



# 2022

## 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 THE SECRETARY  
FREEDOM OF INFORMATION ACT (FOIA)  
SERVICE CENTER

## Message from the Chief FOIA Officer

The U.S. Department of Education (ED) is a Cabinet-level department of the United States government that began operating in 1980. ED's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. The Department's Freedom of Information Act (FOIA) program is amongst many functions that contribute to ED meeting and achieving its mission.

ED's FOIA program makes every effort to respond to requests within the statutory time limits for responding under FOIA. As the Chief FOIA Officer, I am pleased to report that the FOIA program is continuing to improve its administration of FOIA. Throughout this March 2021 to March 2022 reporting period, ED continued efforts to increase responsiveness to requesters, promote transparency, and eliminate or reduce backlogs (of initial FOIA requests as well as FOIA appeals), and address resource needs.

ED's targeted focus on reducing backlogs in FY 2021 resulted in an 19% backlog reduction of pending FOIA requests and a 24% reduction of pending FOIA appeals. Additionally, ED closed the 10 oldest FOIA requests and closed 8 out of the 10 FOIA appeals. Details of these reductions are highlighted in Section XII of this report.

ED's FOIA program will continue to build on these accomplishments and work with its program offices to ensure continued compliance with the FOIA and to demonstrate a sincere commitment to transparency and openness in government.

Inquiries about this report may be directed to ED's FOIA Service Center via phone at (202) 401-8365 or via email at [EDFOIAManager@ed.gov](mailto:EDFOIAManager@ed.gov).

Tracey St. Pierre

Director, Office of the Executive Secretariat and Chief FOIA Officer

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## Section I: Steps Taken to Apply the Presumption of Openness

### A. FOIA Leadership

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. *See* 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at this level?

Yes.

2. Please provide the name and title of your agency's Chief FOIA Officer.

Tracey St. Pierre, Director, Office of the Executive Secretariat and Chief FOIA Officer

### B. FOIA Training

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. *See* 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

The U.S. Department of Education's or ED's Chief FOIA Officer ensures adequate training by planning and hosting an annual Department-wide training event with internal and external FOIA experts, providing training at regular meetings with principal office staff, and by making ED staff aware of available training opportunities. The FOIA Service Center (FSC), in collaboration with the Office of General Counsel FOIA Attorney's provide FOIA training tailored to the individual or program office's needs. These trainings consist of a basic overview of FOIA, best practices in responding to requests, strategies to reduce FOIA case backlogs, the operation of the FOIAXpress case management system, proactive posting and the need for transparency, making discretionary releases of information, and an overview of the nine (9) FOIA Exemptions.

These training opportunities are presented to ED staff through various notifications, such as ED's FOIA newsletter and blast e-mails to staff.

The training needs of FOIA professionals are communicated to the FOIA Service Center (FSC) during meetings between the FSC and program offices that occur throughout the Fiscal Year, and FSC uses this input to assess and address those needs. Additionally, the FSC distributes a quarterly customer service satisfaction survey to solicit feedback from the program offices about services and training. The findings from the survey assist the FSC with identifying training gaps and develop future trainings for ED's FOIA community.

4. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

Yes. In addition to the FSC staff, many FOIA professionals from the various program offices within ED attended substantive training during this reporting period.

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

- 2021 American Society of Access Professionals (ASAP) Virtual National Training Conference
- Hot Topic Training – FOIA Court Case Update (ASAP)
- OGIS Annual Open Meeting
- CFO Council Meeting (OGIS)
- FOIA Advisory Committee Meetings (OGIS)
- Virtual Introduction to the FOIA (DOJ)
- Virtual Best Practices FOIA Administration During the Pandemic (DOJ)
- Virtual Chief FOIA Officer Report Training (DOJ)
- Virtual Procedural Requirements and Fees Training (DOJ)

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

ED continues to have a high rate of FOIA training: 100% of ED's FOIA professionals and staff with FOIA responsibilities attended substantive training during this reporting period. We believe the high rate of FOIA professionals that attended training is due to FSC's continual outreach efforts to notify FOIA professionals of training opportunities available.

Additionally, ED staff are able earn learning credits towards their professional development for attending the Department's annual FOIA training conducted by DOJ attorneys.

7. 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

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

Yes. ED staff are required to attend Information Management Requirements training. Through this course, staff learn how to effectively safeguard, handle, provide and manage information. Also, during this reporting period ED's Record Officer and the Office of General Counsel FOIA Attorney's lead a comprehensive discussion on the intersection of Controlled Unclassified Information (CUI) and the Freedom of Information Act (FOIA).

### *C. Outreach*

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

Outside of the standard request process, ED's FOIA professionals did not engage in significant outreach with the requester community or open government groups. ED plans to identify avenues to increase engagement with the requester community in coming year.

### *D. Other Initiatives*

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:

- how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and
- if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

All new ED personnel are informed of their FOIA obligations as part of ED's onboarding process, and FSC makes internal training opportunities available to FOIA and non-FOIA professionals alike throughout the year.

ED's annual FOIA training is open to all Departmental employees. The FSC initiated a department-wide communication outreach campaign well in advance of the training that resulted in many non-FOIA staff attending the event.

During this reporting period, multiple program offices requested staff from the FSC attend their all-staff meetings to discuss FOIA. The sessions covered topics like what is FOIA, what are the Department's processing responsibilities, how and where to search, and an overview of the exemptions most likely to apply to ED records.

The Chief FOIA Officer briefed the new Secretary, Deputy Secretary, and other on boarding leaders on their FOIA obligations. Additionally, ED rolled out a “Everything You Wanted to Know About X” series to all new appointees that included a comprehensive briefing on FOIA.

11. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

A presumption of openness is built into ED’s FOIA training. In collaboration with ED’s FOIA attorneys, the FSC regularly provides guidance to FOIA and non-FOIA staff on the FOIA including the presumption of openness and conducting foreseeable harm reviews.

ED offered the following internal training during the reporting period:

- FOIA coordinators within individual ED program offices received refresher courses on the Department’s internal FOIA process, and the proper usage of the nine (9) FOIA exemptions.
- 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 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.

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

1. For Fiscal Year 2021, 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 2021 Annual FOIA Report.

The average number of days was 22.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

The FSC Director will continue to emphasize the importance of improving the process for adjudicating requests for expedited processing in fewer than 10 calendar days.

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More managerial oversight will be implemented through the review of the FSC daily report which identifies all new incoming requests.

3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

Yes, ED's FOIA regulations were updated in accordance with the FOIA Improvement Act of 2016.

4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?

Yes.

5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.

N/A

6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

No.

7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

ED processes first-party requests for student loan and civil rights investigatory records. To date, we have not explored any other alternative means.

8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.



Although ED did not conduct a self-assessment this year as we have performed assessments of our FOIA program in recent years, we are currently reviewing our procedures for improvement opportunities.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2021 (please provide a total number or an estimate of the number).

On average, a member of the requester public contacts ED's FOIA Public Liaison between 3 to 4 times per week.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

ED is currently conducting a review of the FOIA staffing levels across the Department.

11. Optional -- Please describe:

- Best practices used to ensure that your FOIA system operates efficiently and effectively
- Any challenges your agency faces in this area.

ED continues to make 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 the Office of the General Counsel (OGC) and the FSC in an effort to enhance FOIA Training, to improve FOIA handling practices, and to better understand all procedural and regulatory requirements.

## Section III: Steps Taken to Increase Proactive Disclosures

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

ED's FSC collaborates internally with program offices across the Department as an ongoing effort to identify records for proactive disclosure.

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This is an effort in the Department's FSC, which, at times, requires an electronic search of the case management tracking system to identify frequently requested records. The FSC also communicates with the webmasters in the various program offices regarding postings.

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

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

Departmental

- [COVID-19 Resources for Schools, Students and Families](#)

Office of the Secretary (OS)

- [Secretary's Calendar](#)
- [Secretary's Priorities](#)
- [Key Policy Letters](#)

Office for Civil Rights (OCR)

- [Case Resolutions](#)
- [Resources for LGBTQI+ Students](#)

Office of Special Education and Rehabilitative Services (OSERS)

- [OSERS COVID-19 Resources](#)
- [Individuals with Disabilities Education Act \(IDEA\) Updates](#)

Office of Elementary and Secondary Education (OESE)

- [Natural Disaster Resources](#)
- [American Rescue Plan – Elementary and Secondary School Emergency Relief](#)
- [Readiness and Emergency Management for Schools \(REMS\)](#)
- [TA Centers COVID-19 Resources](#)
- [Elementary and Secondary Education Act \(ESEA\) Guidance](#)

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Office of Finance and Operations (OFO)

- [Handbook for Discretionary Grant Process](#)

Office of Planning, Evaluation and Policy Development (OPEPD)

- [Foundations for Evidence-Based Policymaking](#)

Office of Inspector General

- [Coronavirus Response and Relief Oversight](#)
- [Just Issued](#)
- [OIG FY 2022 Annual Plan](#)
- [FY 2021 Management Challenges Facing the Department of Education](#)

Federal Student Aid

- [COVID-19 Emergency Relief and Federal Student Aid](#)
- [Federal Student Aid Data Center](#)

Office of Postsecondary Education (OPE)

- [Higher Education Emergency Relief Fund \(HEERF\)](#)
- [Higher Education Emergency Relief Fund II \(HEERF II\)](#)
- [Accreditation](#)
- [Policy Initiatives](#)

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

Section 618 of the IDEA requires each state to submit data about infants and toddlers who receive early-intervention services under Part C of the IDEA and children with disabilities who receive special education and related services under Part B of the IDEA. The 618 data products can be found under [State Data Collection \(618 Data\)](#). [Civil Rights Data Collection \(CRDC\)](#): The CRDC collects a variety of information including student enrollment and educational programs and services, most of which is disaggregated by race/ethnicity, sex, limited English proficiency, and disability. The CRDC is a longstanding and important aspect of the ED Office for Civil Rights (OCR) overall strategy for administering and enforcing the civil rights statutes for which it is responsible.

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[StudentAid.gov](https://studentaid.gov) includes new tools, which provide students with detailed information about the grants and loans they have received and guide them to a personalized recommendation for a loan repayment plan.

The National Center for Education Statistics (NCES) [DataLab](https://data.ed.gov) is a recently redesigned platform of web-based tools that provide the public with access to data collected by the NCES. DataLab is for researchers, reports, policy makers, school administrators, students or anyone interested in education in the United States.

[The College Affordability and Transparency Center \(CATC\)](https://collegeaffordability.gov) was designed by the U.S. Department of Education to meet requirements in the Higher Education Opportunity Act and to provide better information to student and parent consumers about college costs. It serves as a central point to several tools that allow users to compare colleges tuition and fees, net price, and other characteristics.

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

Yes.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

[Data.ed.gov](https://data.ed.gov) is part of the Department of Education's (ED) Open Government initiative to make high-value data sets publicly available in user-friendly, machine-readable formats. Data.ed.gov organizes, makes accessible, and highlights data from ED's diverse set of programs. It will serve as a one-stop shop for education data, allowing practitioners, researchers, and the public to access data that can inform their work in classrooms and communities across America.

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Yes. The FSC routinely engages program offices staff through meetings and training where proactive postings are encouraged. Posting to ED's FOIA Reading Room requires interaction between the program office and the FSC webpage content manager.

Optional -- Please describe:

- Best practices used to improve proactive disclosures
  - In addition to ED's FSC partnering with the OGC FOIA Attorneys to communicate to program offices to identify categories of records that have been frequently requested or

for which there is an anticipated high public interest, the FSC has provided training to various program office to highlight the benefits and importance of proactive disclosures.

- Any challenges your agency faces in this area
  - ED continues to face challenges posting documents that do not meet the requirements for posting documents under Section 508 of the Rehabilitation Act of 1973.

## Section IV: Steps Taken to Greater Utilize Technology

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes. Throughout the reporting year, the FSC meets regularly with our internal stakeholders in which FOIA -related technology is discussed.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

N/A

3. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes, ED routinely reviews its FOIA website.

4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?

Yes, all four quarterly reports were posted.

5. 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 2022.

N/A

6. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.

ED's raw statistical data can be found [here](#).

7. Optional -- Please describe:

- Best practices used in greater utilizing technology
- Any challenges your agency faces in this area

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

### A. 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, ED utilized a separate track for simple requests.

2. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?

Yes, our processing time for simple requests for Fiscal Year 2021 was 11 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

Fifty-three percent (53%) of the 2,292 requests processed in Fiscal Year 2021 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

## *B. Backlogs*

When answering these questions, please refer to you Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

### BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

Yes, the backlog at the close of Fiscal Year 2021 decreased compared with the backlog at the close of Fiscal Year 2020. Our backlog decreased from 859 requests in Fiscal Year 2020 to 697 requests in Fiscal Year 2021.

6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?

N/A

7. If your agency's request backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to 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.
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible.

N/A

8. 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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

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The percentage of requests that make up the backlog of the total number of requests received by ED in Fiscal Year 2021 is 32.4%.

#### BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

Yes, the backlog at the close of Fiscal Year 2021 decreased compared with the backlog at the close of Fiscal Year 2020. Our backlog decreased from 55 appeals in Fiscal Year 2020 to 42 requests in Fiscal Year 2021.

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

N/A

11. If your agency's appeal backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its 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.
- Impact of COVID-19 and workplace and safety precautions.
- Any other reasons – please briefly describe or provide examples when possible.

N/A

12. 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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

The percentage of appeals that make up the backlog out of the total number of appeals received by ED in Fiscal Year 2021 is 75%.



### *C. Backlog Reduction Plans*

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your 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 2021?

By realigning staff, utilizing more contractors, and assigning tiger teams with FOIA expertise to assist program offices with backlog reduction efforts, ED's backlog decreased from 859 requests in Fiscal Year 2020 to 697 requests in Fiscal Year 2021.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

N/A

### *D. Status of 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 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

#### OLDEST REQUESTS

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

Yes, ED was able to close the ten (10) oldest requests.

16. 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 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

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The FSC met with program offices throughout the Fiscal Year to assist them with developing individual backlog reduction plans.

#### TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

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

19. 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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

ED was able to close eight (8) of the 10 oldest appeals.

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

The FSC met with program offices throughout the Fiscal Year to assist them with developing individual backlog reduction plans.

#### TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

Yes.

22. 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 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Yes, ED was able to close the six (6) oldest consultations.

#### *E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans*

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.

ED believes the plan in place for closing the ten oldest requests, appeals, and consultations has removed many of the obstacles as evidence of our results for this reporting period.

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Unfortunately, the two pending appeals for this reporting period contained complexities involving numerous program offices.

24. 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

25. 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 2022.

ED plans to continue meeting with the assigned program offices to follow developed individual backlog reduction plans. These meetings allow the FSC to understand the challenges the program offices are facing and to assist as needed.

### *F. Success Stories*

Out of all the activities undertaken by your agency since March 2021 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, but should not be something that you have reported in a prior year. 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.

### **2021 Sunshine Week FOIA Award Winners**

ED is honored that two members of our FOIA community were recognized for their exemplary performance as FOIA professionals in carrying out the Department’s administration of FOIA by receiving the “Exceptional Service by a FOIA Professional” award at the Department of Justice’s 2021 Sunshine Week FOIA Awards Ceremony. The award recipients are Robert Carey and Robert “Bobby” Wehausen.

### **Processing**

For the second consecutive year, ED was able to report a backlog reduction.

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This accomplishment was achieved through realignment of staff, utilizing more contractors, and assigning tiger teams with FOIA expertise to assist program offices with their backlog reduction effort. A byproduct of this approach resulted in the closure of all 10 of the oldest FOIA requests.