being processed.” Ex. 3.

14. As of the date of this filing, the Department has provided no documents under this FOIA request.

*Student Visa Holders Request*

15. On January 2, 2024, AFL submitted a FOIA request to the Department seeking communications related to student visa holders who publicly espoused support for terrorist organizations. Ex. 4.

16. This request sought a fee waiver. *Id.*

17. On January 3, 2024, AFL received an email from the Department acknowledging the request and assigning it tracking number 24-00756-F. Ex. 5.

18. On January 16, 2024, the Department sent AFL an email requesting clarification and suggesting narrowing proposals. Ex. 6.

19. That same day, January 16, 2024, AFL responded and agreed to some narrowing proposals. Ex. 7.

20. On January 22, 2024, the Department requested more clarification as to the scope of the request. Ex. 8.

21. That same day, AFL responded and provided the requested clarification. Ex. 9.

22. As of the date of this filing, the Department has provided no documents under this FOIA request.

### **CLAIM FOR RELIEF**

#### **Violation of the FOIA, 5 U.S.C. § 552**

23. AFL repeats paragraphs 1–22.

24. AFL properly requested records within the possession, custody, and control of the Defendants.

25. The Defendants failed to conduct searches for responsive records.

26. Moreover, because the Defendant failed to conduct searches, it has failed to disclose any segregable, non-exempt portions of responsive records. *See* 5 U.S.C. § 552(b).

27. The Defendant failed to respond to AFL's requests within the statutory time period. *See* 5 U.S.C. § 552(a)(6).

28. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

29. The Defendant has violated the FOIA by failing to reasonably search for records responsive to AFL's FOIA request and release nonexempt records within the prescribed time limit.

**PRAYER FOR RELIEF**

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that the records sought by AFL's requests must be disclosed pursuant to 5 U.S.C. § 552;
- ii. Order the Defendant to search immediately, demonstrating search methods reasonably likely to lead to the discovery of responsive records;
- iii. Order the Defendant to produce by a date certain all non-exempt records responsive to AFL's FOIA requests, accompanied by a Vaughn index of any responsive records or portions of responsive records being withheld under a claim of exemption;
- iv. Order the Defendant to grant AFL's requests for fee waivers;
- v. Award AFL attorneys' fees and costs incurred in this action under 5 U.S.C. § 552(a)(4)(E); and
- vi. Grant AFL such other and further relief as this Court deems proper.

Date: April 25, 2024

Respectfully Submitted

/s/ Jacob Meckler

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*\*Pending Admission to the D.D.C.*