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US DISTRICT COURT
AT CHARLOTTESVILLE, VA
FILED
3/30/2026
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IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

SOUTHERN ENVIRONMENTAL LAW
CENTER

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendant.

Case No. 3:26cv27

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This lawsuit seeks declaratory and injunctive relief against Defendant United States Department of Health and Human Services (“DHHS”) for its unlawful delay and failure to comply with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. On August 15, 2025, Plaintiff Southern Environmental Center (“SELC”) submitted a request under FOIA (“Request”) seeking records related to the agency’s enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* (“Title VI”) and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (“Rehabilitation Act”).

3. DHHS has failed to meet its statutory obligation to make a determination on this Request within twenty (20) working days of receiving it. 5 U.S.C. § 552(a)(6)(A)(i). SELC therefore seeks declaratory and injunctive relief from this Court as provided under FOIA. *Id.* § 552(a)(6)(C)(i).

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action under 5 U.S.C. § 552(a)(4)(B) (granting jurisdiction under FOIA), 28 U.S.C. § 1331 (granting jurisdiction for federal questions), and 28 U.S.C. §§ 2201, 2202 (providing authority to issue a declaratory judgment and further necessary or proper relief).

5. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), SELC is “deemed to have exhausted [its] administrative remedies” because DHHS has “fail[ed] to comply with the applicable time limit provisions” of FOIA. SELC is thus now entitled to file suit in federal district court to compel compliance with FOIA. *Id.* § 552(a)(6)(C)(i).

6. Venue is proper in the Charlottesville Division of the Western District of Virginia under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e)(1) because the requester, SELC, is a 501(c)(3) nonprofit organization with its principal place of business in Charlottesville, Virginia. W.D. Va. Civ. R. 2(a)(2), (b).

PARTIES

Plaintiff Southern Environmental Law Center

7. SELC is a 501(c)(3) nonprofit public interest environmental law firm with a focus on six states in the Southeast. SELC is headquartered in Charlottesville, Virginia.

8. SELC is a “person” for purposes of FOIA. 5 U.S.C. § 551(2).

9. SELC collaborates with partner organizations that rely on its legal expertise to complement and strengthen their efforts, working with such partners and clients exclusively on a pro bono basis in furtherance of the public interest. In carrying out its mission to protect the communities and ecosystems of the Southeast from environmental threats, including overreach in

legislative and policy settings, SELC challenges federal agency actions that are not undertaken in accordance with applicable law, including FOIA.

10. SELC regularly requests public records under FOIA to better understand the operations of the federal government. In addition, SELC disseminates information obtained through FOIA to its conservation partners and to the general public via its website as well as through press releases, media interviews, reports, social media platforms, and public comment letters. SELC attorneys also regularly attend and present at public meetings and hearings throughout the region, during which they convey information and data acquired through FOIA requests. Through these various channels, SELC communicates such information and fosters public awareness regarding the operations of federal agencies and the relationship between governmental policies and environmental outcomes.

Defendant United States Department Health and Human Services

11. DHHS is a federal agency under the leadership of the Secretary of the Department of Health and Human Services. The agency's mission is to enhance the well-being and health of all Americans.

12. DHHS is an "agency" for purposes of FOIA. 5 U.S.C. § 551(1).

13. Upon information and belief, DHHS has possession, custody, or control of the records responsive to SELC's FOIA Request.

LEGAL BACKGROUND

Freedom of Information Act

14. Congress enacted the Freedom of Information Act "to establish a general philosophy of full agency disclosure" and "to assure the availability of Government information necessary to an informed electorate." *Coleman v. Drug Enf't Admin.*, 714 F.3d 816, 818 (4th Cir.

2013) (internal citations omitted). FOIA advances the statutory goal of providing “efficient, prompt, and full disclosure of information.” H.R. Rep. 93-876, at 6271 (1974). Thus, “FOIA’s disclosure regime shines a light on government operations ‘to check against corruption and to hold the governors accountable to the governed.’” *Coleman*, 714 F.3d at 818–19 (quoting *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978)).

15. Accordingly, FOIA requires federal agencies to make nonexempt records available upon request. 5 U.S.C. § 552(a)(3)(A). The term “record” encompasses “any information . . . maintained by an agency in any format, including an electronic format.” *Id.* § 552(f)(2). Agencies must “make reasonable efforts to search” for such records. *Id.* § 552(a)(3)(C).

16. FOIA requires agencies to respond to requests “promptly.” *Id.* § 552(a)(3)(A).

17. DHHS’s FOIA regulations require the agency “acknowledge all FOIA requests in writing within 10 working days after receipt.” 45 C.F.R. § 5.24(a). These regulations state the acknowledgment letters or emails will provide a request tracking number and contact information, and inform the requestor of any complexities in processing which may lengthen the production timeline. *Id.* The acknowledgment letter or email will also communicate whether a request has been assigned to the “simple” or “complex” queues for processing. *Id.* § 5.24(e). In subsequent communications, the agency may offer a requestor the opportunity “to narrow or modify their request so that it can be placed in the simple processing track.” *Id.* § 5.24(e).

18. If DHHS requires additional information or clarification from a requestor, these regulations state it will contact the requestor and allow the requestor twenty (20) days to respond. *Id.* § 5.24(c).

19. In general, all federal agencies must “determine” whether to comply with a FOIA request within twenty working days (*i.e.*, calendar days excluding weekends and legal public holidays) of receiving the request, and they must “immediately notify the requester of that determination.” 5 U.S.C. § 552(a)(6)(A)(i).

20. An agency’s “determination” “must be more than just an initial statement that the agency will generally comply with a FOIA request and will produce non-exempt documents and claim exemptions in the future.” *Citizens for Resp. & Ethics in Wash. v. Fed. Election Comm’n*, 711 F.3d 180, 188 (D.C. Cir. 2013). Rather, in a “determination” under FOIA:

The agency must at least: (i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the “determination” is adverse.

Id.

21. In “unusual circumstances,” an agency may extend the twenty-working-day deadline by providing written notice to the requester. 5 U.S.C. § 552(a)(6)(B)(i). This extension generally may not exceed ten (10) working days. *Id.* DHHS regulations state that if the request falls within “unusual circumstances,” the agency will notify the requestor in writing, before the expiration of the twenty-working-day period for response, of the “unusual circumstances involved and of the date by which [the agency] estimate[s] processing of the request will be completed.” 45 C.F.R. § 5.24(f).

22. If an agency fails to make and communicate its “determination” within the relevant statutory timelines, the requester “shall be deemed to have exhausted his administrative remedies.” 5 U.S.C. § 552(a)(6)(C)(i). The requester may thereafter file suit against the agency directly in federal district court. *Citizens for Resp. & Ethics in Wash.*, 711 F.3d at 182.

FACTUAL BACKGROUND

SELC's Request

23. This case concerns a FOIA request seeking records related to DHHS's enforcement of Title VI and the Rehabilitation Act.

24. On August 15, 2025, SELC submitted a FOIA request to DHHS via its online Public Access Link. Letter from S. Env't L. Ctr., to Arianne Perkins, FOIA Officer, U.S. Dep't of Health & Hum. Servs., Exhibit 1.

25. In its submission, SELC requested production of several categories of records. The Request sought copies of all complaints submitted to DHHS under Title VI and the Rehabilitation Act since January 1, 2015, as well as communications related to acceptance, investigation, and resolution of such complaints. *Id.* The Request also sought letters and communications related to any subsequent compliance or enforcement actions DHHS has undertaken since January 1, 2015. *Id.*

26. The same day SELC submitted its FOIA Request, SELC received an automated email stating that the status of the Request had been updated to "Received." E-mail from FOIARequest@hhs.gov, to Jasmine Washington, S. Env't L. Ctr. (Aug. 15, 2025, at 2:12 PM ET) ("Status Update Email"), Exhibit 2. The email assigned a tracking number to the request and provided a link to check the status of the request. *Id.*

27. The Status Update Email did not provide contact information for anyone at DHHS, state whether the agency would produce records in response to the Request, or claim any exemptions, or provide an estimated production timeline. *See id.*

28. Twenty (20) working days after the submission of the Request was September 15, 2025.

29. SELC has not received any subsequent updates on the status of the Request from the DHHS or its Public Access Link.

30. On February 23, 2026, SELC attempted to check the Public Access Link portal to inquire about the status of its request. The link provided in DHHS's August 15 Status Update Email directed SELC to a defunct webpage that stated "[t]his site can't be reached." *See* Status Update Email; *see also* <https://requests.publiclink.hhs.gov/> (last visited March 28, 2026).

31. Later that day, SELC sent an email to the address from which the Status Update email came—FOIARequest@hhs.gov—to inquire about the status of the Request and offer to meet to discuss the Request. E-mail from Jennifer Doucette, S. Env't L. Ctr., to FOIArequest@hhs.gov (Feb. 23, 2026, at 12:00 PM ET), Exhibit 3.

32. SELC received an automated response to its email, directing it to "**first**" check the status of the Request at the same defunct website provided in the August 15 Status Update Email. E-mail from FOIARequest@hhs.gov, to Jennifer Doucette, S. Env't L. Ctr. (Feb. 23, 2026, at 12:02 PM ET) ("Feb. 23 Automated Email"), Exhibit 4 (emphasis in original); *see* Status Update Email. The email then instructed SELC to contact "the appropriate FOIA Requester Service Center," as provided at hhs.gov/FOIA. *Id.* Finally, the email stated that, should questions remain, SELC should contact the HHS FOIA Public Liaisons. *Id.*

33. On February 26, 2026, SELC emailed FOIA Public Liaison for DHHS Office of the Secretary, Arianne Perkins, requesting a determination and production of records in response to the Request. E-mail from Jasmine Washington, S. Env't L. Ctr., to Arianne Perkins, FOIA Pub. Liaison, U.S. Dep't of Health & Hum. Servs. (Feb. 26, 2026, at 4:14 PM ET) ("Feb 26–27 Email"), Exhibit 5. SELC also offered to meet to discuss the Request, to narrow the scope of the Request, and to accept production on a rolling basis. *Id.*

34. On February 27, 2026, DHHS responded to SELC stating, in part:

Due to our current transition—including migration to a new data system, organizational realignment, and the implementation of enhanced processing procedures—timelines have been extended. As part of the data migration process, we are temporarily unable to specifically track individual requests within the legacy system. This limitation is affecting our ability to provide detailed, request-specific status updates at this time.

Id. at e-mail from HHS FOIA Team, to Jasmine Washinton, S. Env't L. Ctr. (Feb. 27, 2026 at 10:36 AM ET).

SELC's Exhaustion of Administrative Remedies

35. SELC has constructively exhausted its administrative remedies because DHHS has failed to make a “determination” on the Request within the statutory timeframe. 5 U.S.C. § 552(a)(6)(C)(i).

36. More than twenty (20) working days have elapsed since DHHS received SELC's Request on August 15, 2025. DHHS was required to respond with its initial determination by September 15, 2025.

37. Other than the automated Status Update Email on August 15, 2025, SELC did not receive any communications from DHHS, or its Public Access Portal, on or before September 15, 2025.

38. DHHS has not sent SELC an acknowledgement letter.

39. DHHS has not otherwise provided agency contact information or informed SELC of any complexities in processing the request.

40. DHHS has not sought additional information or clarity from SELC about the Request.

41. DHHS has denied SELC the opportunity to meet or discuss modifying the Request.

42. DHHS has not communicated whether it will produce records in response to the Request.

43. DHHS has not communicated the scope of records it will produce in response to the Request.

44. DHHS has not communicated any exemptions it claims for responsive records.

45. DHHS has yet to produce records in response to SELC's FOIA request.

CLAIM FOR RELIEF

Violation of the Freedom of Information Act

46. SELC incorporates by reference all preceding paragraphs.

47. DHHS was required to make an initial determination on the Request by no later than September 15, 2025.

48. As of the time of filing this complaint, the September 15, 2025, deadline has passed, and DHHS has yet to send an acknowledgment letter, communicate the agency's "determination," or produce responsive records.

49. DHHS's emails to SELC—first, stating that the Request was "received" and later stating that "timelines have been extended"—do not constitute a determination pursuant to FOIA.

50. DHHS violated and continues to violate FOIA by failing to make a timely "determination" on SELC's FOIA Request as required by 5 U.S.C. § 552(a)(6)(A)(i) and 45 C.F.R. § 5.24.

51. DHHS violated and continues to violate FOIA by failing to make reasonable efforts to search for records responsive to SELC's request as required by 5 U.S.C. § 552(a)(3)(C).

52. DHHS violated and continues to violate FOIA by failing to provide SELC with all non-exempt records responsive to SELC's request as required by 5 U.S.C. § 552(a)(8)(A) and 45 C.F.R. § 5.24(a).

53. By failing to make a timely "determination," conduct a reasonable search, and provide SELC with all non-exempt records responsive to the Request, DHHS has denied SELC's right to information as provided under FOIA.

54. Unless it is enjoined by this Court, DHHS will continue to violate SELC's legal right to be provided with the information that SELC sought in the Request.

55. SELC is directly and adversely affected and aggrieved by DHHS's failure to provide a determination and responsive records to its FOIA Request, as described above.

REQUEST FOR RELIEF

Wherefore, Plaintiff SELC respectfully requests that this Court:

A. DECLARE that DHHS has violated and is continuing to violate FOIA by failing to make a determination on SELC's Request as required by FOIA under 5 U.S.C. § 552(a)(6)(A);

B. DECLARE that DHHS has violated and is continuing to violate FOIA by failing to make reasonable efforts to search for records in response to SELC's FOIA Request as required by FOIA under 5 U.S.C. § 552(a)(3)(C);

C. DECLARE that DHHS has violated and is continuing to violate FOIA by failing to provide SELC with all documents responsive to SELC's Request as required by FOIA under 5 U.S.C. § 552(a)(3)(A);

D. ORDER DHHS to search for and provide all responsive documents to SELC's FOIA Request without further delay;

E. ORDER DHHS to produce an index identifying any documents or parts thereof that it intends to withhold and the basis for the withholdings, pursuant to 5 U.S.C. § 552(a)(8) and (b), in the event that DHHS determines certain responsive records are exempt from disclosure;

F. RETAIN jurisdiction over this matter to rule, if necessary, on the adequacy of DHHS's search for responsive records or on assertions by the agency that any responsive documents are exempt from disclosure;

G. AWARD Plaintiff its reasonable attorney fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E); and

H. GRANT Plaintiff any other relief the Court deems just and proper.

Respectfully submitted this 30th day of March, 2026

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