

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

DAVID ESRATI,

Plaintiff,

V.

FEDERAL ELECTION COMMISSION,

Defendant.

Civ. No. 26-1498 (CJN)

# MEMORANDUM IN SUPPORT OF MOTION TO DISMISS

**FEDERAL ELECTION COMMISSION’S MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF ITS MOTION TO DISMISS**

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## INTRODUCTION

The Federal Election Commission (“Commission” or “FEC”) respectfully files this motion to dismiss *pro se* plaintiff David Esrati’s Amended Complaint for Declaratory and Injunctive Relief (ECF No. 2 (“Am. Compl.”)) under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. The Court should dismiss this action because plaintiff fails to establish Article III standing and fails to plausibly allege claims against the Commission under the Administrative Procedure Act (“APA”).

Plaintiff’s Amended Complaint alleges that the FEC failed to properly disclose campaign finance data reported to it under the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101 *et seq.*, by administering an “unreliable” public database. Plaintiff contends that the Commission’s disclosure database is “contrary to law” and that the administration of that database is “arbitrary and capricious,” purportedly in violation of the APA, 5 U.S.C. § 706(1), (2)(A).

Plaintiff fails to establish any concrete and particularized injury and therefore lacks Article III standing to bring this suit. Instead, plaintiff raises only a generalized desire to see the FEC disclose information in the manner that he prefers. Plaintiff also fails to show an informational injury because he again raises a generalized interest in seeing the law enforced, raises arguments based on publicly available information, asks for revisions in the form of the Commission’s disclosures that are not required by law and, and any event, seeks only modifications of information already disclosed. Further, to the extent plaintiff believes that a contributor or political committee’s reports indicate a violation of FECA based on how that information was reported to the FEC, he may file an administrative complaint with the Commission against those individuals or committees under FECA’s enforcement provision, 52

U.S.C. § 30109(a)(1). Because plaintiff's allegations are insufficient to establish Article III standing, his suit must be dismissed for lack of jurisdiction.

Additionally, plaintiff's Amended Complaint fails to state a claim and should be dismissed pursuant to Rule 12(b)(6). Plaintiff's conclusory and unsupported allegations do not identify a discrete and required act under FECA that the Commission failed to undertake, which is fatal to his claim under 5 U.S.C. § 706(1). Plaintiff does not allege that the FEC completed a final agency action subject to judicial review, as a result, he does not make out a violation of 5 U.S.C. § 706(2)(A). Based on the foregoing, the Court should dismiss the Amended Complaint.

## **BACKGROUND**

### **I. THE PARTIES**

The FEC is a six-member, independent agency of the United States government with “exclusive jurisdiction” to administer, interpret, and civilly enforce FECA. *See generally* 52 U.S.C. §§ 30106, 30107. Congress authorized the Commission to “formulate policy” with respect to FECA, *id.* § 30106(b)(1); to make, amend, and repeal rules and issue advisory opinions, *id.* §§ 30107(a)(7), (8), 30111(a)(8); and to investigate possible violations of the Act, *id.* § 30109(a)(1)-(2). The Commission is further vested with independent litigating authority and has “exclusive jurisdiction with respect to the civil enforcement” of FECA. *Id.*

§ 30106(b)(1). The Commission may “initiate, . . . defend [in matters regarding FEC administrative complaints]<sup>1</sup> . . . or appeal any civil action in the name of the Commission to enforce the provisions of” FECA when authorized by the affirmative vote of four or more Commissioners. *Id.* § 30107(a)(6); *see id.* § 30106(c). In addition, FECA generally authorizes

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<sup>1</sup> *See* 52 U.S.C. § 30109(a)(8).

the FEC to “appear in and defend against any action instituted under this Act[,]” which is not subject to a Commissioner vote. 52 U.S.C. § 30106(f)(4).

Plaintiff is a resident of Dayton, Ohio. (Am. Compl. ¶ 18.) He is a voter and candidate for federal office. (*Id.* ¶¶ 18, 90.) He ran for Congress in Ohio in the tenth congressional district.<sup>2</sup>

## II. PLAINTIFF’S COMPLAINT AND AMENDED COMPLAINT

On April 27, 2026, plaintiff filed a complaint challenging the Commission’s disclosures to the public. (Plaintiff’s Complaint for Declaratory and Injunctive Relief (ECF No. 1.)) Two days later, on April 29, 2026, plaintiff amended his complaint. (*See generally* Am. Compl.)<sup>3</sup> In his Amended Complaint, plaintiff alleges that FECA requires candidates and political committees to disclose contributions and expenditures in the interest of informing the electorate and promoting accountability. (*Id.* ¶¶ 22-23, 26-27.) He further claims that “inconsistent, fragmented, or unintelligible” disclosure does not advance those informational and accountability interests. (*Id.* ¶ 25, 28.)

Plaintiff asserts that the FEC’s “public database” for campaign finance activity does not “reliably identify contributors” in that the same person may appear under multiple versions of a

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<sup>2</sup> According to media reports, plaintiff lost the democratic primary in May 2026 to Kristina Knickerbocker. *See Ohio House District 10 Primary Results 2026*, NBC NEWS, (last updated 2:24 PM ET, June 29, 2026), <https://www.nbcnews.com/politics/2026-primary-elections/ohio-us-house-district-10-results>.

<sup>3</sup> Plaintiff attached three exhibits to his initial complaint. (ECF Nos. 1-1, 1-2, 1-3.) The Amended Complaint, like the initial complaint, references three exhibits. (*E.g.*, Am. Comp. ¶ 39.) However, plaintiff did not re-file the exhibits as attachments to the Amended Complaint, and the Court therefore need not consider them. To the extent the Court considers them, this memorandum references these exhibits based on them being appended to the original complaint.

name. (*Id.* ¶¶ 30-43.)<sup>4</sup> He also alleges that the database lacks a “consistent identity mechanism” for associating contributions with the same person. (*Id.* ¶ 33.)

Because of these alleged shortcomings with the database, and because FECA requires disclosure of contributions, plaintiff alleges the Commission does not fulfill its obligations under FECA. (*Id.* ¶¶ 36-37.) Instead, plaintiff alleges that the FEC relies on regulated entities to accurately report contributions, and it fails to effectively validate the accuracy of those reports. (*Id.* ¶¶ 66-78.) Plaintiff further alleges that the FEC’s reporting system undermines efforts by filers to accurately report information, and he proposes different verification tools in a “modern transaction-based reporting system,” to remedy these purported deficiencies. (*Id.* ¶¶ 58-65, 79-83.) Plaintiff claims that the FEC’s alleged failure to provide “identifiable and intelligible contributor information” has deprived him of information that federal law requires to be publicly available and impaired his ability to participate in the electoral process. (*Id.* ¶¶ 91-93.)

Plaintiff raises three claims. In count one, under 5 U.S.C. § 706(1) of the APA, plaintiff argues that the FEC has “failed to take required enforcement action” on unspecified violations of FECA. (*Id.* ¶¶ 94-96.) Plaintiff does not allege, however, that he filed an administrative complaint with the Commission under its enforcement provision, 52 U.S.C. § 30109(a)(1), regarding these purported FECA violations. In count two, plaintiff claims a “[d]enial of

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<sup>4</sup> Exhibit 1 includes a list of more than 70 contributions by similarly named individuals from the late 1990s through the early 2010s. (Compl. Ex. 1.) Plaintiff provides URLs for those contributions containing a domain no longer used by the Commission. Campaign finance data is accessible to the public at the following url: <https://www.fec.gov/data/> (last visited June 29, 2026).

The Commission has individually reviewed each contribution and determined that the list and figures submitted by plaintiff reflect actual contributions to federal campaigns and political action committees. This list and its contents, however, have no bearing on plaintiff’s standing to bring this action.

[i]nformational [r]ights,” in the disclosure of contributor information. (*Id.* ¶¶ 97-99.) In count three, plaintiff claims FECA’s administration of its disclosure database amounts to arbitrary and capricious agency action under the APA, 5 U.S.C. § 706(2)(A). (*Id.* ¶¶ 101-03.).

### **ARGUMENT**

The Court should dismiss the Amended Complaint for two independent reasons. First, plaintiff does not carry his burden of establishing an injury sufficient to support Article III standing. Plaintiff’s generalized complaints about how contributor information is presented in the FEC’s public database do not establish a concrete and particularized injury to confer standing. His efforts to cast his injury as informational are equally unpersuasive because plaintiff raises only a generalized interest in the enforcement of the law. Furthermore, the information plaintiff seeks is already available, and plaintiff’s proposed changes to the form of the Commission’s disclosures would merely modify the information that has already been disclosed. Because plaintiff fails to show standing, the Court should dismiss the action under Rule 12(b)(1).

Second, plaintiff fails to state a claim under which relief may be granted under the APA. He neither identifies a discrete and required action the FEC should have taken nor articulates a final agency action by the FEC that is subject to judicial review. Thus, even if plaintiff established Article III standing, the Court should dismiss the Amended Complaint under Rule 12(b)(6).

## **I. THE COURT SHOULD DISMISS THE AMENDED COMPLAINT FOR LACK OF SUBJECT-MATTER JURISIDCITON UNDER RULE 12(b)(1)**

### **A. Legal Standard**

A plaintiff bears the burden of demonstrating that it has properly invoked this Court’s subject-matter jurisdiction. *See Arpaio v. Obama*, 797 F.3d 11, 19 (D.C. Cir. 2015). A motion

to dismiss for lack of standing is properly considered under Rule 12(b)(1), as lack of standing is a “defect in subject matter jurisdiction.” *Haase v. Sessions*, 835 F.2d 902, 906 (D.C. Cir. 1987); *M.J. v. District of Columbia*, 401 F. Supp. 3d 1, 7-8 (D.D.C. 2019). When deciding a motion under Rule 12(b)(1), a court must accept all well-pleaded factual allegations in the Amended Complaint as true. *See Jerome Stevens Pharms., Inc. v. FDA*, 402 F.3d 1249, 1253 (D.C. Cir. 2005). Because the court has “an affirmative obligation to ensure that it is acting within the scope of its jurisdictional authority[,]” however, the factual allegations in the complaint “will bear closer scrutiny in resolving a 12(b)(1) motion than in resolving a 12(b)(6) motion for failure to state a claim.” *Grand Lodge of the Fraternal Ord. of Police v. Ashcroft*, 185 F. Supp. 2d 9, 13-14 (D.D.C. 2001) (internal quotation marks omitted); *see also Nat’l Ass’n for Latino Cmty. Asset Builders v. Consumer Fin. Prot. Bureau*, 581 F. Supp. 3d 101, 104 (D.D.C. 2022) (same). As the party bringing suit, plaintiff bears the burden of establishing standing. *Attias v. Carefirst, Inc.*, 865 F.3d 620, 625 (D.C. Cir. 2017).

To have Article III standing, a plaintiff must establish: (1) it has “suffered an ‘injury in fact[,]” which the Supreme Court defines as “an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical,” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992) (internal citations and quotation marks omitted); (2) that there is a “causal connection between the injury and the conduct complained of[,]” which requires the injury to be “fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court,” *id.* (internal quotation marks and alterations omitted); and (3) that it is “likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.” *Id.* at 561 (internal quotation marks omitted). These three components of the Article III “cases or controversies”

requirement are designed to ensure that the “plaintiff has alleged such a personal stake in the outcome of the controversy as to warrant His invocation of federal court jurisdiction and to justify [the] exercise of the court’s remedial powers on his behalf.” *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 37, 38 (1976) (internal quotation marks omitted). Moreover, “standing is not dispensed in gross” and “a plaintiff must demonstrate standing for each claim he seeks to press and for each form of relief that is sought.” *Davis v. FEC*, 554 U.S. 724, 734 (2008) (internal quotation marks and alterations omitted).

**B. Plaintiff’s Allegations of Injury Amount to a Generalized Grievance, Which Is Insufficient for Article III Standing**

Plaintiff’s allegations of injury amount to generalized grievances common to all members of the public, not injuries that are actual and imminent or concrete and particularized. *Lujan*, 504 U.S. at 560 n.1 (particularized injury is one that affects the plaintiff in a personal and individual way). While plaintiff may have a desire to vindicate interests on behalf of the public, efforts which may be laudable as a citizen, these generally held interests do not establish Article III standing.

Plaintiff’s primary concern is that the FEC administers a campaign finance disclosure system that, in his view, fails to provide “reliable” or “intelligible” information regarding the sources of political funding, which plaintiff asserts, without authority, is contrary to FECA’s purpose. (Am. Compl. ¶¶ 3-12.) Plaintiff claims this system deprives him of information and that he, as a candidate, is disadvantaged due to the FEC’s alleged failure to enforce FECA. (*Id.* ¶¶ 91-93.) These allegations “amount[] to nothing more than an abstract and generalized harm to a citizen’s interest in the proper application of the law,” that are more akin to policy arguments and “do[] not count as an ‘injury in fact,’” for Article III standing. *Carney v. Adams*, 592 U.S. 53, 58 (2020).

# **1. Plaintiff's Complaints About the FEC's "Disclosure System" Do Not Confer Standing**

Plaintiff first complains about the "disclosure system" administered by the FEC, alleging that it is neither reliable nor intelligible because contributors' names sometimes appear under multiple variants. (Am. Compl. ¶¶ 5-6, 30-43, 85, Compl. Ex. 1.) The information plaintiff presents in Exhibit 1 is produced by the FEC for the public at large. Plaintiff makes no attempt to connect it to himself in a particularized manner beyond his interest as a member of the public. Plaintiff merely complains that he, as a member of the public, might have difficulty distinguishing individuals with the same first and surnames without cross-referencing the data with other data in the set.

To remedy these concerns, plaintiff suggests that the FEC adopt a verified donor identification system, *see id.* ¶¶ 58-65, and accuses the FEC of failing to enforce federal campaign finance law. (*Id.* ¶¶ 66-71.) Further, plaintiff alleges that the FEC's "disclosure system" that relies on self-reporting of contributions and expenditures is rife with error and even intentional misreporting. (*Id.* ¶¶ 72-78.) Taken together, plaintiff clearly disapproves of the FEC's regulation of candidates and committees and particularly the way in which they self-report contributions and expenditures. Yet his allegations make clear that he has suffered no injury-in-fact. Indeed, plaintiff does not even attempt to explain how his concerns with the FEC's "disclosure system" have caused him injury "in a personal and individual way." *Lujan*, 504 U.S. at 560 n.1; *see also Citizens for Resp. & Ethics in Wash. v. FEC*, 267 F. Supp. 3d 50, 53 (D.D.C. 2017) ("easily" dismissing claims because plaintiffs "have not alleged any injury in fact arising from [the alleged wrongdoing]"). And his nonconcrete desire to have the FEC pursue the alleged bad actors that misreport is not a legally cognizable injury. *Common Cause v. FEC*, 108 F.3d 413, 418 (D.C. Cir. 1997) (per curiam) ("[W]hat Common Cause desires is for

the Commission to ‘get the bad guys,’ rather than disclose information. Common Cause has no standing to sue for such relief.”)

In sum, what plaintiff is actually seeking is an advisory opinion from the Court. (*See* Am. Compl. ¶ 11 (“This case does not ask the Court to redesign the campaign finance system. It asks the Court to recognize that the system, as administered, fails to meet the requirements and purposes of federal law.”) Article III courts are not authorized to render advisory opinions, “which is what results when an opinion is rendered in the absence of an actual case or controversy.” *Cueto v. Dir., Bureau of Immigr. & Customs Enf’t*, 584 F. Supp. 2d 147, 149 (D.D.C. 2008). *See also Nat’l Black Police Ass’n v. District of Columbia*, 108 F.3d 346, 349 (D.C. Cir. 1997) (same).

For the reasons stated, plaintiff presents only a generalized grievance, not a concrete and particularized injury with respect to the FEC’s “disclosure system.”

## **2. Plaintiff’s Claim That Conduit Reporting Obscures the Identity of Donors Does Not Confer Standing**

Plaintiff next claims that FECA’s conduit reporting system “obscures the identity” of the underlying donors. (Am. Compl. ¶¶ 7, 44-52, 86, Compl. Ex. 2.) Plaintiff’s Exhibit 2 is a publicly available document that shows multiple campaign contributions to the Knickerbocker for Congress campaign that were donated through the conduit ActBlue. As is required by law each reported contribution for ActBlue is accompanied by an adjacent entry containing the true source of the contribution. *See* 52 U.S.C. § 30116(a)(8); *see also* 11 C.F.R. § 110.6. Plaintiff asserts that this dual entry system obscures the identity of the underlying donor and requires expert reconstruction to identify the actual donors. (Am. Compl. ¶¶ 46, 52.) Importantly, plaintiff does not argue, nor could he, that the information he seeks is not available throughout Exhibit 2. Regardless of plaintiff’s subjective feelings about the nature of conduit reporting, he

has not suffered a related injury that is in any way unique to him. This is a reporting system that applies equally across all contributors and candidates and is likewise reported equally to the public at large. Plaintiff does not and cannot claim that the system of conduit reporting affects him in a particularized and personal way. *See Common Cause*, 108 F.3d at 418 (“... would be tantamount to recognizing a justiciable interest in the enforcement of the law. This we cannot do.”). He therefore presents only a generalized grievance, not a concrete and particularized injury with respect to conduit reporting.

### **3. Plaintiff’s Alleged Burden Caused by “Multiple Reporting Mechanisms” Does Not Confer Standing**

Plaintiff’s third grievance is the existence of what he describes as “multiple reporting mechanisms.” (Am. Compl. ¶¶ 53-57, 87, Compl. Ex. 3.) Here, plaintiff complains that the FEC requires use of a different form for reporting certain contributions close to an election.

Campaigns and committees generally report contributions and expenditures to the FEC through quarterly reports. *See generally*, 52 U.S.C. § 30102(g); 11 C.F.R. § 104.3(a), (b). To promote transparency close to elections, campaigns and committees are required to report within 48 hours contributions of \$1,000 or more when those contributions are made within 20 days of an election. *See* 11 C.F.R. § 104.5(f). This requires a different form (48-Hour Report) than the quarterly report.

Plaintiff asserts that this system, combined with the way this information is detailed in the FEC’s database, creates a “[f]iling [a]rchitecture” that imposes unnecessary complexity on candidates and committees, particularly small campaigns and independent candidates. (Am. Compl. ¶¶ 79-83.) Again, plaintiff does not claim, nor could he, that this allegedly burdensome system injures him in some particularized or concrete manner. Like his other complaints, this is not particularized or personal to plaintiff. The 48-Hour Report applies equally to all candidates

and committees and the information therein is made available to the public at large. Again, plaintiff attempts to establish standing by claiming to have a justiciable interest in the enforcement of the law, which is plainly insufficient to establish a concrete and particularized injury. *Carney*, 592 U.S. at 59. (“[A] plaintiff cannot establish standing by asserting an abstract general interest common to all members of the public, no matter how sincere or deeply committed a plaintiff is to vindicating that general interest on behalf of the public.” *Id.* (internal quotation marks and citations omitted)).

### **C. Plaintiff Does Not Establish Informational Standing**

Plaintiff also fails to clear the necessary threshold for an informational injury. Plaintiff alleges only a generalized interest in the enforcement of the law and the information he seeks is already publicly available.

A party may demonstrate an Article III injury where a statute requires that information be publicly disclosed and there is no reason to doubt a plaintiff’s claim that the information would help them. *Campaign Legal Center and Democracy 21 v. FEC*, 952 F.3d 352, 356 (D.C. Cir. 2020) (per curiam) (citing *Env’tl. Def. Fund v. EPA*, 922 F.3d 446, 452 (D.C. Cir. 2019)). To establish informational standing, a plaintiff must (1) identify a statute that, on plaintiff’s reading, directly requires the defendant to disclose information that plaintiff has a right to obtain, (2) show that plaintiff has been denied the information to which plaintiff is entitled, and (3) provide a credible claim that the information would be helpful to plaintiff. *FEC v. Akins*, 524 U.S. 11, 21 (1998); *ASPCA v. Feld Ent., Inc.*, 659 F.3d 13, 22-23 (D.C. Cir. 2011). In the FECA context, a plaintiff carries its burden of showing a concrete and particularized informational injury by showing that, in being denied access to information, “‘it suffers . . . the type of harm [that] Congress sought to prevent by requiring disclosure.’” *Campaign Legal Ctr. v. FEC* 31 F.4th

781, 789 (D.C. Cir. 2022), *aff'd*, 106 F.4th 1175 (D.C. Cir. 2024). For example, voters have a cognizable interest in information used “to evaluate candidates for public office,” including “the role that [a political committee]’s financial assistance might play in a specific election.” *Akins*, 524 U.S. at 21; *see also Shays v. FEC*, 528 F.3d 914, 923 (D.C. Cir. 2008) (informational injury found when voter is denied FECA-required disclosures about coordinated in-kind expenditures they believe must be reported as contributions to a particular candidate).

These court-sanctioned sources of informational injury, however, do not stand for the proposition that any asserted informational injury under FECA will confer standing. *Campaign Legal Center*, 31 F.4th at 789 (“Of course, not every demand for information from the FEC is sufficient to establish Article III standing.”). The plaintiff must seek information “for which there is a statutory right,” *id.*, and which relates to the plaintiff’s “informed participation in the political process,” *Nader v. FEC*, 725 F.3d 226, 230 (D.C. Cir. 2013). Where a plaintiff has been deprived of knowledge as to whether an entity violated the law, that claimed injury is no more than a generalized interest in the law’s enforcement, and that interest is insufficient to confer standing. *Campaign Legal Ctr.*, 31 F.4th at 789 (citing *Jud. Watch, Inc. v. FEC*, 180 F.3d 277, 278 (D.C. Cir. 1999) (*per curiam*)). A plaintiff must also lack access to the information sought. *Id.* at 790 (“[A] plaintiff cannot establish injury based on information that is already available ‘from a different source,’ disclosure of which would only result in ‘duplicative reporting.’”) (quoting *Wertheimer v. FEC*, 268 F.3d 1070, 1075 (D.C. Cir. 2001)). Accordingly, the “nature of the information allegedly withheld is critical to the standing analysis.” *Common Cause*, 108 F.3d at 417.

Plaintiff claims the Commission has deprived him of information required by law in that he is unable to determine, in a meaningful way, who is funding candidates and opponents. (Am.

Compl. ¶¶ 82-83; *id.* ¶ 91-92.) He further alleges that, as a candidate for office, he is impaired in his ability to participate in the electoral process. (*Id.* ¶¶ 92-93.)

Plaintiff falls far short of the established informational injury requirements on many levels. At the outset, plaintiff asserts an information injury based on his being a candidate for office. (*Id.* ¶ 90.) Plaintiff is no longer a candidate for Congress, but regardless of his candidacy, he only articulates a general and abstract interest in the enforcement of FECA. *See Food & Drug Admin. v. All. For Hippocratic Med.*, 602 U.S. 367, 381 (2024) (ruling that plaintiffs cannot establish standing “merely because their legal objection is accompanied by a strong moral, ideological, or policy objection to a government action”). A “generic interest in good government” is an insufficient basis for an injury in fact. *See Campaign Legal Ctr.*, 31 F.4th at 789-90; *see Common Cause*, 108 F.3d at 418.

Plaintiff’s description of the FEC’s reporting system as “unreliable” and not providing “intelligible” information also misses the mark. Perhaps plaintiff is not satisfied with the way the Commission publishes the contributions disclosed to it or the layout of the forms that reporting entities submit. But this dissatisfaction with existing information does not establish any entitlement to information or the right to dictate how that information is presented. *See Wertheimer*, 268 F.3d at 1075 (rejecting standing for plaintiffs who “do not really seek additional facts but only the legal determination that certain transactions constitute coordinated expenditures”).

Indeed, plaintiff’s exhibits which detail contributions reported to the FEC only underscore that plaintiff does not lack access to the information sought. *See Campaign Legal Ctr.*, 31 F.4th at 790; *see Berman v. FEC*, No. 23-cv-01017, 2024 WL 3887373, at \*3 (D.D.C. Aug. 20, 2024) (“Second, the prolix administrative complaint is premised at best on Plaintiff’s

conclusions drawn from public information.”). Plaintiff also mischaracterizes formal objections to publicly-available information as requests for additional information. To wit, Exhibit 1 lists a series of contributions primarily by “Steven A. Cohen,” from the late 1990s through the early 2010s. (Compl. Ex. 1.) Perhaps one could see how someone might question filings where the same contributor lists different job titles at the same company, or includes a middle initial for only certain contributions.<sup>5</sup> (*See id.*) But revising the disclosures in a way that would make it easier for plaintiff to understand them would not alter the information already disclosed. *See Citizens for Resp. & Ethics in Wash. v. FEC*, 475 F.3d 337, 340 (D.C. Cir. 2007) (ruling that the precise dollar value of an already disclosed list of political activists “would add only a trifle to the store of information about the transaction already publicly available[,]” and that seeking that precise value was insufficient for standing purposes). In any event, plaintiff may bring an administrative complaint against any individual or committee if he believes that the reports show a violation of FECA, a step he does not allege to have taken in the Amended Complaint.

Plaintiff fares no better with his second and third exhibits. Exhibit 2 is a quarterly report from Knickerbocker for Congress. (Compl. Ex. 2.) Exhibit 3 is a 48-Hour Notice of Contributions filed by the same committee. (Compl. Ex. 3.) Plaintiff claims Exhibit 2 demonstrates how contributions made through conduits “may appear aggregated or prominently associated with the conduit rather than clearly attributable to individual contributors.” (Am. Compl. ¶¶ 44-52, 86.) He asserts that Exhibit 3 shows how 48-hour notices are reported through a separate form and process than other receipts and disbursement reports, which burdens individuals who have to then scour additional campaign finance data. (*Id.* ¶¶ 53-54.) Once

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<sup>5</sup> As noted above, the citations to campaign filing data in Exhibit 1 do not link to the Commission’s website because they contain a domain no longer in use.

again, plaintiff does not allege that any information is missing. *Campaign Legal Ctr.*, 31 F.4th at 790; *Berman*, 2024 WL 3887373, at \*3. Rather, he claims that the information appears in a manner that is unclear to him and that understanding it requires a certain level of expertise. (*Id.* ¶¶ 46, 55-57.) Yet plaintiff cites no authority holding that the Commission must disclose campaign contribution data in a particular format. *See Sierra Club v. Env't Prot. Agency*, No. 25-1112, 2026 WL 686323, at \*7 (D.D.C. Mar. 11, 2026) (“Plaintiffs cite no case—and the Court has found none—in which an informational injury was recognized where a plaintiff retains access to the underlying information but objects to the manner in which it is presented.”)

Plaintiff’s citations to alternative disclosure regimes and proposed disclosure regimes in pending legislation also do not establish an informational injury (Am. Compl. ¶¶ 58-65.) As to plaintiff’s comparisons to federal contractors and access to federal services, plaintiff appears to offer a paradigmatic shift in what the Commission, through FECA, *should* disclose. But an aspirational view of what FECA should authorize does not equate to a claim to what must be disclosed under FECA. *See ASPCA*, 659 F.3d at 23; *Zivotofsky v. Sec’y of State*, 444 F.3d 614, 617-18 (D.C. Cir. 2006) (“The requester is injured-in-fact for standing purposes because he did not get what the statute entitled him to receive.”) Plaintiff’s comparisons to pending legislation are equally inapposite. They do not implicate FECA, and are further removed from establishing an Article III injury because they do not even rest on existing law. *See Nat’l Treasury Emp. Union v. Campbell*, 482 F. Supp. 1122, 1124 (D.D.C. 1980) (“The link between Campbell’s letter and the fate of the proposed legislation is too attenuated for the plaintiff to prevail.”).

Plaintiff fails to establish Article III standing and his Amended Complaint should be dismissed.

## II. PLAINTIFF FAILS TO STATE A CLAIM UNDER THE APA

Plaintiff's Amended Complaint also fails for an additional, independent reason: none of plaintiff's three counts plausibly allege an APA violation. Plaintiff's broad yet threadbare allegations contend simultaneously that the FEC failed to take required action, 5 U.S.C. § 706(1), *and* that the action the FEC took was arbitrary and capricious, 5 U.S.C. § 706(2)(A). But plaintiff neither identifies a discrete agency action the FEC was required to take nor sets forth a final agency action that was arbitrary or capricious. The Court therefore should dismiss the Amended Complaint under Rule 12(b)(6) for failure to state a claim.

### A. Legal Standard

Dismissal of a complaint is appropriate under Federal Rule of Civil Procedure 12(b)(6) where, accepting the factual allegations in the complaint as true and drawing all reasonable inferences in the plaintiff's favor, the complaint fails as a matter of law to state a claim on which relief can be granted. Fed. R. Civ. P. 12(b)(6); *Rollins v. Wackenhut Servs., Inc.*, 703 F.3d 122, 129 (D.C. Cir. 2012) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). To survive a motion to dismiss, a complaint must offer more than "labels and conclusions" or a "formulaic recitation of the elements of a cause of action." *Iqbal*, 556 U.S. at 678.

"Threadbare recitals of a cause of action's elements, supported by mere conclusory statements," are insufficient to state a claim for relief.<sup>6</sup> *Id.* at 663. A claim must be dismissed

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<sup>6</sup> Mr. Esrati's status as a *pro se* litigant entitles his complaint to be construed liberally, but ultimately, the Amended Complaint must still establish plaintiff's standing and satisfy the pleading standards set out in *Ashcroft*, 556 U.S. at 678. *See Newman v. Howard Univ. Sch. of Law*, 715 F. Supp. 3d 86, 101 (D.D.C. 2024); *Silvious v. Coca-Cola Co.*, 893 F. Supp. 2d 233, 235 (D.D.C. 2012).

“when the allegations in a complaint, however true, could not raise a claim of entitlement to relief . . . .” *Bell Atl. Corp.*, 550 U.S. at 558. While a lawsuit may survive a motion to dismiss even where “recovery is very remote and unlikely,” *id.* at 556, the plaintiff’s allegations “must be enough to raise a right to relief above the speculative level, *id.* at 555.

In considering a Rule 12(b)(6) motion, the court may consider the facts alleged in the complaint, as well as documents attached to the complaint or incorporated into the complaint. *Stewart v Nat’l Educ. Ass’n*, 471 F.3d 169, 173 (D.C. Cir. 2006). The court may also consider matters of which it may take judicial notice. *Hurd v. District of Columbia*, 864 F.3d 671, 679 (D.C. Cir. 2017). A court may take judicial notice of “a fact that is not subject to reasonable dispute” if either it “is generally known within the trial court’s territorial jurisdiction” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b).

**B. Plaintiff’s Threadbare, Conclusory Allegations Do Not State a Claim for Relief**

Of plaintiff’s three counts, only two expressly invoke the APA. (Am. Compl. ¶¶ 94-103.) Plaintiff raises count one under 5 U.S.C. § 706(1). (*Id.* ¶¶ 91-93). He alleges that the Commission failed to take required enforcement action. (*Id.* ¶ 95.) The second count asserts, without citation to any legal authority, APA or otherwise, that the Commission failed to provide meaningful disclosure as required by law. (*Id.* ¶¶ 97-99.) The third count is under 5 U.S.C. § 706(2)(A). (*Id.* ¶¶ 100-103.) Plaintiff asserts in count three that the Commission’s disclosure database fails to produce accurate and usable disclosure, and that this obscuring of donor

information is inconsistent with FECA’s purpose and thus, is arbitrary and capricious.

(*Id.* ¶¶ 101-03.)

**1. Plaintiff Does Not Identify a Discrete or Required Agency Action  
Sufficient to State a Claim Under 5 U.S.C. § 706(1)**

The APA’s “scope of review provision” authorizes courts to “compel agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1). The APA also authorizes courts to “set aside” unlawful agency action for being, *inter alia*, arbitrary and capricious. 5 U.S.C. § 706(2)(A). The former provides relief for the government’s failure to act, and the latter provides relief for unlawful action. *Norton v. S. Utah Wilderness All (SUWA)*, 542 U.S. 55, 62-64 (2004); *see Ctr. for Biol. Diversity v. Zinke*, 260 F. Supp. 3d 11, 19-20 (D.D.C. 2017). When challenging agency action under either § 706(1) or 706(2)(A), a plaintiff must challenge agency action within the meaning of the APA. *Citizens for Resp. and Ethics in Wash. v. U.S. Dep’t of State*, 387 F. Supp. 3d 33, 48 (D.D.C. 2024).

Only certain types of failures to act can support a claim under § 706(1). *SUWA*, 542 U.S. at 62. A claim under that statute “can proceed only where a plaintiff asserts that an agency failed to take a *discrete* agency action that it is *required* to take.” *Id.* at 64 (emphasis in original). Plaintiff must show the defendant is subject to a “legal duty,” one that is “ministerial or nondiscretionary” and amounts to “a specific, unequivocal command.” *W. Org. of Res. Councils v. Zinke*, 892 F.3d 1234, 1241 (D.C. Cir. 2018). This cabining of the § 706(1) cause of action to discrete and required actions “precludes . . . broad programmatic attacks” and eliminates court-ordered agency action that the law itself does not demand. *Id.* at 65.

Plaintiff’s first count does not survive Rule 12(b)(6). Neither the Amended Complaint nor the exhibits identify a discrete provision of FECA that the Commission has failed to enforce. Instead, plaintiff raises a programmatic attack on the FEC’s failure “to take timely and

meaningful enforcement action in response” to unspecified FECA violations. Am. Compl. ¶ 9; *see also SUWA*, 542 U.S. at 64; *Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 879 (1990).

Incorporating plaintiff’s allegations of inconsistent reporting and obscured identity from the exhibits, plaintiff still does not point to a discrete duty by the Commission to take action against contributors. *See Jones v. U.S. Secret Serv.*, 701 F. Supp. 3d 4, 16-17 (D.D.C. 2023) (“Plaintiff seeks an injunction compelling the Secret Service to train officers to deal with a specific situation, but the Complaint is devoid of any allegation that the agency is required to train its officers in dealing with members of the public who are recording video.”) (quotation marks omitted). Although the Commission is empowered to initiate investigations into potential violations of FECA, those investigations do not occur automatically; they are the product of FECA’s four-vote requirement by the Commission. 52 U.S.C. §§ 30107(a)(6), 30106(c).

Plaintiff’s second count, which cites no legal authority, conceivably falls on the § 706(1) side of possible APA claims because it alleges the Commission failed to provide meaningful disclosure, *i.e.*, it alleges a failure to provide meaningful disclosure as required by law. (Am. Compl. ¶ 90.) Once again, plaintiff fails to identify a discrete provision of FECA or a required action on the part of the Commission. This count also fails to state a claim.

**2. Plaintiff Fails to Identify Final Agency Action Subject to Judicial Review Under 5 U.S.C. § 706(2)(A), and, in Any Event, The Commission’s Disclosure Database Does Not Reflect Arbitrary and Capricious Conduct**

As to plaintiff’s third count, a party can state a claim that an agency’s action was arbitrary and capricious in multiple ways. *James V. Hurston Assocs., Inc. v. Glickman*, 229 F.3d 277, 284 (D.C. Cir. 2000) (citing 5 U.S.C. § 706(2)(A)). A plaintiff may allege an agency failed to express an adequate reason for a new policy or that the agency failed to consider factors made relevant by Congress. *Id.* To survive arbitrary and capricious review, an agency action must be

the product of reasoned decision-making. *See Fox v. Clinton*, 684 F.3d 67, 74-75 (D.C. Cir. 2012).

A baseline requirement for judicial review in an action under § 706(2)(A) is the existence of final agency action within the meaning of the APA. 5 U.S.C. § 704; *Nat'l Ass'n of Home Builders v. EPA*, 786 F.3d 34, 40 n.6 (D.C. Cir. 2015) (“Under the law of this Circuit, final agency action is not a jurisdictional requirement, but bears on the existence of an APA claim.”). The APA defines agency action as an “agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.” 5 U.S.C. § 551(13); 5 U.S.C. § 701(b)(2). These five listed categories “involve circumscribed, discrete agency actions, as their definitions make clear.” *SUWA*, 542 U.S. at 62. Under a two-part framework articulated by the Supreme Court, the action must “mark the consummation of the agency’s decisionmaking process” and must not be “merely tentative or interlocutory [in] nature.” The action also “must be one by which rights or obligations have been determined, or from which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997).

Plaintiff does not identify any final agency action to form the basis of count three. Beyond abstractly claiming that the FEC “administers a system that fails to produce accurate and usable disclosure” and that “[s]uch action is arbitrary and capricious,” plaintiff points to no FECA provision or Commission rule from which the Court could determine marks the consummation of the agency’s decision-making process. (*See* Am. Compl. ¶¶ 101, 102.) Plaintiff’s objections to the database rest largely on form, *i.e.*, the way the information appears. He accordingly does not identify any rights or obligations that flow from an agency action, let alone any final agency action. Plaintiff thus fails both prongs of the *Bennett* test, and his limited, conclusory allegations fail to state a claim upon which relief could be granted. *See Perrigo Res.*

*& Dev. Co. v. FDA*, 290 F. Supp. 3d 51, 62 (D.D.C. 2017) (dismissing under Rule 12(b)(6) “because plaintiff has not alleged that FDA took a ‘final agency action’”).

### CONCLUSION

The Court should dismiss plaintiff’s Amended Complaint under Rule 12(b)(1) or 12(b)(6). Plaintiff fails to allege an injury that is actual or imminent and concrete or particularized. He also fails to make a showing of informational injury in his requests for campaign finance data that is already publicly available. As to Rule 12(b)(6), plaintiff fails to allege discrete and required agency action by the FEC or articulated final agency action that is subject to judicial review, let alone such action that could be considered arbitrary or capricious.

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