

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

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024)	
)	
Plaintiff,)	Civil Action No.
)	
v.)	
)	
U.S. OFFICE OF PERSONNEL)	
MANAGEMENT,)	
1900 E Street NW)	
Washington, DC 20415,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. (“Judicial Watch”) brings this action against Defendant U.S. Office of Personnel Management to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests

records from federal agencies, analyzes the responses it receives, and disseminates its findings to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Office of Personnel Management is an agency of the U.S. Government and is headquartered at 1900 E Street NW, Washington, DC 20415. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On December 11, 2020, Plaintiff sent a FOIA request to the Office of Personnel Management (“OPM”) seeking access to the following:

1. Any and all promotional materials, admission applications, invitations to apply, enrollment documentation, or similar records pertaining to any course, conference, seminar, or other event conducted by the Federal Executive Institute in China between September 1, 2009 and September 1, 2012.
2. Any and all course catalogs, syllabi, agendas, training and briefing materials, or similar records pertaining to any course, conference, seminar, or other event conducted by the Federal Executive Institute in China between September 1, 2009 and September 1, 2012.
3. Any and all contracts, including Personal Service Contracts, awarded by the Office of Personnel Management to support the operations of the Federal Executive Institute in China between September 1, 2009 and September 1, 2012.
4. Any and all materials used to provide security briefings to any student, faculty member, instructor, or other employee or contractor assigned on a permanent or temporary basis to the Federal Executive Institute in China between September 1, 2009 and September 1, 2012.
5. Any and all records of communication between any official, employee, or representative of the Office of Personnel Management and any official, employee, or representative of the government of China and/or any other Chinese national regarding, concerning, or related to the

Federal Executive Institute in China between September 1, 2009 and September 1, 2012.

6. Any and all records of communication between any official, employee, or representative of the Office of Personnel Management and any other individual or entity regarding, concerning, or related to the Federal Executive Institute in China that contain the terms “breach,” “security,” or “SF-86” between March 1, 2014 and January 20, 2017. This request includes, but is not limited to, any such communications with any official, employee, or representative of the Federal Bureau of Investigation.

6. OPM acknowledged receipt of the request on January 11, 2021 and advised Plaintiff that the request had been assigned tracking number 2021-02168.

7. As of the date of this Complaint, OPM has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.
9. Defendant is in violation of FOIA.
10. Plaintiff is being irreparably harmed by Defendant’s violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.
11. Plaintiff has no adequate remedy at law.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by February 10, 2021 at the latest. Because Defendant failed to make a final determination on Plaintiff's request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: March 10, 2021

Respectfully submitted,

/s/ Eric W. Lee
Eric W. Lee
D.C. Bar No. 1049158
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