



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

June 25, 2025

Federal Election Commission  
Attn: FOIA Requester Service Center  
1050 First St. N.E.  
Washington, D.C. 20463

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Federal Election Commission (“FEC”) regulations.

Specifically, CREW requests:

1. From January 1, 2023 to May 3, 2024, all communications between or among FEC Commissioners, their staff, and FEC employees regarding the disclosure procedure for closed enforcement cases referenced in the FEC press release published on April 3, 2024 (the “Disclosure Policy”).<sup>1</sup>
2. From January 19, 2024 to the date this request is processed, all documents related to the development, adoption, or implementation of the Disclosure Policy including but not limited to those that reference the January 19, 2024 decision of the U.S. Court of Appeals for the District of Columbia Circuit in *End Citizens United PAC v. FEC*.<sup>2</sup> This includes but is not limited to: draft versions of the policy, internal memoranda, legal analyses, and correspondence.

The above request excludes agency records consisting solely of news articles, press clippings, and other publicly-available material, so long as the records include no accompanying discussion by agency officials. The above requests further excludes documents consisting solely of materials covered by 52 U.S.C. § 30109(a)(12) related to open FEC investigations.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings,

<sup>1</sup> <https://www.fec.gov/updates/fec-implements-new-enforcement-case-closure-procedures/>.

<sup>2</sup> *End Citizens United PAC v. FEC*, 90 F.4th 1172 (D.C. Cir. 2024).

telephone conversations, or discussions. Our request also includes any attachments to emails and other records, and anyone who was cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its rights under FOIA. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agencywide preservation hold on all documents potentially responsive to this request.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See *id.* § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

The requested records are likely to contribute to greater public awareness of the Disclosure Policy and the FEC's approach to publicly disclosing information that is crucial to the public's confidence in federal elections. The disclosure of closed enforcement cases allows the general public to understand how the Commission interprets and applies campaign finance laws, and decides which alleged violations it declines to pursue. This transparency deters future misconduct, promotes accountability, and enables the regulated community to evaluate the continuity and fairness of FEC enforcement decisions. Given that the Disclosure Policy appears to have been introduced without any prior public discussion, the requested records are likely to shed light on the rationale and legal justifications behind the change in policy. Such information is critical for determining whether the Commission acted consistently with the Administrative Procedure Act's ("APA") requirement in subjecting the Commission's rulemaking process to notice and comment.<sup>3</sup>

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public

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<sup>3</sup> 5 U.S.C. § 553.

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through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. See *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW's website receives over 150,000 page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website.

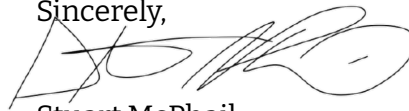
Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please email me at [smcphail@citizensforethics.org](mailto:smcphail@citizensforethics.org) and [foia@citizensforethics.org](mailto:foia@citizensforethics.org) or call me at (202) 408-5565. Also, if CREW's request for a fee waiver is denied, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to [smcphail@citizensforethics.org](mailto:smcphail@citizensforethics.org) and [foia@citizensforethics.org](mailto:foia@citizensforethics.org) or by mail to Stuart McPhail, Citizens for Responsibility and Ethics in Washington, P.O. Box 14596, Washington, D.C. 20044.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stuart McPhail', written over a horizontal line.

Stuart McPhail

Director of Campaign Finance Litigation