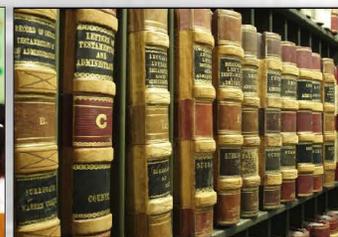




2016 CHIEF FOIA OFFICER REPORT

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.



**DEPARTMENT OF EDUCATION
OFFICE OF MANAGEMENT
FREEDOM OF INFORMATION ACT (FOIA)
SERVICE CENTER**

Message from the Chief FOIA Officer

The U.S. Department of Education's (ED or Department) mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. ED's Freedom of Information Act (FOIA) program is amongst many functions that contribute to the Department meeting and achieving its mission.

ED's leadership continues to be dedicated to the Department-wide success of the FOIA program and takes its transparency responsibility to the public seriously and is committed to providing as much information as possible as expeditiously as possible.

This *2016 Chief FOIA Officer Report* summarizes the Department's accomplishments in carrying out its initiatives related to transparency, openness, and implementing FOIA throughout the March 2015 to March 2016 reporting year.

In the following areas, ED made notable improvements in its FOIA activities:

- **Processing Requests**

(as documented in the Department's *Annual FOIA Report for Fiscal Year 2015*)

- Reduced the backlog of initial FOIA requests by 6 percent.
- Reduced the backlog of FOIA appeals by 15 percent.
- Closed 8 of the 10 oldest initial FOIA requests and 6 of the 10 oldest FOIA appeals.
- Improved the average processing time (age) for simple track requests to 11.27 days.

- **Training Personnel**

- Increased the education and training opportunities for FOIA coordinators and other FOIA professionals throughout the reporting year in keeping with the Attorney General's 2009 FOIA Guidelines.
- Facilitated and participated in ad hoc FOIA trainings across the Department.

- **Utilizing Technology and Web Tools**

- Worked with ED program offices to make more discretionary releases and posted more useful materials on the Web and in the FOIA Library.

- Updated and enhanced the FOIA public Website to encourage interested parties to search ED's Website for information and data resources (links to hot topics, and frequently requested information).
- Increased the overall operational efficiency by upgrading the case management tracking system software. ED is continuing to review all aspects of its FOIA administration and is taking strides to improve FOIA operations and facilitate information disclosure.

I am pleased to present the U.S. Department of Education's *2016 Chief FOIA Officer Report* to the Attorney General of the United States.

Andrew Jackson
Chief FOIA Officer
Assistant Secretary for Management
Office of Management
U.S. Department of Education

Department of Education Offices

The Department of Education consists of Principal Offices (herein program offices). Several of the following ED offices and/or processing designations provided information in response to the overall FOIA compliance and transparency for this report:

- FSA Federal Student Aid
- IES Institute of Education Sciences
 - IES-NAGB National Assessment Governing Board
- OCFO Office of the Chief Financial Officer
 - OFCO- CAM Office of Contracts and Acquisitions Management
- OCIO Office of the Chief Information Officer
- OCO Office of Communications and Outreach
- OCR Office for Civil Rights (Headquarters)
 - Office for Civil Rights (Regional Enforcement Offices)
 - OCR-1 Boston, OCR Region I - Boston
 - OCR-2 New York, OCR Region II – New York
 - OCR-3 Philadelphia, OCR Region III - Philadelphia
 - OCR-4 Atlanta, OCR Region IV - Atlanta
 - OCR-5 Chicago, OCR Region V - Chicago
 - OCR-6 Dallas, OCR Region VI - Dallas
 - OCR-7 Kansas City, OCR Region VII - Kansas City
 - OCR-8 Denver, OCR Region VIII - Denver
 - OCR-9 San Francisco, OCR Region IX – San Francisco
 - OCR-10 Seattle, OCR Region X - Seattle
 - OCR-Metro D.C., OCR District of Columbia Office
 - OCR-12 Cleveland, OCR Region XII – Cleveland
- ODS Office of the Deputy Secretary

- OESE Office of Elementary and Secondary Education
- OGC Office of the General Counsel
- OIG Office of Inspector General
- OII Office of Innovation and Improvement
- OLCA Office of Legislation and Congressional Affairs
- OM Office of Management
 - OM-OCPO Office of the Chief Privacy Officer
- OPE Office of Postsecondary Education
 - Policy, Planning and Innovation (PPI)
- OPEPD Office of Planning, Evaluation and Policy Development
- OS Office of the Secretary
- OSERS Office of Special Education and Rehabilitative Services
- OUS Office of the Under Secretary
- OCTAE Office of Career, Technical and Adult Education

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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's [FOIA Memorandum](#) and the Attorney General's [2009 FOIA Guidelines](#) is the presumption of openness.

FOIA Training:

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?

- *Training can include holding an agency-wide FOIA conference, holding a seminar on a particular FOIA topic, or providing training to FOIA or agency staff during a staff meeting, among other types of training.*
- *The training provided here should be substantive and should cover the application of the law and policy. Conversely, your agency's efforts to provide training on the use of technology or IT tools (such as case management systems) that assist in the processing of requests should be addressed below in response to Question 4 of Section IV of your Chief FOIA Officer Report.*

Yes. The Department of Education (ED) conducted FOIA training during this reporting period for FOIA professionals.

2. If yes, please provide a brief description of the type of training conducted and the topics covered.

ED's central FOIA Office (i.e., FOIA Service Center (FSC)) provided the FOIA coordinators within individual ED program offices refresher courses on the Department's internal FOIA process, and the proper usage of the nine (9) FOIA exemptions.

In collaboration with ED's Records Management Team, the FSC provided ED's Office for Civil Rights (OCR) an in depth training on best practices for records management and record retention as they relate to FOIA records.

In addition to the FOIA coordinators meetings, the FSC provided tailored FOIA training to specific program offices within ED. The training offerings included: FOIA 101 to provide staff a basic overview of the FOIA, an assessment of the their overall FOIA program, best practices in responding to requests, addressing their FOIA case backlog, desk side training on the tracking system used by ED to process FOIA/Privacy Act (PA) requests, and the correct usage of the nine (9) FOIA Exemptions.

In collaboration with the Office of the General Counsel (OGC), the FSC conducted a two-day training event attended by FOIA professionals from OCR's 12 regional offices in which a multitude of topics were covered. During this unprecedented FOIA

training, sessions included: Properly Communicating with Requesters, Fees and Fee Waivers, Personally Identifiable Information (PII), Exemptions 5 and 7, and the Privacy Act.

Lastly, ED is planning to launch the Office of Information Policy's two FOIA e-Learning training modules to the Department's internal training platform by the end of the 2nd quarter of Fiscal Year 2016.

3. If no, please explain why your agency did not hold training during the reporting period, such as if training offered by other agencies was sufficient for your agency's training needs.

N/A

4. Did your FOIA professionals attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

• *Such training or events can include offerings from OIP, your own agency or another agency or organization.*

- Yes. FOIA professionals from multiple ED program offices took advantage of the many training opportunities that were made available, including FOIA training provided by the Department of Justice's Office of Information Policy (DOJ), and the American Society of Access Professionals (ASAP):
- ASAP Annual National Training Conference.
- ASAP Food For Thought Luncheon – Understanding why FOIA Requests are closed prior to "Requester Satisfaction."
- DOJ's Best Practices Workshop series.
- DOJ's training on preparation of the FOIA Annual Report and the Chief FOIA Officer Report.

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

At least 95% of ED's FOIA professionals and staff with FOIA responsibilities attended substantive training during this reporting period. We feel this high rate of FOIA professionals that attended training is due to the continual outreach effort made by the FSC where we notify FOIA professionals of the various training opportunities that are available. These notifications are provided in ED's FOIA newsletter and through blast e-mails to staff.

6. OIP has **directed agencies** to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

Outreach:

1. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

- *This question addresses outreach that is conducted outside of the individual request or appeal process. Outreach activities can include engaging with frequent requesters by holding meetings or events which include them, conducting surveys or otherwise soliciting requester feedback, or participating in any other requester initiative coordinated by your agency or by others, such as OIP.*
- *Example: An agency receives numerous requests from one organization seeking similar types of records. The organization does not know how the agency organizes its records or how its FOIA professionals must conduct searches. When submitting FOIA requests, the organization often submits broad requests that take a long time to process and that result in the review of a lot of records that are ultimately of no interest to the requester. The agency holds a meeting with the organization to discuss its record keeping system, search capabilities, and overall FOIA process to assist the organization in the formulation of future FOIA requests. Because of the meeting, the organization now submits more targeted requests that result in the agency being able to provide the requester the records it is interested in more quickly.*
- Yes. ED FOIA professionals routinely engage with individual requesters by writing, telephone, and/or e-mail to discuss the scope of FOIA requests and to negotiate satisfactory resolutions to requests in which information is exempt.
- Yes. ED FOIA professionals routinely engage with individual requesters by writing, telephone, and/or e-mail to discuss the scope of FOIA requests and to negotiate satisfactory resolutions to requests in which information is exempt.
- ED FOIA professionals, including persons within the FSC, attended and actively participated in multiple Sunshine Week events in 2015. This engagement has assisted ED's FSC in better understanding the requester public.

- A few notable events from Sunshine Week include one of the week's first events, the "2015 National Freedom of Information Conference" which was held on March 13, 2015 at the Newseum. ED's staff attended discussions on "Open Government: Successes, Challenges, Prospects" presented by OpenTheGovernment.org, and the first ten years of the "Sunshine Week" national open records initiative, presented by the Reporters Committee for Freedom of the Press and the American Society of News Editors.
- On March 16, 2015, FOIA professionals from multiple agencies were recognized for their efforts by DOJ. This event gave staff from ED's FSC the opportunity to talk to members of the FOIA community from other agencies about the challenges they face with their FOIA program and how these obstacles were overcome.
- ED's FSC staff also attended the March 19, 2015 event, "Era of Transparency: FOIA, PA, and Open Government" which was hosted by the U.S. Census Bureau. Speakers from the public sector, as well as the requester community, discussed the importance of Open Government as well as ways to improve the current state.

2. If you did not conduct any outreach during the reporting period, please explain why.

N/A

Discretionary Releases:

1. Does your agency have a distinct process or system in place to review records for discretionary release?

- ***If so, please briefly describe this process.***
- ***If your agency is decentralized, please specify whether all components of your agency have such a process or system in place?***
 - Yes. ED has continued its effort to make discretionary releases of information and has systematically applied the "foreseeable harm" standard.
 - ED's FSC, in collaboration with the OGC, provides technical advice, training, and related assistance to agency program office personnel with responsibility for FOIA administration to ensure a presumption of openness is applied to all decisions involving the FOIA.
 - Also, in order to seek opportunities for discretionary release, program offices are required to clearly articulate to the FSC the foreseeable harm in the release of records where Exemption b(5) has been asserted. The FSC staff

ensures that the harm is actual and not speculative. If no clear harm is identified, ED will make a discretionary release of the information.

2. During the reporting period, did your agency make any discretionary releases of information?

Yes.

3. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on [implementing the President's and Attorney General's 2009 FOIA Memoranda](#).

FOIA Exemption b(5).

4. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

All program offices within ED have made a sound effort in releasing information protected by the deliberative process. For example, internal, pre-decisional documents related to rulemakings, internal communications and other significant decisions that would otherwise be withheld in their entirety pursuant to FOIA Exemption b(5). A specific example would include the various internal communications released under multiple "Gainful Employment" related FOIA requests.

5. If your agency was not able to make any discretionary releases of information, please explain why. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only exemptions that were applied were those that do not lend themselves to discretionary release (i.e. Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).

N/A

Other Initiatives:

- 1. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.**
 - *Efforts can include training for non-FOIA professionals, distributing memoranda on the FOIA, announcements on FOIA matters, making available OIP's [FOIA for Senior Executive's briefing video](#), distributing the [FOIA infographic](#) developed by OIP, having your agency staff take OIP's [FOIA for all Federal Employees eLearning module](#), etc.*

- Many of the program offices within ED have FOIA as a standing agenda item for their all-staff meetings.
 - The FSC provides monthly FOIA data for the Office of the Deputy Secretary's dashboard report which captures specific metrics on individual ED program office's activities. ED shares this dashboard report amongst its senior leadership as part of its efforts to enhance transparency, and to ensure appropriate accountability for FOIA handling throughout the Department.
 - ED's Chief Privacy Officer (CPO) meets regularly with FOIA Senior Leaders from each program office to inform them of their obligation to the Department's FOIA program.
- 2. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.**
- **If any of these initiatives are online, please provide links in your description.**
 - ED's FSC monitors the inventory of requests received by the Department and holds internal bi-weekly meeting with staff to encourage the routine and consistent application of the presumption of openness when processing agency records under FOIA.
 - When ED's FSC staff meets or consults with ED's FOIA contacts within the program offices, disclosure is always encouraged unless the information being reviewed is clearly exempt from disclosure under the FOIA.
 - The FSC conducts quality reviews of FOIA responses for compliance and when necessary responses have been revised to provide the greatest disclosure.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

The Attorney General's [2009 FOIA Guidelines](#) emphasized that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

Processing Procedures:

1. For Fiscal Year 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2015 Annual FOIA Report.

The average number of days was 10.74.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

In addition to using an automated notification function within ED's tracking system as a reminder tool; the FOIA Service Center has established more managerial oversight of the process to ensure timely decisions.

3. If your agency has a decentralized FOIA process, has your agency taken steps to make the routing of misdirected requests within your agency more efficient? If so, please describe those steps.
 - *If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.*
 - ED has a centralized FOIA process, so in the event that a program office receives a request in error, the request is sent back to the FOIA Service Center to be re-assigned to the appropriate office.
4. On July 2, 2015, OIP issued **new guidance** to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.

Since the issuance of the new guidance, ED has communicated out only a few "still interested" inquiries, and yes, all communications were in accordance with the new guidelines.

Requester Services:

Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.

- *If your agency has not taken any steps recently to strengthen these services, either because there has been no need to due to low demand or because these services are already robust, please briefly explain that that here.*
 - In addition to the strong commitment to customer service that the FSC has in place already, ED is developing a public facing FOIA/PA Guidebook that will provide the requester community with a wealth of information about the Department's FOIA program.

Other Initiatives:

If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

ED is making a concerted effort to ensure its FOIA system operates efficiently and effectively, including:

- Facilitating cyclical meetings scheduled between FOIA professionals (particularly ED FOIA coordinators within program offices and the FSC) to foster collaborative work relationships, to improve search processes, to effectively troubleshoot problems and to facilitate more timely and substantive responses to FOIA requests.
- Enriching a continuous partnership between OGC and FSC in an effort to enhance FOIA Training, to improve FOIA handling practices, and to better understand all procedural and regulatory requirements.
- Deploying upgrades to its FOIA tracking system specifically designed to maximize efficiency, improve search capabilities, and increase collaboration between different program offices (aka, Principal Offices) within the Department when searching for responsive records and reviewing requests.

Section III: Steps Taken to Increase Proactive Disclosures

Both the [President's](#) and [Attorney General's](#) FOIA memoranda focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

- 1. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.**

Yes. ED's FSC collaborates internally with program offices across the Department as an ongoing effort to identify records for proactive disclosure. This is an ongoing effort in the Department's FSC, which, at times, requires an electronic search of the case management tracking system to identify frequently requested records. Two of the most commonly-requested categories of records within ED are the successful grant applications and contracts.

Also, ED's FSC in partnering with the OGC FOIA Attorneys continues to communicate to program offices to follow the "rule of three" to identify categories of records that have been frequently requested or for which there is an anticipated high public interest.

- 2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system.**

Please note that this question is directed towards proactive disclosure of records that go beyond frequently requested records required to be posted under Subsection (a)(2) of the FOIA.

Yes. ED's FSC in partnering with the OGC FOIA Attorneys continues to communicate and train personnel to make records publicly available without waiting for specific requests from the public.

- 3. When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.**

Please note that this question is directed at the efforts of actually posting the records online once all disclosure determinations have been made. For example, efforts to load the records in your web content platform or making the releasable documents accessible in compliance with Section 508 of the Rehabilitation Act.

No. FOIA professionals are not involved with making documents 508 compliant.

4. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Yes.

5. If so, please briefly explain those challenges.

ED continues to face challenges posting some documents that do not meet the requirements for posting documents under Section 508.

6. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

The [Office of Innovation and Improvement \(OII\)](#) has continued its work on posting the application, technical review forms, and abstracts for all new grants from their 25+ discretionary grant programs. Their information can be found here: <http://innovation.ed.gov/>

The **Office of Elementary and Secondary Education (OESE)** proactively released the following information this past fiscal year:

[ESEA Flex 2015](#) **State Flexibility Waivers**

- 45 states, the District of Columbia, Puerto Rico and the Bureau of Indian Education submitted requests for ESEA flexibility

[Equity Plan 2015](#) **State Equity Plans**

- 45 states and the District of Columbia

[Enhancement Assessment Grant](#) - **EAG 2015**

- 15 Grant Awards

[ESE School Counseling grant](#) - **School Counseling 2015**

- 70 Grant Awards

[High School Equivalency Program](#) - **HEP Funded 2015**

- 15 Grant Awards

[College Assistance Migrant Program](#) - **CAMP Funded 2015**

- 25 Grant Awards

[Turnaround School Leader Program](#) - **PAP OST Grants**

- 13 Grant Awards

[Preschool Development Grants-Development Grants](#) - **Development 2015**

- 9 Grant Awards

[Preschool Development Grants-Expansion Grants](#) - **Expansion 2015**

- 27 Grant Awards

[Jacob K. Javits Gifted and Talented Student Education](#) - **Javits 2015**

- 13 Grant Awards

Federal Student Aid (FSA) proactively released the following information this past fiscal year:

- Prepared and posted financial [composite scores](#) for posting to the FSA Data Center.
- Released regular lists of institutions on [Heightened Cash Monitoring](#).
- Prepared and released several new data sets to the [FSA Data Center](#) in FY 2015 to support FSA's increased commitment to continuous transparency. These new data sets include the Award Year Activity by School Type report, the Aid Recipient Summary Report, the IDR Plans by Repayment Type report, the DL by Deferment Type report, and the DL by Forbearance Type report, the FFEL by Deferment Type Report, the Heightened Cash Monitoring list, and the TIVAS SCRA Compliance Reports.
- Posted four sets of quarterly FAFSA, loan, grant, and portfolio reports to the [FSA Data Center](#). The postings were accompanied by IFAP announcements which highlighted new reports and showcased trend analysis and forecasting. The outcome was a more positive posture in the subsequent media stories from trade press.
- Continued regular posting of [Clery Act](#)-specific Final Program Review Determinations and general assessment Final Program Review Determinations.

7. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.

- ***For example, this can be done through social media or with the offering of e-mail subscription services.***

ED continues to use various venues to notify the public of important events and will provide information updates online on the web. Examples include, but are not limited to, the following:

- [Electronic newsletters](http://www.ed.gov/) @ <http://www.ed.gov/>
- [ED.gov Blog](http://www.ed.gov/) @ <http://www.ed.gov/>
- [Media releases](http://www.ed.gov/) @ <http://www.ed.gov/>
- [Twitter](https://twitter.com/usedgov) @ <https://twitter.com/usedgov>
- [Facebook](https://www.facebook.com/ED.gov) @ <https://www.facebook.com/ED.gov>
- [YouTube](http://www.youtube.com/user/usedgov) @ <http://www.youtube.com/user/usedgov>

Other Initiatives:

If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

ED's Chief Privacy Officer (CPO) meets periodically with FOIA Senior Leaders from each program office to inform them of their obligation to the Department's FOIA program. The topic of proactive disclosures is a standing agenda item in which the CPO encourages the program offices to identify information for proactive disclosures, and also explains the benefits and overall impact that proactive disclosures have.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's [FOIA Memorandum](#) was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

Making Material Posted Online More Usable:

- 1. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website?**

- *Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.***

Yes. In keeping with the principles which are the cornerstone of an Open Government (transparency, participation and collaboration), ED's Open Government Plan details its approach for sharing ED data more openly, engaging with the public more proactively and collaborating with all citizens. ED routinely updates its Open Government Plan to include updates on projects and initiatives to improve transparency, participation and collaboration. ED solicits feedback from the general public on the effectiveness of its public Website.

- 2. If yes, please provide examples of such improvements.**

If your agency is already posting material in its most useful format, please describe these efforts.

As a continual effort, ED updates its Website to better meet the needs of the public and to make information more accessible through easier and faster methods. ED encourages the public to explore information on its Website to learn more about what ED is doing to address the principles of transparency, participation, and collaboration.

In 2015, ED continued its Open Government Plan initiative of making additional information more accessible to the public on its Website and to provide timely online publishing (see Data.ED.gov).

ED encourages public participation at ED.gov.

- 3. Have your agency's FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?**

Yes. The staff from the FSC routinely communicates with the Office of the Chief Information Office, webmasters, and the Assistive Technology Team in order to identify if there are any new ways to post agency information online.

Use of Technology to Facilitate Processing of Requests:

1. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools.
 - *Please note that this question is focused on training provided to your FOIA professionals for the use of technology and IT tools that assist them in their day-to-day work of processing requests. Your agency's efforts to provide substantive training on the FOIA itself and the requirements of the law should be addressed in response to Question 1 of Section I of your Chief FOIA Officer Report.*

Although ED has had the same case management system for an extended period of time, training is provided to the application end-users as the system is upgraded annually. Additionally, individuals that have been granted access to ED's E-Discovery tool have had in depth training on how to effectively use the platform.

2. Beyond using technology to redact documents, is your agency taking steps to use more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes, describe the technological improvements being made.

Yes. ED is now utilizing a robust E-Discovery tool to improve its record search capabilities.

3. Are there additional tools that could be utilized by your agency to create further efficiencies?

The Department has started the process to move our commercial-off-the-shelf (COTS) FOIA tracking system to a hosted environment. The benefits to this change include increased running speed for faster performance, and greater ease of implementing configuration changes which means less downtime for its end-users.

Other Initiatives:

1. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?
 - *Please see OIP's [guidance](#) for posting of quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly*

appearing on FOIA.gov. (If your reports are posted to your website, but not appearing on FOIA.gov, please contact OIP in order to resolve the issue.)

Yes.

2. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2016.

N/A

3. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? *See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications."* (Nov. 22, 2013) If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?

- *If decentralized, please indicate whether all components use email or other electronic means to communicate with requesters.*
- *Please note that this includes all types of communications throughout the FOIA process.*

Yes. ED FOIA professionals primarily communicate directly with requesters through e-mail.

4. If your agency does not communicate electronically with requests as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? *See id.*

- *If decentralized, please indicate whether any of your agency's components have specific limitations or restrictions for the use of such means and if those components have informed requesters of such limitations.*

Due to file size limitations within the Department's e-mail system, a majority of the FOIA responses in which records are provided are done in hard copy on a CD. Yes, ED informs the requesters about such limitations.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President's [FOIA Memorandum](#) and the Attorney General's [2009 FOIA Guidelines](#) have emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses

both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2015 Annual FOIA Report and, when applicable, your agency's 2014 Annual FOIA Report.

Simple Track: Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Yes.

2. If so, for your agency overall in Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

Our processing time for simple requests for Fiscal Year 2015 was 11.27 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

Fifty-Five percent (55%) of the 2,315 requests processed in Fiscal Year 2015 were placed in the simple track.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A

Backlogs: Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

Backlogged Requests:

1. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

At the close of Fiscal Year 2015, ED's backlog decreased by 6%. ED's backlog decreased from 283 requests in Fiscal Year 2014 to 265 requests in Fiscal Year 2015.

2. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

N/A

3. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2015.

- To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of requests received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

Of the total number of requests received this past fiscal year, 11% of requests made up the backlog.

Backlogged Appeals:

1. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

At the close of Fiscal Year 2015, ED's backlog decreased by 11%. ED's backlog decreased from 78 open appeals in Fiscal Year 2014 to 69 open appeals in Fiscal Year 2015.

2. If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. When doing so, please also indicate if any of the following were contributing factors:

- **An increase in the number of incoming appeals.**
- **A loss of staff.**
- **An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.**
- **Any other reasons – please briefly describe or provide examples when possible.**

N/A

3. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals *received* by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with "N/A."

- **To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of appeals received in Fiscal Year 2015, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.**

One hundred and thirty-eight percent (138%).

Backlog Reduction Plans:

1. In the [2015 guidelines for Chief FOIA Officer Reports](#), any agency with a backlog of over 1,000 requests in Fiscal Year 2014 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2015.

N/A

2. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2015, what is your agency's plan to reduce this backlog during Fiscal Year 2016?

N/A

Status of Ten Oldest Requests, Appeals, and Consultations:

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

1. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

No. ED was unable to close the ten (10) oldest requests.

2. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

- *For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed six of them, you should note that you closed six out of seven "oldest" requests.*

Eight (8) of ED's 10 oldest requests were closed by the end of the fiscal year.

3. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

None of the 8 cases were closed due to the requester withdrawing the request.

TEN OLDEST APPEALS

1. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

No. ED was unable to close the 10 oldest appeals.

2. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

- *For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.*

Six (6) of ED's 10 oldest requests were closed by the end of the fiscal year.

TEN OLDEST CONSULTATIONS

1. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

No pending consultations were reported.

2. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

- *For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.*

N/A

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

1. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2014.

In regards to the ten oldest requests, the biggest obstacle ED faced in getting them closed was due to the complex, voluminous nature of the responsive records. For the ten oldest appeals, this was due to a combination of obstacles (e.g., limited resources), and to the complex, voluminous nature of the responsive records.

2. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

- 3. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2016.**

ED's CPO presented at Office Leaders Meeting's on the Department's overall backlog and received direction from senior leadership to close the backlog. The FSC intends to meet regularly throughout Fiscal Year 2016 with the program offices assigned to the ten oldest requests and appeals.

Interim Responses:

- 1. Does your agency have a system in place to provide interim responses to requesters when appropriate? See *OIP Guidance*, "[The Importance of Good Communication with FOIA Requesters](#)." (Mar. 1, 2010)**

Yes. Providing interim responses is a standard practice with ED's FOIA program.

- 2. If your agency had a backlog in Fiscal Year 2015, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.**

Of the 265 cases in our backlog, interim responses were provided in approximately 30% of the cases.

Use of the FOIA's Law Enforcement Exclusions

- 1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2015?**

No.

- 2. If so, please provide the total number of times exclusions were invoked.**

N/A

Success Story

Out of all the activities undertaken by your agency since March 2015 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency [success stories](#) will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key

achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

ED is pleased to announce through the hard work and efforts of the FOIA Service Center, Office of the General Counsel, and various program offices, ED was able to reduce its overall FOIA appeals backlog by 15%.

During this reporting period, a review of the appeals process took place, resulting in the FSC creating a more efficient process for the Department. In addition to a more streamlined approach in making appeal determinations, improved communication regarding the appeals backlog was achieved through regularly scheduled meetings and reporting.