



United States Department of Education

**FREEDOM OF INFORMATION ACT
ANNUAL REPORT
FISCAL YEAR 1998**

January 1999

Office of the Chief Information Officer
Information Management Group
400 Maryland Avenue, S.W.
ROB3 - 5624
Washington, D.C. 20202-4651

I. Person to Contact Regarding Report

- A. The person to contact regarding this report is: Maria-Teresa Cueva, United States Department of Education, 400 Maryland Ave., SW, ROB3 – 5624, Washington, DC 20202-4651; telephone (202) 708-4753.
- B. The Internet address for this report on the World Wide Web (www) is:
<http://www.ed.gov/offices/OCIO/infocoll/info3.html>
- C. To obtain a paper copy of this report, please send a request to the address or call the number identified in paragraph I.A. above.

II. How to Make a FOIA Request

- A. FOIA requests should be made in writing and addressed to the U. S. Department of Education, FOIA Officer, 400 Maryland Ave., SW, ROB3 – 5624, Washington, DC 20202-4651. Written requests also can be faxed to 202-708-9346 or e-mailed to the following Internet address: **Maria-Teresa_Cueva@ed.gov**.

The following elements should be included in your FOIA letter of request: (1) identify as specifically as possible, the records you are seeking, including a time frame; (2) name the location of the records, if known (e.g., the Office of the General Counsel); and (3) include your name, address and a telephone number where you can be contacted. Although the telephone number is optional, it is helpful in case we need to clarify your request. It is not necessary to specifically identify the FOIA in your request, but it is helpful.

- B. Generally, ED responds to all requests with a determination within 20 working days.
- C. Requested records/information may be denied based on the nine exemptions specified under the FOIA. The U. S. Department of Education (ED) primarily uses the following four of these nine exemptions: Exemption (b)(4) - proprietary, confidential, financial matters; Exemption (b)(5) - internal, predecisional material related to decision-making process, attorney client privilege, and attorney work products; Exemption (b)(6) - personal privacy; and Exemption (b)(7) - matters related to law enforcement. In addition, ED rarely uses Exemption (b)(2) – material circumventing agency rules. ED may only withhold those portions of a document that are exempt from the disclosure requirements of the law. ED also has the option to release a document or portions of a document that are normally exempt from disclosure when it is determined that no harm would result from its disclosure.

III. Definitions of Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms.

1. ED -- U. S. Department of Education, whose mission is to ensure equal access to education and promote educational excellence throughout the nation.
2. Principal Offices (POs) -- ED has the following 16 Headquarters POs:
 - 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. OIG Office of Inspector General
 - f. OGC Office of the General Counsel
 - g. OSERS Office of Special Education and Rehabilitative Services
 - h. OLCA Office of Legislation and Congressional Affairs
 - i. OIIA Office of Intergovernmental and Interagency Affairs
 - j. OCFO Office of the Chief Financial Officer
 - k. OCIO Office of the Chief Information Officer
 - l. OM Office of Management
 - m. OPE Office of Postsecondary Education
 - n. OERI Office of Educational Research and Improvement
 - o. OESE Office of Elementary and Secondary Education
 - p. OBEMLA Office of Bilingual Education and Minority Languages Affairs
 - q. OVAE Office of Vocational and Adult Education
3. Regional Offices -- ED 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, D.C.
OCR activities for Washington, D.C., Virginia and North Carolina

B. Basic terms expressed in common terminology.

1. Freedom of Information Act (FOIA) Request -- generally a request for access to records concerning a third party, an organization, or a particular topic of interest.
2. Initial Request -- a request to a federal agency for access to records under the FOIA.
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 the FOIA, 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 (nonexpedited) 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 in 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 entirety, 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 FOIA 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 which adequately describes the records sought, which has been received by the FOIA office of the 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. Another example, of 3, 7, 9, and 14, the median number is 8, the average of the two middle numbers (i.e., $7+9=16$, divided by 2, equals 8).
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

ED did not rely upon any Exemption (b)(3) statutes during the Fiscal Year 1998.

V. Initial FOIA Access Requests (For Details Reference Exhibits I, II and III)

A. Numbers of initial requests:

1. Number of requests pending as of the end of FY 1997: 95
2. Number of requests received during FY 1998: 1,721
3. Number of requests processed during FY 1998: 1,679

4. Number of requests pending as of the end of FY 1998: 137

B. Disposition of initial requests

1. Number of requests granted – full disclosure: 1,144

2. Number of requests partially granted – partial disclosure: 319

3. Number of requests denied: 216

4. Number of times each FOIA exemption used (counting each exemption once per request) for each partially granted and denied requests

a. Exemption (b)(1) National security: 0

b. Exemption (b)(2) Material circumventing agency rules: 7

c. Exemption (b)(3) Matters directed to be withheld by other laws: 0

e. Exemption (b)(4) Proprietary, confidential, financial matters: 80

f. Exemption (b)(5) Predecisional material related to decision-making process, attorney client privilege, and attorney work product: 29

g. Exemption (b)(6) Matters related to personal privacy: 222

h. Exemption (b)(7) Matters related to law enforcement (total) : 66

(1) Exemption (A) Could interfere with enforcement proceedings : 11

(2) Exemption (B) Would deprive a person's right to a fair trial : 0

(3) Exemption (C) Could constitute unwarranted invasion of privacy: 51

(4) Exemption (D) Could disclose identity of confidential source : 3

(5) Exemption (E) Would disclose techniques for law enforcement : 1

(6) Exemption (F) Could endanger life/safety of any individual : 0

i. Exemption (b)(8) Matters related to banks/financial institutions: 0

j. Exemption (b)(9) Information on wells: 0

5. Other reasons for nondisclosure (total): 280

a. No records: 173

b. Referrals: 30

c. Request withdrawn: 40

- d. Fee-related reason: 5
- e. Records not reasonably described: 10
- f. Not a proper FOIA request for some other reason: 7
- g. Not an Departmental record: 5
- h. Duplicate request: 3
- i. Other (specify): 7 (documents not available yet; not related to Principal Office; processed by headquarters vs regional office)

VI. Appeals of Initial Denials of FOIA Requests

A. Numbers of appeals.

- 1. Appeals pending at the end of FY 1997: 11
- 2. Appeals received during FY 1998: 24
- 3. Appeals processed during FY 1998
 - a. Number processed: 15
 - b. Median time - Calendar Days required to process: 291
- 4. Appeals pending at the end of FY 1998
 - a. Number pending: 20
 - b. Median time – Calendar Days appeals pending: 229

B. Disposition of appeals.

- 1. Number completely upheld: 9
- 2. Number partially reversed: 1
- 3. Number completely reversed: 2
- 4. Number of times each FOIA exemption used (counting each exemption once per

- request) for each partially reversed and completely reversed
- a. Exemption (b)(1) National security: 0
 - b. Exemption (b)(2) Material circumventing agency rules: 0
 - c. Exemption (b)(3) Matters directed to be withheld by other laws: 0
 - e. Exemption (b)(4) Proprietary, confidential, financial matters: 0
 - f. Exemption (b)(5) Predecisional material related to decision-making process, attorney client privilege, and attorney work product: 2
 - g. Exemption (b)(6) Matters related to personal privacy: 1
 - h. Exemption (b)(7) Matters related to law enforcement: 1 {(b)(7)(C)}
 - i. Exemption (b)(8) Matters related to banks/financial institutions: 0
 - j. Exemption (b)(9) Information on wells: 0
5. Other reasons for nondisclosure (total): 3
- a. No records: 0
 - b. Referrals: 0
 - c. Request withdrawn: 2
 - d. Fee-related reason: 0
 - e. Records not reasonably described: 0
 - f. Not a proper FOIA request for some other reason: 0
 - g. Not a Departmental record: 0
 - h. Duplicate request: 0
 - i. Other (specify): 1 (Technical Clarification)

VII. Compliance with Time Limits/Status of Pending Requests

(For Details Reference Exhibits I and IV)

A. Median processing time for FOIA requests processed during the year:

1. Simple Requests

a. Number processed: 1,415

b. Median time - Calendar Days to process: 13

2. Complex Requests

a. Number processed: 261

b. Median time - Calendar Days to process: 30

3. Expedited Requests

a. Number processed: 3

b. Median time - Calendar Days to process: 3

B. Status of pending FOIA requests:

1. Number pending at end of FY 1998: 137

2. Median time - Calendar Days requests were pending: 19

VIII. Comparison with Previous Year

ED's previous Annual Report to Congress on FOIA Activities in 1997 was based on the calendar year, covering only nine months, January 1, 1997, through September 30, 1997. This report begins the new fiscal year reporting requirements to the U. S. Department of Justice, covering activities from October 1, 1997, through September 30, 1998.

IX. Costs/FOIA Staffing
(For Details Reference Exhibit V)

A. Staffing levels

1. Number of full-time FOIA personnel: 1
2. Number of personnel with part-time or occasional FOIA duties
(in total work-years): 9.85 Work-Years

B. Total costs (including staff and all resources)

1. FOIA processing (including appeals): \$576,613
2. Litigation-related activities (estimated): \$3,022
3. Total costs: \$579,635

X. Fees

(For Details Reference Exhibit V)

A. Total amount of fees collected by ED for processing requests: \$31,517.68

B. Percentage of total costs: 5%

XI. FOIA Regulations (Including Fee Schedule)

ED's FOIA regulation is found under Title 34 Code of Federal Regulations (CFR), Part 5 – Availability of Information To The Public Pursuant to Public Law 90-23 – Freedom of Information Act. A copy of this regulation is attached and includes ED's fee schedule. This regulation is available at the following Internet address:

<http://www.access.gpo.gov/nara/cfr/>

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EXHIBIT I - NUMBER AND DISPOSITION OF REQUESTS								
{ FOIA Annual Report Items: V. A. 1-4, B. 1-3, VII. B. 1-2 }								
PRINCIPAL or	NUMBER OF REQUESTS					DISPOSITION OF REQUESTS		
REGIONAL	Pending	Received	Processed	Pending		Request	Partially	Requests
OFFICE	FY 1997	FY 1998	FY 1998	FY 1998	Median Days*	Granted	Granted	Denied
OS	0	21	21	0	0	20	1	0
OCR	0	76	76	0	0	76	0	0
OUS	0	6	6	0	0	3	0	3
OIG	0	102	102	0	0	78	5	19
OGC	0	38	38	0	0	2	2	34
OSERS	1	47	36	12	18	27	9	0
OLCA	0	13	13	0	0	0	13	0
OIIA	0	1	1	0	0	1	0	0
OCFO	0	191	185	6	8	100	83	2
OCIO	0	22	22	0	0	22	0	0
OM	0	37	37	0	0	30	5	2
OPE	72	220	235	57	210	103	53	79
OERI	0	21	21	0	0	19	2	0
OESE	1	10	7	4	30	6	0	1
OBEMLA	0	9	9	0	0	9	0	0
OVAE	0	12	12	0	0	9	0	3
REG I	1	75	66	10	15	61	5	0
REG II	2	83	85	0	0	75	0	10
REG III	0	99	88	11	4	66	9	13
REG IV	0	113	113	0	0	75	37	1
REG V	1	108	101	8	6	97	2	2
REG VI	6	96	88	14	61	49	29	10
REG VII	3	82	83	2	24	63	16	4
REG VIII	1	90	83	8	20	36	17	30
REG IX	0	9	9	0	0	9	0	0
REG X	7	130	133	4	7	104	29	0
METRO REG	0	10	9	1	19	4	2	3
GRAND TOTAL	95	1721	1679	137	ED Median Days*	1144	319	216
					19			
					*Calendar Days			

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EXHIBIT II - Number Times Each Exemption Used for Each Partially Granted & Denied Request										
PRINCIPAL or	{ FOIA Annual Report Items V. B. 4. a-j }									
REGIONAL	FOIA EXEMPTIONs									
OFFICE	(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)	(b)(8)	(b)(9)	TOTAL
OS	0	0	0	0	0	1	0	0	0	1
OCR	0	0	0	0	0	0	0	0	0	0
OUS	0	0	0	0	0	0	0	0	0	0
OIG	0	0	0	0	6	4	14	0	0	24
OGC	0	0	0	0	2	0	0	0	0	2
OSERS	0	0	0	8	0	8	0	0	0	16
OLCA	0	0	0	0	0	6	0	0	0	6
OIIA	0	0	0	0	0	0	0	0	0	0
OCFO	0	0	0	68	0	70	0	0	0	138
OCIO	0	0	0	0	0	0	0	0	0	0
OM	0	0	0	0	0	5	0	0	0	5
OPE	0	0	0	1	16	37	1	0	0	55
OERI	0	0	0	2	0	0	0	0	0	2
OESE	0	0	0	0	0	0	0	0	0	0
OBEMLA	0	0	0	0	0	0	0	0	0	0
OVAE	0	0	0	0	0	0	0	0	0	0
REG I	0	0	0	0	0	3	4	0	0	7
REG II	0	0	0	0	0	6	1	0	0	7
REG III	0	0	0	0	0	0	0	0	0	0
REG IV	0	0	0	0	0	38	0	0	0	38
REG V	0	0	0	0	1	2	0	0	0	3
REG VI	0	0	0	1	4	28	0	0	0	33
REG VII	0	2	0	0	0	2	0	0	0	4
REG VIII	0	5	0	0	0	10	18	0	0	33
REG IX	0	0	0	0	0	0	0	0	0	0
REG X	0	0	0	0	0	0	27	0	0	27
METRO REG	0	0	0	0	0	2	1	0	0	3
GRAND TOTAL	0	7	0	80	29	222	66	0	0	404

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EXHIBIT III - OTHER REASONS FOR NONDISCLOSURE										
PRINCIPAL or	{ FOIA Annual Report Items V. B. 5. a-i }									
REGIONAL	No		Request	Fee-Related	Not Reason	Not Proper Request	Not An ED	Duplicate		
OFFICE	Records	Referrals	Withdrawn	Reason	Described	Other Reason	Record	Request	Other	TOTAL
OS	1	0	1	0	0	0	0	0	0	2
OCR	0	1	0	0	0	0	2	0	0	3
OUS	3	0	0	0	0	0	0	0	0	3
OIG	41	1	0	0	0	0	0	0	0	42
OGC	33	0	1	0	0	0	0	0	0	34
OSERS	2	0	3	0	0	0	0	0	1	6
OLCA	6	0	0	0	0	0	0	0	0	6
OIIA	0	0	0	0	0	0	0	0	0	0
OCFO	2	0	0	0	0	0	0	0	0	2
OCIO	0	0	0	0	0	0	0	0	0	0
OM	2	2	0	0	0	0	0	0	0	4
OPE	41	14	13	2	4	0	0	0	4	78
OERI	10	0	0	0	0	0	0	0	0	10
OESE	1	4	0	0	0	0	0	0	0	5
OBEMLA	1	0	0	0	0	0	0	0	0	1
OVAE	3	0	0	0	0	0	0	0	0	3
REG I	2	2	3	1	2	0	0	0	0	10
REG II	3	0	0	0	0	0	0	0	0	3
REG III	0	2	1	0	0	0	0	0	0	3
REG IV	0	0	0	0	0	0	0	0	0	0
REG V	1	0	0	0	0	0	0	0	0	1
REG VI	7	0	2	0	0	0	0	1	0	10
REG VII	5	1	3	1	2	5	3	0	0	20
REG VIII	7	0	11	1	2	2	0	2	2	27
REG IX	0	0	0	0	0	0	0	0	0	0
REG X	2	1	2	0	0	0	0	0	0	5
METRO REG	0	2	0	0	0	0	0	0	0	2
GRAND TOTAL	173	30	40	5	10	7	5	3	7	280

EXHIBIT IV - MEDIAN PROCESSING TIME* FOR REQUESTS							
PRINCIPAL or	{ FOIA Annual Report Items VII. A. 1-3 }						
REGIONAL	Simple Requests		Complex Requests		Expedited Requests		Total Number
OFFICE	Number	Median Time*	Number	Median Time*	Number	Median Time*	Processed
OS	21	10	0	0	0	0	21
OCR	75	34	1	2	0	0	76
OUS	6	16	0	0	0	0	6
OIG	50	5	52	10	0	0	102
OGC	38	12	0	0	0	0	38
OSERS	33	12	3	30	0	0	36
OLCA	13	85	0	0	0	0	13
OHA	1	1	0	0	0	0	1
OCFO	83	9	102	19	0	0	185
OCIO	22	1	0	0	0	0	22
OM	37	39	0	0	0	0	37
OPE	235	30	0	0	0	0	235
OERI	21	40	0	0	0	0	21
OESE	4	10	3	30	0	0	7
OBEMLA	9	5	0	0	0	0	9
OVAE	11	23	1	187	0	0	12
REG I	62	20	4	14	0	0	66
REG II	85	13	0	0	0	0	85
REG III	88	3	0	0	0	0	88
REG IV	107	21	5	62	1	5	113
REG V	98	15	3	10	0	0	101
REG VI	31	12	57	57	0	0	88
REG VII	60	18	23	43	0	0	83
REG VIII	82	15	1	120	0	0	83
REG IX	5	3	2	5	2	1	9
REG X	130	12	3	43	0	0	133
METRO REG	8	13	1	30	0	0	9
GRAND TOTAL	1415	ED Median Time*	261	ED Median Time*	3	ED Median Time*	1679
		13		30		3	

*NOTE: Median Time Based On Calendar Days

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EXHIBIT V - ESTIMATED WORKYEARS / COSTS and FEES

{ FOIA Report Items IX. A. 1-2, B. 1-3, X. A., B. }

PRINCIPAL or REGIONAL OFFICE	ESTIMATED COSTS						FEES	% - FEES/ COSTS
	Labor		Appeals	Litigation	Other	TOTAL		
	Hours (Non-FTEs)	Costs	Costs	Costs	Costs	COSTS		
OS	137	\$ 3,276	\$ -	\$ -	\$ -	\$ 3,276	\$ 84.90	3%
OCR	1254	\$ 21,318	\$ -	\$ -	\$ 2,280	\$ 23,598	\$ 1,026.30	4%
OUS	27	\$ 702	\$ -	\$ -	\$ 150	\$ 852	\$ -	0%
OIG	918	\$ 29,376	\$ -	\$ -	\$ -	\$ 29,376	\$ 963.27	3%
OGC	557	\$ 15,039	\$ -	\$ 3,022	\$ -	\$ 18,061	\$ 16.58	0%
OSERS	426	\$ 10,992	\$ -	\$ -	\$ -	\$ 10,992	\$ 2,059.47	0%
OLCA	182	\$ 2,366	\$ -	\$ -	\$ -	\$ 2,366	\$ 194.31	8%
OIIA	1	\$ 19	\$ -	\$ -	\$ -	\$ 19	\$ -	0%
OCFO	185	\$ 4,810	\$ -	\$ -	\$ 93	\$ 4,903	\$ 2,643.73	54%
OCIO (FTE/FOIA Off)	1733	\$ 89,488	\$ 15,570	\$ -	\$ 21,200	\$ 126,258	\$ 274.23	0%
OM	592	\$ 13,616	\$ -	\$ -	\$ 740	\$ 14,356	\$ 1,222.47	9%
OPE	2938	\$ 85,188	\$ -	\$ -	\$ -	\$ 85,188	\$ 21,802.96	26%
OERI	126	\$ 3,276	\$ -	\$ -	\$ -	\$ 3,276	\$ 84.75	3%
OESE	95	\$ 2,552	\$ -	\$ -	\$ -	\$ 2,552	\$ -	0%
OBEMLA	41	\$ 738	\$ -	\$ -	\$ -	\$ 738	\$ 46.00	6%
OVAE	63	\$ 1,935	\$ -	\$ -	\$ -	\$ 1,935	\$ 13.40	1%
REG I	891	\$ 17,820	\$ -	\$ -	\$ -	\$ 17,820	\$ 161.24	1%
REG II	1148	\$ 24,108	\$ -	\$ -	\$ -	\$ 24,108	\$ -	0%
REG III	1364	\$ 32,736	\$ -	\$ -	\$ 880	\$ 33,616	\$ 154.50	0%
REG IV	1074	\$ 25,776	\$ -	\$ -	\$ -	\$ 25,776	\$ 113.80	0%
REG V	1010	\$ 23,230	\$ -	\$ -	\$ -	\$ 23,230	\$ 63.54	0%
REG VI	3978	\$ 79,552	\$ -	\$ -	\$ -	\$ 79,552	\$ 425.83	1%
REG VII	607	\$ 15,175	\$ -	\$ -	\$ -	\$ 15,175	\$ 134.40	1%
REG VIII	415	\$ 9,462	\$ -	\$ -	\$ 415	\$ 9,877	\$ -	0%
REG IX	113	\$ 2,925	\$ -	\$ -	\$ 72	\$ 2,997	\$ 32.00	1%
REG X	632	\$ 18,536	\$ -	\$ -	\$ -	\$ 18,536	\$ -	0%
METRO REG	65	\$ 1,112	\$ -	\$ -	\$ 90	\$ 1,202	\$ -	0%
GRAND TOTAL	20,572	#####	\$ 15,570	\$ 3,022	\$25,920	\$ 579,635	\$ 31,517.68	5%
	Est. Non-FTE Work Years							
	9.85							