

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

DEMOCRACY FORWARD  
FOUNDATION,  
1333 H Street NW, 11th Floor  
Washington, DC 20005,

*Plaintiff,*

vs.

CONSUMER FINANCIAL  
PROTECTION BUREAU,  
1700 G Street NW,  
Washington, DC 20552,

*Defendant.*

Case No.

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**COMPLAINT FOR INJUNCTIVE RELIEF**

1. Plaintiff Democracy Forward Foundation (“Democracy Forward”) brings this action against Defendant Consumer Financial Protection Bureau (“CFPB”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).
2. The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) requires a memorandum of understanding (“MOU”) between the CFPB and the Department of Education to facilitate student loan supervision. The CFPB and Department of Education entered into MOUs in 2011 and 2014. But in August 2017, the current administration terminated the MOUs and they have not been replaced.
3. In August 2019, the CFPB hired Robert Cameron as its student loan ombudsman. Cameron was previously an official at the Pennsylvania Higher Education Assistance Agency (PHEAA). PHEAA services private and federal student loans and manages the country’s public student loan forgiveness (“PSLF”) program.

4. On September 12, 2019, Democracy Forward requested that the CFPB produce documents relating to the termination of the MOUs required by Dodd-Frank and Mr. Cameron's disqualification from matters involving his former employer, PHEAA.

5. The CFPB has failed to respond sufficiently to Democracy Forward's request. Democracy Forward therefore respectfully requests that the Court compel the CFPB to comply with the FOIA.

### **Jurisdiction and Venue**

6. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

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

### **Parties**

8. Plaintiff Democracy Forward Foundation is a not-for-profit organization incorporated under the laws of the District of Columbia and based in Washington, D.C. Democracy Forward works to promote transparency and accountability in government, in part, by educating the public on government actions and policies.

9. Defendant CFPB is a federal agency within the meaning of FOIA, *see* 5 U.S.C. § 552(f)(1). The CFPB has possession, custody, and control of records that Democracy Forward has requested.

### **Factual Allegations**

10. On September 12, 2019, to understand and explain to the public whether there are any active student loan-related MOUs between the CFPB and Department of Education, Democracy Forward requested:

- a. Any memorandum of understanding or other agreement between the CFPB and the Department of Education to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans formed after August 31, 2017.
- b. All records of and related to the “assurances” provided by the Department to the Bureau “necessary for the Bureau to share confidential supervisory information with it” and referenced in the letter of April 23, 2019 from Director Kathy Kraninger to Senator Elizabeth Warren.

Ex. A, FOIA Request at 1.

11. The request was limited to records created from August 31, 2017 to the date the search was completed.
12. The request for records related to MOUs was assigned tracking number: CFPB-2019-476-F.
13. Also on September 12, 2019, Democracy Forward submitted a request to the CFPB for:
  - a. Records related to the application of CFPB ethics rules and regulations, including waivers thereof, to Robert Cameron.
  - b. Records related to Robert Cameron’s disqualification (under 5 C.F.R. § 2635.502 or any other ethics rules or regulations), if any, from matters involving his former employers.

Ex. B, FOIA Request at 1.

14. The request was limited to records created from August 1, 2019 to the date the search was completed.

15. The request for records related to Robert Cameron was assigned tracking number: BCFP-2019-0010-F.

16. For each FOIA request, Democracy Forward sought a waiver of search and duplicating fees under 5 U.S.C. § 552(a)(4)(A)(iii) and 12 C.F.R. § 1070.22, which require waiver of fees if the disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” Ex. A at 2-6; Ex. B. at 2-6.

17. The CFPB’s determination regarding Democracy Forward’s FOIA request was due by October 25, 2019. *See* 5 U.S.C. § 552(a)(6)(A)(i). The CFPB did not respond to the request by the due date.

18. The CFPB replied to Democracy Forward on September 12 and 13, 2019, acknowledging receipt of the FOIA requests and informing Democracy Forward that the fee waiver request had been held in abeyance pending the quantification of responsive records. *See* Ex. C; Ex. D. The CFPB also represented that it had a backlog of FOIA requests in queue for processing. The CFPB has since provided no further response or documents.

19. As of the date of this Complaint, the CFPB has failed to produce any requested records or demonstrate that they are lawfully exempt from production. *See* 5 U.S.C. § 552(a)(6)(A)(i), (C). Nor has the CFPB notified Democracy Forward of the scope of any responsive records the CFPB intends to produce or withhold and the reasons for any withholdings, or informed Democracy Forward that it may appeal any adequately specific, adverse determination.

20. Because the CFPB has “fail[ed] to comply with the applicable time limit provision” of the FOIA, even with the benefit of any extensions of time which the CFPB might have claimed, Democracy Forward is “deemed to have exhausted [its] administrative remedies.” *See id.* § 552(a)(6)(C)(i).

**Claims for Relief**

**Count One (Violation of FOIA) 5 U.S.C. § 552**

21. Democracy Forward repeats and incorporates by reference the foregoing paragraphs as if fully set forth herein.

22. By failing to respond to Democracy Forward’s request within the statutorily mandated time period, the CFPB has violated its duties under FOIA, *see* 5 U.S.C. § 552 *et seq.*, including but not limited to its duties to conduct a reasonable search for responsive records, to take reasonable steps to release all reasonably segregable nonexempt information, and to not withhold responsive records.

23. Democracy Forward is being irreparably harmed by the CFPB’s violation of the FOIA, and Democracy Forward will continue to be irreparably harmed until the CFPB is compelled to comply with the FOIA.

**Prayer for Relief**

WHEREFORE, Democracy Forward respectfully requests that this Court:

1. order the CFPB to conduct a search for any and all responsive records to Democracy Forward’s FOIA request and demonstrate that it employed search methods reasonably likely to lead to discovery of records responsive to Democracy Forward’s FOIA request;

2. order the CFPB to produce, by a date certain, any and all nonexempt records responsive to Democracy Forward's FOIA request and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. enjoin the CFPB from continuing to withhold any and all nonexempt records responsive to Democracy Forward's FOIA request;
4. award Democracy Forward its attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
5. grant any other relief this Court deems appropriate.

Dated: November 7, 2019

Respectfully submitted,

/s/ Javier M. Guzman

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*\* Pro Hac Vice application forthcoming*