



FOIA ANNUAL REPORT

Fiscal Year 2005

FOR
10/01/2004
THROUGH
09/30/2005

Tuesday, January 31, 2006

The following annual **Freedom Of Information Act** report covers the
Period 10/01/2004, through 09/30/2005, as required by 5 U.S.C. 552

I. Person to Contact Regarding Report

A. The person to contact regarding this report is Angela Arrington, United States Department of Education, 400 Maryland Ave, SW, PCP 9th Floor, Washington, DC 20202-4700

B. The Internet address for this report on the World Wide Web (www) is:

<http://www.ed.gov/about/reports/annual/foia/index.html>

C. To obtain a paper copy of this report, please send a request to the address, number, or email identified in paragraph II.A.4. below.

II. FOIA Request Guidelines

A. How to make a Freedom of Information Act (FOIA) Request:

1. Make requests in writing, either handwritten or typed.
2. Be as specific as possible with regard to names, dates, places, events, subjects, etc. If known, include any file designations or descriptions for the records wanted. It is not necessary to give a requested record's exact name or title, but the more specific information provided about the desired records or types of records, the more likely the Department of Education will be able to locate them.
3. Include a return address, daytime phone number, and email address (if available) to clarify your request.
4. Send requests to the following mailing address:

U.S. Department of Education
Office of the Chief Information Officer
400 Maryland Avenue, SW, PCP, 9th Floor
Washington, DC 20202-4700
Attn: FOIA Office

Requests may also be faxed to: (202) 245-6623 or emailed to: OCIO.FOIA@ed.gov.

5. To avoid delay, be sure to display prominently on the envelope, fax cover sheet, or email subject line, "FOIA Request."

B. The Department generally responds to all requests with a determination within 20 working days.

C. Requested records/information or portions thereof may be withheld on the basis of nine statutory exemptions specified in the FOIA. The following exemptions are the ones most frequently used by the Department:

1. Exemption (b)(2)—material circumventing agency rule

2. On rare occasions, ED uses Exemption (b)(3)—information that is withheld in accordance with other laws
3. Exemption (b)(4)—proprietary, confidential, financial matters
4. Exemption (b)(5)—internal, pre-decisional material related to the decision-making process, attorney client privilege, and attorney work products
5. Exemption (b)(6)—personal privacy
6. Exemption (b)(7)—matters related to law enforcement

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms:

The Department —U. S. Department of Education, whose mission is to ensure equal access to education and promote educational excellence throughout the nation.

1. Principal Offices (POs) — In FY2005 The Department had the following 20 Headquarters POs:

Section A – 19 Program Offices maintain records responsive to FOIA requests.

- a) OS – Office of the Secretary
- b) ODS – Office of the Deputy Secretary
- c) OCR – Office for Civil Rights
- d) OUS – Office of the Under Secretary
- e) OGC – Office of the General Counsel
- f) OSERS – Office of Special Education and Rehabilitative Services
- g) OLCA – Office of Legislation and Congressional Affairs
- h) OIIA – Office of Intergovernmental and Interagency Affairs
- i) OCFO – Office of the Chief Financial Officer
- j) OCIO – Office of the Chief Information Officer
- k) OM – Office of Management
- l) FSA – Federal Student Aid
- m) OPE – Office of Postsecondary Education
- n) IES – Institute of Education Sciences
- o) OESE – Office of Elementary and Secondary Education
- p) OELA – Office of English Language Acquisition
- q) OVAE – Office of Vocational and Adult Education
- r) OII – Office of Innovation and Improvement
- s) OSDFS – Office of Safe and Drug-Free Schools

Section B – The Office of the Inspector General has independent authority to respond to FOIA requests.

- t) OIG – Office of Inspector General

2. The Department has the following 11 Regional Offices:

- a) Region I – Boston
- b) Region II – New York
- c) Region III – Philadelphia
- d) Region IV – Atlanta
- e) Region V – Chicago
- f) Region VI – Dallas
- g) Region VII – Kansas City
- h) Region VIII – Denver
- i) Region IX – San Francisco
- j) Region X – Seattle
- k) Metro Region – Washington, DC (OCR activities for Washington DC, Virginia, and North Carolina)

B. Basic terms, expressed in common terminology:

1. FOIA/PA request - Freedom of Information Act/Privacy Act request - a FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning one self; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
2. Initial request - a request to a federal agency for access to records under the Freedom of Information Act.
3. Appeal - a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal - a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. Multi-track processing - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).
6. Expedited processing - an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. Simple request - a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. Complex request - a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
9. Grant - an agency decision to disclose all records in full response to a FOIA request.
10. Partial grant - an agency decision to disclose a record in part in response to a FOIA

request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.

11. Denial - an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

12. Time limits - the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a Perfected FOIA request).

13. Perfected request - a FOIA request for records that adequately describes the records sought, which has been received by the FOIA office of each agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 statute - a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b) (3).

15. Median number - the middle, not average number. For example, of 3, 7, and 14, the median number is 7.

16. Average number - the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes

A. For Initial Requests

Statute Code	Number of Instances	Court Upheld	Concise Description of Material Withheld
41 U.S.C. § 253b(m)	2	No	Contract proposals not incorporated..

B. For Appeals

Statute Code	Number of Instances	Court Upheld	Concise Description of Material Withheld
41 U.S.C. § 253b(m)	0	No	Contract proposals not incorporated..

V. Initial FOIA Requests

A. Number of Initial Requests	
1. Requests pending as of end of preceding year	348
2. Requests received during current FY2005	2416
3. Requests processed during current FY2005	2219
4. Requests pending as of end of current FY2005	545

B. Disposition of Initial Requests	
1. Number of total grants	806
2. Number of partial grants	732
3. Number of denials	73
4. Number of other	608

C. Number of Times Each FOIA Exemption Used	
(b)(1) -(Permits withholding information that is classified for national security purposes.)	4
(b)(2) -(Permits withholding of records related solely to internal rules and practices.)	423
(b)(3) -(Permits withholding of records or information if a law specifically exempts the material from disclo..)	3
(b)(4) -(Permits withholding of records related to trade secrets and other confidential business information ..)	326
(b)(5) -(Permits withholding information under the deliberative process privilege, including the pre-decision..)	77
(b)(6) -(Permits withholding of records and information about individuals when disclosure would be a clearly ..)	493
(b)(7)(A) -(Permits withholding of records when interference with law enforcement proceedings can be reasonably ..)	82
(b)(7)(B) -(Permits withholding of records when a person would be deprived of a fair trial or an impartial adjud..)	0
(b)(7)(C) -(Permits withholding of records when an unwarranted invasion of personal privacy could reasonably be ..)	159
(b)(7)(D) -(Permits withholding of records when revealing a confidential source or information provided by a con..)	3
(b)(7)(E) -(Permits withholding of records when techniques and procedures for law enforcement investigations or ..)	6
(b)(7)(F) -(Permits withholding of records when endangering the safety or life of any individual could reasonabl..)	3
(b)(8) -(Permits withholding of records relating to the examination of banks and other financial institutions..)	0
(b)(9) -(Permits withholding of records relating to geological and geophysical information and data, includin..)	2

D. Other Reasons for Non Disclosure	
No records	101
Referrals	24
Request withdrawn	79
Fee-related reason	12
Records not reasonably described	4
Not a proper FOIA request for some other reason	27
Not an agency record	8
Duplicate request	65
Other (Specify) Frequently used reasons are: response pending further information from requestor, person who requested information did not respond with appropriate address, Privacy Act issue only, referred requestor to publicly accessible information, closed administratively	288

VI. Appeals of Initial Denials of FOIA Requests

A. Number of Appeals	
1. Number of appeals received during FY2005	40
2. Number of appeals processed during FY2005	39

B. Disposition of Appeals	
1. Number completely upheld	7
2. Number partially reversed	7
3. Number completely reversed	3
4. Number of other (see section D)	22

C. Number of Times Each FOIA Exemption Used	
(b) (1) -(Permits withholding information that is classified for national security purposes.)	0
(b) (2) -(Permits withholding of records related solely to internal rules and practices.)	0
(b) (3) -(Permits withholding of records or information if a law specifically exempts the material from disclosure...)	0
(b) (4) -(Permits withholding of records related to trade secrets and other confidential business information ..)	2
(b) (5) -(Permits withholding information under the deliberative process privilege, including the pre-decision..)	2
(b) (6) -(Permits withholding of records and information about individuals when disclosure would be a clearly ..)	0
(b) (7) (A) -(Permits withholding of records when interference with law enforcement proceedings can be reasonably ..)	0
(b) (7) (B) -(Permits withholding of records when a person would be deprived of a fair trial or an impartial adjudication...)	0
(b) (7) (C) -(Permits withholding of records when an unwarranted invasion of personal privacy could reasonably be ..)	3
(b) (7) (D) -(Permits withholding of records when revealing a confidential source or information provided by a con..)	0
(b) (7) (E) -(Permits withholding of records when techniques and procedures for law enforcement investigations or ..)	0
(b) (7) (F) -(Permits withholding of records when endangering the safety or life of any individual could reasonable...)	0
(b) (8) -(Permits withholding of records relating to the examination of banks and other financial institutions..)	0
(b) (9) -(Permits withholding of records relating to geological and geophysical information and data, including...)	0
Note: 4 cases were reversed for the following reasons – OIG investigation status change permitted release, additional responsive records were identified as releasable	

D. Other Reasons for Non Disclosure	
No records	6
Referrals	0
Request withdrawn	1
Fee-related reason	4
Records not reasonably described	0
Not a proper FOIA request for some other reason	1
Not an agency record	0
Duplicate request	0
Other (Specify)	10
Closed administratively, remanded for further processing	

VII. Compliance with Time Limits/Status of Pending Requests

A. Median Processing Time for Requests Processed during the Fiscal Year	
1. Simple Requests	
a. Number of requests processed	1874
b. Median number of days to process	35
2. Complex Requests	
a. Number of requests processed	329
b. Median number of days to process	66

3. Requests accorded expedited processing	
a. Number of requests processed	16
b. Median number of days to process	24

B. Status of Pending Requests	
1. Number of requests pending as of the end of FY	545
2. Median number of days that such requests were pending as of that date	78

VIII. Costs/FOIA Staffing

A. Staffing levels	
1. Number of full-time FOIA personnel	4.00
2. Number of personnel with part-time or occasional FOIA duties(in total work-years)	6.10
3. Total number of personnel(in work-years)	10.10

B. Total costs (including staff and all resources)	
1. FOIA processing(including appeals)	\$1,0063,860.00
2. Litigation-related activities(estimated)	\$00.00
3. Total costs	\$1,063,860.00

IX. Fees

A. Total amount of fees collected by agency for processing requests	\$32,824.73
B. Percentage of total costs	3.09%