

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

<hr/>)
ELECTRONIC PRIVACY INFORMATION)
CENTER,)
1718 Connecticut Avenue, NW)
Suite 200)
Washington, DC 20009)
	Plaintiff,)
)
v.)
)
)
UNITED STATES DEPARTMENT)
OF EDUCATION)
400 Maryland Avenue, SW)
Washington, DC 20202)
	Defendant.)
<hr/>)

Civil Action No.: 13-345-GK

**DEFENDANT’S MOTION FOR ENLARGEMENT OF TIME
TO ANSWER OR RESPOND TO PLAINTIFF’S COMPLAINT**

Defendant, United States Department of Education (“DOE”), respectfully requests a 30-day enlargement of time in which to answer or otherwise respond to Plaintiff’s complaint. Pursuant to Local Civil Rule 7(m), on Wednesday, May 15, 2013, undersigned counsel left a voice mail message for Plaintiff’s counsel and emailed Plaintiff’s counsel asking Plaintiff’s counsel to call to discuss this case. On Friday, May 17, 2013, Plaintiff’s counsel returned the messages. Undersigned counsel explained that Defendant was seeking a 30-day extension, and that – as explained below – Defendant would commit to producing the remaining information by May 31, 2013, and would represent that commitment in its motion. Plaintiff’s counsel agreed to consider the request if Defendant provided a draft of the instant motion. Undersigned counsel provided a draft of the motion to Plaintiff’s counsel on the morning of Monday, May 20, 2013. On the

afternoon of May 20, 2013, Plaintiff's counsel informed undersigned counsel that Plaintiff would not consent to the motion unless Defendant included a specific date for Defendant's Answer. Defendant informed Plaintiff's counsel that Defendant was not including a specific date for its answer or response to Plaintiff's complaint because it is Defendant's hope that once Plaintiff receives the remaining responsive documents and Defendant's letter, the parties can either resolve the case or identify the legal issues to be briefed and propose a briefing schedule for dispositive motions.¹ Plaintiff's counsel then informed undersigned counsel that Plaintiff would not consent to this request. There is good cause shown to grant Defendant's requested enlargement of time. A proposed order is enclosed.

Plaintiff's lawsuit is brought pursuant to the Freedom of Information Act ("FOIA"). In its previous motion for a 30-day enlargement of time in which to answer or otherwise respond to Plaintiff's complaint, Defendant explained that it would be providing information responsive to Plaintiff's request by no later than May 1, 2013. On May 1, 2013, Defendant did produce that information to Plaintiff. However, in the course of responding to Plaintiff's request, additional responsive information was identified. Defendant is currently in the process of gathering and processing that information. Defendant has informed Plaintiff's counsel that it will produce the remaining information, as well as a letter explaining the justification for any information withheld pursuant to FOIA exemptions, by no later than May 31, 2013.

Accordingly, the reason for the requested brief extension is to provide time for Defendant to produce the remaining responsive information and letter, and time for Plaintiff to review the information provided and for the parties to confer regarding next steps. It is Defendant's hope

¹ See *Soghoian v. Office of Mgmt. and Budget*, 2013 WL 1201488, *2 (D.D.C. March 26, 2013) ("FOIA actions are typically and appropriately resolved on summary judgment.") (citing *Brayton v. Office of the U.S Trade Representative*, 641 F.3d 521, 527 (D.C. Cir. 2011)).

that this litigation can be resolved or that the issues for the Court to resolve can be narrowed and the parties can jointly propose a briefing schedule. This approach conserves the parties' and judicial resources.

For the foregoing reasons, Defendant respectfully requests that it be granted a 30-day enlargement of time to answer or respond to Plaintiff's complaint, in order to provide time for Plaintiff to review Defendant's response to Plaintiff's FOIA request and for the parties to determine how best to proceed with the litigation.

May 20, 2013

Respectfully submitted,

RONALD C. MACHEN JR.
D.C. BAR # 447889
United States Attorney for the District of Columbia

DANIEL F. VAN HORN
D.C. Bar #924092
Chief, Civil Division

By: _____/s/_____
ADDY R. SCHMITT
DC Bar #489094
Assistant United States Attorney
555 Fourth St., N.W.
Washington, D.C. 20530
Phone: (202) 616-0739
Fax: (202) 514-8780
Addy.Schmitt@usdoj.gov

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

<hr/>)
ELECTRONIC PRIVACY INFORMATION)
CENTER,)
1718 Connecticut Avenue, NW)
Suite 200)
Washington, DC 20009)
	Plaintiff,)
)
v.)
)
)
UNITED STATES DEPARTMENT)
OF EDUCATION)
400 Maryland Avenue, SW)
Washington, DC 20202)
	Defendant.)
<hr/>)

Civil Action No.: 13-345-GK

PROPOSED ORDER

Having considered the Defendant’s Motion for Enlargement of Time to Answer or Respond to Plaintiff’s Complaint, and the entire record herein, it is this _____ day of _____, 2013, hereby:

ORDERED that the motion is GRANTED; and it is

FURTHER ORDERED that Defendant shall answer or respond by no later than June 23, 2013.

SO ORDERED.

United States District Judge