

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

FREE SPEECH FOR PEOPLE,)	
1320 Centre St. #405)	
)	Case No. 1:21-cv-00838-APM
Plaintiff,)	
)	Judge Amit P. Mehta
v.)	
)	
UNITED STATES ELECTION ASSISTANCE)	
COMMISSION,)	
)	
633 3rd Street NW, Suite 200,)	
Washington, DC 20001)	
)	
Defendant.)	

ANSWER

Defendant United Election Assistance Commission, through its undersigned counsel, sets forth its affirmative defenses and answers Plaintiff Free Speech for People’s Complaint for Declaratory and Injunctive Relief (“Complaint”) brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as follows:

1. This paragraph consists of Plaintiff’s characterization of this lawsuit and conclusions of law, to which no response is required.
2. Defendant admits that, on February 10, 2021, Defendant voted to adopt the Voluntary Voting System Guidelines 2.0 (“VMSG 2.0”), updating the previous version from 2015. The remainder of this paragraph contains allegations that do not set forth a claim for relief or aver facts in support of a claim. Therefore, no further response is required.
3. The first sentence of this paragraph contains allegations that do not set forth a claim for relief or aver facts in support of a claim. Therefore, no response is required. The

remaining sentences of this paragraph contain Plaintiff's characterizations of the possible effects of hypothetical changes to the then-draft VVSG 2.0, to which no further response is required.

4. Defendant admits that, between August 4, 2020, and February 5, 2021, Plaintiff submitted the FOIA requests assigned the following identification numbers: #20-00039; #21-00007; #21-00008; and #21-00027. The remainder of this paragraph contains Plaintiff's speculation concerning the contents of the documents, to which no response is required.
5. Defendant admits that Plaintiff requested expedited processing of its FOIA requests designated as #20-00038, #21-00008, and #21-00027. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph regarding what Plaintiff purportedly learned or when or Plaintiff's motivation for requesting expedited processing of its FOIA requests.
6. Defendant admits that it adopted VVSG 2.0 on February 10, 2021. The remainder of this paragraph is comprised of Plaintiff's characterization of that event, to which no response is required.
7. Denied. Defendant has produced all responsive, non-exempt records in response to numerous FOIA requests by Plaintiff not addressed in the Complaint. Since the filing of the Complaint, Defendant has also produced responsive, non-exempt records in response to the FOIA requests at issue in that pleading.
8. This paragraph consists of legal conclusions regarding jurisdiction, to which no response is required.

9. This paragraph consists of legal conclusions regarding the Court's authority to grant relief, to which no response is required.
10. This paragraph consists of legal conclusions regarding Plaintiff's alleged exhaustion of administrative remedies, to which no response is required.
11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph regarding Plaintiff's legal status or activities.
12. Admitted.
- 13-21. These paragraphs consist of Plaintiff's characterizations of the Help America Vote Act of 2002, to which no response is required.
- 22-38. These paragraphs contain allegations that do not set forth a claim for relief or aver facts in support of a claim. Therefore, no response is required.
39. Denied. Defendant has produced all responsive, non-exempt records in response to numerous FOIA requests by Plaintiff not addressed in the Complaint. Since the filing of the Complaint, Defendant has also produced responsive, non-exempt records in response to the FOIA requests at issue in that pleading.
40. Defendant admits that Plaintiff submitted FOIA request #20-000039 on August 4, 2020. The remainder of this paragraph is comprised of Plaintiff's characterization of that request, which speaks for itself. Therefore, no further response is required.
41. Admitted.
42. Admitted.
43. Admitted.

44. Defendant admits that it communicated with Plaintiff by email on November 2, 2020, concerning FOIA request #20-00039. The remainder of this paragraph is comprised of Plaintiff's characterization of the email, which speaks for itself. Therefore, no further response is required.
45. Defendant admits that Plaintiff sent a duplicative request for expedited processing of request #20-00039 on December 7, 2020, despite its earlier request having already been granted. The remainder of this paragraph is comprised of Plaintiff's characterization of the request, which speaks for itself. Therefore, no further response is required.
46. Defendant admits that, on December 14, 2020, it reiterated to Plaintiff the request for expedited processing of request #20-00039 had been approved. The remainder of this paragraph is comprised of Plaintiff's characterization of the approval, which speaks for itself. Therefore, no further response is required.
47. Defendant admits that it provided Plaintiff an update regarding request #20-00039 on December 30, 2020. The remainder of this paragraph is comprised of Plaintiff's characterization of the update, which speaks for itself. Therefore, no further response is required.
48. Denied, although Defendant admits it had not yet produced documents in response to Plaintiff's FOIA request #20-00039 at the time the Complaint was filed.
49. Defendant admits that Plaintiff attempted to file an appeal concerning FOIA request #20-00039 on January 19, 2021, although the filing did not comply with Defendant's FOIA regulations. Plaintiff subsequently filed a compliant appeal. The remainder of

this paragraph is comprised of Plaintiff's characterization of the appeal, which speaks for itself. Therefore, no further response is required.

50. Defendant admits that Plaintiff emailed defendant regarding FOIA request #20-00039 on January 28, 2021. The remainder of this paragraph is comprised of Plaintiff's characterization of that email, which speaks for itself. Therefore, no further response is required.
51. Defendant admits that it provided Plaintiff an update regarding request #20-00039 and, separately, denied Plaintiff's appeal as to that request as premature on March 26, 2021. The remainder of this paragraph is comprised of Plaintiff's characterization of the update, which speaks for itself. Therefore, no further response is required.
52. Defendant admits that Plaintiff filed a FOIA request on December 14, 2020. The remainder of this paragraph is comprised of Plaintiff's recounting of that request, which speaks for itself. Therefore, no further response is required.
53. Admitted.
54. Defendant admits that, on January 28, 2021, Plaintiff filed an appeal of FOIA request #21-00007.
55. This paragraph consists of Plaintiff's recounting of its January 28, 2021 FOIA appeal, which speaks for itself. Therefore, no response is required.
56. Defendant admits that it denied Plaintiff's appeal of FOIA request #21-00007 as premature on March 26, 2021.
57. Defendant admits that Plaintiff filed a FOIA request on December 15, 2020.

58. Defendant admits that Plaintiff requested expedited processing for its December 15, 2020 FOIA request.
59. Admitted.
60. Defendant admits that Plaintiff had not yet received documents in response to FOIA request #21-00008 by January 28, 2021, and filed an appeal as to that request. The remainder of this paragraph is comprised of Plaintiff's recounting of that appeal, which speaks for itself. Therefore, no further response is required.
61. This paragraph consists of Plaintiff's recounting of its January 28, 2021 FOIA appeal, which speaks for itself. Therefore, no response is required.
62. Defendant admits that, on March 26, 2021, it denied as premature Plaintiff's appeal as to FOIA request #21-00008.
63. Defendant admits that Plaintiff filed a FOIA request on February 5, 2021. The remainder of this paragraph is comprised of Plaintiff's recounting of that request, which speaks for itself. Therefore, no further response is required.
64. This paragraph consists of Plaintiff's recounting of its February 5, 2021 FOIA request, which speaks for itself. Therefore, no response is required.
65. Defendant admits that Plaintiff requested a fee waiver in connection with its February 5, 2021 FOIA request. The remainder of this paragraph is comprised of Plaintiff's recounting of that request, which speaks for itself. Therefore, no further response is required.
66. Defendant admits that, on February 23, 2021, it responded to Plaintiff's February 5, 2021 FOIA request, designated the request #21-00027, and denied the accompanying

request for expedited processing. The remainder of this paragraph is comprised of Plaintiff's recounting and characterization of that response, which speaks for itself. Therefore, no further response is required.

67. Defendant admits that Plaintiff had not yet received documents in response to FOIA request #21-00027 by February 26, 2021, and filed an appeal as to that request. The remainder of this paragraph is comprised of Plaintiff's recounting of that appeal, which speaks for itself. Therefore, no further response is required.
68. Defendant admits that, on March 26, 2021, it responded to Plaintiff's appeal regarding FOIA request #21-00027, denying as premature the appeal of the alleged failure to produce documents and affirming Defendant's decision to deny expedited processing to that request. The remainder of this paragraph is comprised of Plaintiff's recounting of that appeal, which speaks for itself. Therefore, no further response is required.
69. Defendant incorporates by reference paragraphs 1-68 of the preceding answer.
- 70-72. These paragraphs state legal conclusions to which no response is required.
73. Defendant incorporates by reference paragraphs 1-73 of the preceding answer.
- 74-76. These paragraphs state legal conclusions to which no response is required.
77. Defendant incorporates by reference paragraphs 1-76 of the preceding answer.
- 78-79. These paragraphs state legal conclusions to which no response is required.
80. Defendant incorporates by reference paragraphs 1-80 of the preceding answer.
- 81-83. These paragraphs state legal conclusions to which no response is required.
84. Defendant incorporates by reference paragraphs 1-83 of the preceding answer.

85-87. These paragraphs state legal conclusions to which no response is required.

Paragraphs a through j contain Plaintiff's requested relief, to which no response is required.

Defendant denies all allegations of the Complaint not otherwise specifically answered above.

DEFENSES

Count I fails because Plaintiff is not entitled to compel production of records exempt from disclosure by one or more FOIA exemptions.

Dated: May 3, 2021

Respectfully submitted,

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Civil Division

ELIZABETH J. SHAPIRO
Deputy Branch Director

/s/ Gary D. Feldon

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