



**THIRD DEFENSE**

The Complaint should be dismissed to the extent Plaintiff failed to exhaust its administrative remedies prior to filing this action.

**FOURTH DEFENSE**

Defendants have exercised due diligence in processing plaintiffs' FOIA request and exceptional circumstances exist that necessitate additional time for the defendants to complete their processing of the FOIA request. *See* 5 U.S.C. § 552(a)(6)(C).

**SPECIFIC RESPONSES**

Answering specifically each paragraph of the Complaint, using the same headings and numbering used in the Complaint, Defendants answer as follows. Defendants denies any allegations contained in such headings.

1. This paragraph contains Plaintiff's characterization of this action and conclusions of law, not allegations of fact, to which no response is required.
2. This paragraph contains Plaintiff's characterization of this action and conclusions of law, not allegations of fact, to which no response is required.

**Jurisdiction and Venue**

3. This paragraph contains conclusions of law regarding jurisdiction and venue, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendants admit that this Court has jurisdiction subject to the terms and limitations of FOIA and that venue is found in this District.

**Parties**

4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

5. Defendants admit that DOE is a federal agency within the meaning of FOIA. The remainder of this paragraph consists of legal conclusions to which no response is required.

6. Defendants admit that HUD is a federal agency within the meaning of FOIA. The second sentence of this paragraph asserts a legal conclusion to which no response is required.

#### **Statutory and Regulatory Background**

7. The allegations in paragraph 7 regarding what FOIA requires state legal conclusions to which no response is required. To the extent a response is required, Defendants direct the Court to the cited provisions of FOIA and denies all allegations inconsistent therewith.

8. The allegations in paragraph 8 regarding what FOIA requires state legal conclusions to which no response is required. To the extent a response is required, Defendants direct the Court to the cited provisions of FOIA and denies all allegations inconsistent therewith.

9. The allegations in paragraph 9 regarding what FOIA requires state legal conclusions to which no response is required. To the extent a response is required, Defendants direct the Court to the cited provisions of FOIA and denies all allegations inconsistent therewith.

#### **Factual Background**

10. This paragraph contains Plaintiff's characterization of articles from [www.Cleveland.com](http://www.Cleveland.com) and Politico, not allegations of fact, to which no response is required. In response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced articles for a full and complete statement of their contents. To the extent any further response is required, except to admit that Pam Ashby attended an event in December 2019 hosted by the URC, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

11. This paragraph contains Plaintiff's characterization of an article from [www.Cleveland.com](http://www.Cleveland.com), not allegations of fact, to which no response is required. In response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced article for a full and complete statement of its contents. To the extent any further response is required, except to admit that Pam Ashby attended the award portion of the December 2019 event, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

12. This paragraph contains Plaintiff's characterization of an article from Politico, not allegations of fact, to which no response is required. In response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced article for a full and complete statement of its contents. To the extent any further response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

13. This paragraph contains Plaintiff's characterization of an article from [www.nbc12.com](http://www.nbc12.com), not allegations of fact, to which no response is required. In response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced article for a full and complete statement of its contents. To the extent any further response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

14. This paragraph contains Plaintiff's characterization of an article from [www.nbc12.com](http://www.nbc12.com), not allegations of fact, to which no response is required. In response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced article for a full and complete statement of its contents. To the extent any further response is required,

Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

15. This paragraph describes the contents of articles from NBC 12 and [www.Cleveland.com](http://www.Cleveland.com), not allegations of fact, to which no response is required. In response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced articles for a full and complete statement of their contents. To the extent any further response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

16. This paragraph describe the contents of articles from Politico and [www.Cleveland.com](http://www.Cleveland.com), not allegations of fact, to which no response is required. In response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced articles for a full and complete statement of their contents. To the extent any further response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

17. This paragraph describes the contents of an article from [www.salon.com](http://www.salon.com), not allegations of fact, to which no response is required. Accordingly, in response to the allegations in this paragraph, Defendants respectfully refer the Court to the referenced article for a full and complete statement of its contents. To the extent any further response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

*CREW's FOIA Requests to Education*

18. DOE admits that Plaintiff submitted a FOIA request dated February 10, 2020. The remainder of the allegations in this paragraph consist of Plaintiff's characterization of its FOIA

request. DOE respectfully refers the Court to the text of the request for a full and accurate rendering of its contents.

19. Admitted. DOE further avers that the cited request was assigned tracking number 20-00938-F.

20. Admitted.

21. Admitted.

22. The allegations in this paragraph consist of Plaintiff's legal conclusions to which no response is required.

23. DOE admits that Plaintiff submitted a second FOIA request dated February 24, 2020. The remainder of the allegations in this paragraph consist of Plaintiff's characterization of its FOIA request. DOE respectfully refers the Court to the text of the request for a full and accurate rendering of its contents.

24. Admitted. DOE further avers that the cited request was assigned tracking number 20-01061-F.

25. Admitted.

26. The allegations in this paragraph consist of Plaintiff's legal conclusions to which no response is required.

*CREW's FOIA Request to HUD*

27. HUD lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

28. HUD lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph. HUD avers that, by email dated February 28, 2020, HUD acknowledged receipt of a separate FOIA request submitted by Plaintiff dated February 12, 2020.

29. HUD lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

30. This paragraph consists of a characterization of Plaintiff's claims in this lawsuit to which no response is required, and otherwise asserts a conclusion of law to which no response is required. To the extent a response is deemed required, the allegations are denied.

**PLAINTIF'S CLAIMS FOR RELIEF**

**CLAIM ONE  
(Education's Wrongful Withholding of Agency Records)**

31. Defendants repeat and incorporate by reference their responses set forth above.

32. The allegations in this paragraph consist of Plaintiff's characterization of its action and legal conclusions to which no response is required. To the extent a response is required, deny.

33. The allegations in this paragraph consist of Plaintiff's characterization of its action and legal conclusions to which no response is required. To the extent a response is required, deny.

34. The allegations in this paragraph consist of Plaintiff's characterization of its action and legal conclusions to which no response is required. To the extent a response is required, deny.

**CLAIM TWO  
(HUD's Wrongful Withholding of Agency Records)**

35. Defendants repeat and incorporate by reference their responses set forth above.

36. Paragraph 36 asserts conclusions of law to which no response is required. To the extent any response is required, the allegations are denied.

37. Paragraph 37 asserts conclusions of law to which no response is required. To the extent any response is required, the allegations are denied.

38. Paragraph 38 asserts conclusions of law to which no response is required. To the extent any response is required, the allegations are denied.

**Requested Relief**

The remainder of the Complaint consists of Plaintiff's request for relief, to which no response is required. To the extent that a response is deemed necessary, Defendants deny that Plaintiff is entitled to any of the relief requested in this section.

Dated: June 10, 2020  
Washington, DC

Respectfully submitted,

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By:                   /s/ Paul Mussenden                  

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