



2023

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

Table of Contents

SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS	2
A. Leadership Support for FOIA	2
B. Presumption of Openness	2
SECTION II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION	3
A. FOIA Training	3
B. Outreach	5
C. Other Initiatives	6
SECTION III: PROACTIVE DISCLOSURES	6
SECTION IV: STEPS TAKE TO GREATER UTILIZE TECHNOLOGY	8
SECTION V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOGS	9
A. Remove Barriers to Access	9
B. Timeliness	10
C. Backlogs	11
BACKLOGGED REQUESTS	11
D. Backlog Reduction Plans	12
E. Reducing the Age of Requests, Appeals, and Consultations	13
F. Additional Information about FOIA Processing	14

SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS

The guiding principle underlying the Attorney General’s [FOIA Guidelines](#) is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

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

Yes.

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

Deborah O. Moore, Ph.D., Chief FOIA Officer

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

The Chief FOIA Officer meets with senior Department leadership of each Principal Office (PO) to ensure understanding of and compliance with requirements under the FOIA and encourages the incorporation of meeting FOIA requirements into staff performance plans wherever applicable. Further, the FOIA Service Center (FSC) conducted mandatory FOIA training for all political appointees in July 2022 and includes those joining since that time in the Department’s biannual new employee FOIA training to ensure awareness of their FOIA responsibilities. Political leadership fulfilling FOIA responsibilities sets the example and direction for the staff they lead that FOIA is a key part of the Department’s mission.

B. Presumption of Openness

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

The U.S. Department of Education (ED) is currently revising our determination letters to provide such confirmation. Further, the FSC, in collaboration with the Department’s Office of General Counsel (OGC), is developing a foreseeable harm checklist to assist subject matter experts and analysts reviewing records to determine if a foreseeable harm to release exists.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:

- a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response?

Yes, ED implemented a process in August 2022 to track Glomar responses. The information provided in response to questions 5(b) contains requests closed during the timeframe of August 1, 2022 through December 15, 2022.

b. If yes, please provide:

i. the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible);

ED issued 17 full Glomar responses.

ii. the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

Exemptions 6 and 7(c) combined -- 17 times.

c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved.

N/A

6. 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.

SECTION II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION

The Attorney General's [FOIA Guidelines](#) provide that “[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce.” The Guidelines reinforce longstanding guidance to “work with FOIA requesters in a spirit of cooperation.” The Attorney General also “urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency’s FOIA administration” as part of ensuring fair and effective FOIA administration.

A. FOIA Training

1. 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.

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 FSC, in collaboration with the Office of General Counsel’s FOIA attorneys, provides 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, FOIA familiarization for new ED employees, 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 the recently launched ED FOIA Update e-mail to the Department’s FOIA community.

The training needs of FOIA professionals are communicated to the FSC during formal and informal meetings and interchanges between the FSC and program offices that occur throughout the fiscal year, and FSC uses this input to assess and address those needs. Additionally, following each training, the FSC distributes a customer satisfaction survey to solicit feedback from the program offices about services and training needs. The findings from the surveys assists the FSC with identifying training gaps and develop future trainings for ED's FOIA community.

2. 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, several hundred FOIA professionals and personnel with FOIA responsibilities from the various program office within ED attended substantive training during reporting period.

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

- 2022 American Society of Access Professionals (ASAP) National Training Conference
- Virtual Meeting of the Chief FOIA Officers Council (DOJ)
- Annual and Quarterly Reports Refresher (DOJ)
- Continuing FOIA Education (DOJ)
- Exemption (b)(4) – Submitters Notice (ED)
- Mandatory FOIA Training for Political Appointees (ED)
- FOIA Familiarization for New Employees (ED)
- Sunshine Week 2022 (ED)
 - All you need to know about FOIA
 - Administrative Search Panel Discussion
 - FOIA: Real Talk Panel Discussion
- 2022 Annual FOIA Training (ED)
 - This half day training covered the following topics: FOIA Procedural Requirements, Exemptions Overview, FOIA Records Management and Administrative Appeals & Litigation Considerations

4. 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.

5. 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

6. 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.

In collaboration with attorneys from ED's OGC and ED's White House Liaison Office, the FSC hosted mandatory FOIA training for all political appointees.

The FSC hosted daily events during "Sunshine Week" with the major objective of raising FOIA awareness throughout ED in attempt to expose ED's non-FOIA staff to FOIA and their responsibilities under it. Launched by the Secretary and supported by participation of the Deputy Secretary, Sunshine Week demonstrated to non-FOIA professionals the Department's and senior leadership's commitment to FOIA.

B. Outreach

7. 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.

8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and, if applicable, any specific examples.

Yes, ED routinely communicates with requesters concerning complex or voluminous requests. In coordination with the FOIA professionals in ED's program offices, ED's FOIA Public Liaison reaches out to requesters to clarify or narrow the scope of a request. One recent example where ED provided the requester targeted search terms resulted in reducing the potential responsive records from 100,000 to 5,000 emails.

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 Fiscal Year 2022 (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 4 to 5 times per week.

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

To address current and anticipated need, the ED funded and hired two additional senior-level directors within FSC. Further, the FSC has submitted a comprehensive budget request for additional positions to be added in fiscal year 2024, if approved.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

ED utilizes Microsoft BI technology to create the Department's FOIA Dashboard. The dashboard provides key performance information at the Department and the program office level. The dashboard pulls the data directly from ED's case management system database, which provides the ability to update the dashboard on demand using real time data.

All FSC staff performance plans were revised to include more focused, outcome-based metrics tied to case processing and quality assurance measures.

ED's Chief FOIA Officer receives and reviews a weekly metrics report that provides data on the three key processing elements; 1) received 2) closed 3) pending for FOIA requests, Privacy Act Requests, appeals, and consultations. The report also provides prior year data for comparison. In addition, the report updates the status of ED's ten oldest requests, appeals, and consultations.

FSC Leadership meets annually with the program office FOIA staff to assess their processing data and backlog, discuss challenges, and collaborate on potential mitigation measures.

Lastly, ED developed a tracking and reporting system for our administrative search cases and is currently building a widely visible dashboard to highlight PO processing times on administrative search cases.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

ED's FSC redesigned the incoming case triage process, leading to a 68% improvement in case assignment accuracy, diminishing wasted case processing time and reducing FOIA staff workload.

Also, ED's case processing flow was redesigned to move away from cradle to grave processing to one that uses staged review, with the goal of building up our quality control and quality assurance measures.

SECTION III: PROACTIVE DISCLOSURES

The Attorney General's [FOIA Guidelines](#) emphasize that "proactive disclosure of information is . . . fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request" and reiterate that agencies should post records "in the most useful, searchable, and open formats possible."

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. 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.

Additionally, the FSC partners with the OGC FOIA attorneys 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.

Lastly, ED's FSC assigned an intern the project of reviewing all FOIA logs to determine what frequently requested documents can be posted.

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 | U.S. Department of Education](#)
- [Afghan Refugee \(ed.gov\)](#)
- [Fiscal Year 2023 Annual Evaluation and Evidence-Building Plan for the U.S. Department of Education](#)

Office of the Secretary

- [Key Policy Letters Signed by the Education Secretary or Deputy Secretary](#)
- [The Secretary's Legal Authority for Debt Cancellation \(ed.gov\)](#)

Federal Student Aid

- [Data Center | Federal Student Aid](#)
- [One-time Federal Student Loan Debt Relief | Federal Student Aid](#)
- [Borrower Defense to Repayment | Federal Student Aid](#)

Office for Civil Rights

- [Reading Room \(ed.gov\)](#)
- [Resources for LGBTQI+ Students \(ed.gov\)](#)
- [Regulations Enforced by the Office for Civil Rights](#)

Office Elementary and Secondary Education

- [Learning Recovery - Office of Elementary and Secondary Education](#)
- [Bipartisan Safer Communities Act - Office of Elementary and Secondary Education](#)
- [COVID-19 Resources for Schools, Students, and Families | U.S. Department of Education](#)

Office of Inspector General

- [Office of Inspector General - Just Issued Reports](#)
- [Office of Inspector General - Contact Us page \(ed.gov\)](#)

Office of Postsecondary Education

- [Termination of the Accrediting Council for Independent Colleges and Schools as an ED Recognized Accrediting Agency | U.S. Department of Education](#)

3. 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.

4. 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 serves 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.

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

Yes. The FSC routinely engages program office 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.

6. Optional -- Please describe the best practices used to improve proactive disclosures and 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 TAKE TO GREATER UTILIZE TECHNOLOGY

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's [FOIA Guidelines](#) emphasize the importance of making FOIA websites easily navigable and complying with the [FOIA.gov](#) interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

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 uses to support your FOIA program.

ED integrated advanced tools through Microsoft o365 as part of our administrative search program.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

N/A

4. 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.

5. Did all four of your agency's [quarterly reports](#) for Fiscal Year 2022 appear on FOIA.gov?

Yes, all four quarterly reports were posted.

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.

N/A

7. 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 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report.

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

8. In February 2019, DOJ and OMB issued joint [Guidance](#) establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Yes.

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

SECTION V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOGS

The Attorney General's [FOIA Guidelines](#) instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

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

No.

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

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

B. Timeliness

3. For Fiscal Year 2022, 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 2022 Annual FOIA Report.

The average number of days was 13.24.

4. 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 2022 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.

Although the average was above 10 calendar days, ED was able to reduce the adjudication time from 22 days as reported in the 2022 Chief FOIA Officer Report.

The Chief FOIA Officer will continue to emphasize the importance of improving the process for adjudicating requests for expedited processing in fewer than 10 calendar days along with continued managerial oversight through the review of the FSC daily report, which identifies all new incoming requests.

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

Yes, ED utilized a separate track for simple requests.

6. 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 2022?

Yes, our processing time for simple requests for Fiscal Year 2021 was 10 days.

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

N/A

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 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.

58% of the 1,462 requests processed in Fiscal Year 2022 were placed in the simple track.

9. 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

C. Backlogs

BACKLOGGED REQUESTS

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, 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 2021?

No, ED's backlog did not decrease.

11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?

No, ED did not process more requests for this reporting period compared to last.

12. If your agency's request backlog increased during Fiscal Year 2022, 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

ED experienced a few contributing factors that prevented the Department from reducing the backlog, including a significant increase in the number of new requests, a high rate of turnover in the contract staff supporting the FOIA program, and procedural changes within the FSC's FOIA program that will ultimately lead to increased efficiency but require near-term adjustments and training for staff.

13. 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 2022. 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."

The percentage of requests that make up the backlog of the total number of requests received by ED in Fiscal Year 2022 is 65.6%.

BACKLOGGED APPEALS

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, 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 2021?

Yes, the backlog at the close of Fiscal Year 2022 decreased compared with the backlog at the close of Fiscal Year 2021. Our backlog decreased from 42 appeals in Fiscal Year 2021 to 34 appeals in Fiscal Year 2022.

15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

N/A

16. If your agency's appeal backlog increased during Fiscal Year 2022, 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

17. 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 2022. 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 2022 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 2022 is 66.6%.

D. Backlog Reduction Plans

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 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 2022?

ED did not have a backlog of over 1,000 requests in Fiscal Year 2021.

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency's plan to reduce this backlog during Fiscal Year 2023.

ED has created a plan that will target multiple areas within our FOIA administration with the goal of reducing the backlog.

Over the last several months, the FSC has implemented a number of procedural changes that place an emphasis on quality control, which has resulted in longer processing times. The focus on quality will ultimately decrease the number of errors, resulting in a faster closure rate.

The Department has greatly expanded FOIA training within ED to reach more non-FOIA professionals to ensure these subject matter experts understand their obligation to search for and produce responsive records timely.

To address current and anticipated need, the ED funded and hired two additional senior-level directors within FSC. Further, the FSC has submitted a comprehensive budget request for additional positions to be added in fiscal year 2024, if approved.

ED has a goal of further leveraging its newly developed enterprise-wide administrative search process. Enterprise search allows ED to use the deduping capabilities, thereby reducing review workload and overall processing time.

ED's CFO will host bi-annual meetings with Departmental leadership to raise awareness and the importance of FOIA. This top-down approach will prioritize FOIA within the program offices.

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?

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

21. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A

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

The FSC continues to meet with program offices throughout the fiscal year to assist them with developing individual backlog plans.

TEN OLDEST APPEALS

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?

Yes, ED was able to close the 10 oldest appeals.

24. 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 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A

25. 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 continues to meet with program offices throughout the fiscal year to assist them with developing individual backlog plans.

TEN OLDEST CONSULTATIONS

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?

Yes, ED was able to close the 10 oldest consultations.

27. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A

ADDITIONAL INFORMATION REGARDING TEN OLDEST

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023.

N/A

F. Additional Information about FOIA Processing

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

For this reporting period, 46 FOIA requests were subject to litigation. The most common cause leading to litigation was due to the Department’s failure to respond within the statutory timeline. Litigation severely strains ED’s resources, resulting in fewer resources to process pending FOIA requests.

29. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency’s FY22 raw data).

For this reporting period, 47 FOIA requests involved unusual circumstances.