

FOIA Notice Requirements and the Roles of FOIA Requester Service Centers and FOIA Public Liaisons

Melanie Ann Pustay, Director
Office of Information Policy

Notices to Include in Response Letters

For determinations that are not adverse (i.e., full grants), agencies must include in their notification to the requester “the right of such person to seek assistance from the FOIA Public Liaison of the agency.”

5 U.S.C. § 552(a)(6)(A)(i)(II).

Notices to Include in Response Letters

For adverse determinations, agencies must include in their notification to the requester:

- The right to appeal within a period of time “that is not less than 90 days after the date of such adverse determination,” and
- “[T]he right of such person to seek dispute resolution services from the FOIA Public Liaison of the agency or [OGIS].”

5 U.S.C. § 552(a)(6)(A)(III).

Notice When Unusual Circumstances

- When the extension is for more than ten working days, agencies are required to provide the requester an opportunity to limit the scope of the request so that it can be processed more quickly or to arrange an alternative time to respond.
- To aid the requester, agencies have also been required to make their FOIA Public Liaison available.
- Finally, agencies must notify the requester of the mediation services offered by OGIS.

5 U.S.C. § 552(a)(6)(B).

Notice in Appeal Letters

Pursuant to OIP Guidance issued in July 2010, agencies are directed to notify requesters of the mediation services provided by OGIS in their determinations on appeal.

Notices to Include in Response Letters

Determination	FOIA Public Liaison	OGIS
Full Grant	✓	
Adverse Determination	✓	✓
Unusual circumstances resulting in extension for more than 10 days	✓	✓
Appeals decision		✓

Discussion of Notice Format and Language

Sample Notice – Full Grant

I trust that this information fully satisfies your request. If you need any further assistance or would like to discuss any aspect of your request please do not hesitate to contact *[optional: the analyst who processed your request at [contact information],* or our FOIA Requester Service Center at **[contact information]** or our FOIA Public Liaison at **[insert contact information]**.

Sample Notice – Adverse Determination

You may contact *[optional: the analyst who processed your request and/or the FOIA Requester Service Center, as well as]* our FOIA Public Liaison, **[NAME]**, for any further assistance and to discuss any aspect of your request, **at:**

[MAILING ADDRESS]

[TELEPHONE NUMBER]

[EMAIL ADDRESS]

[FAX # - if applicable]

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to [your agency contact information]. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request.

Sample Notice – Unusual Circumstances Beyond Ten Days

After explaining what the “unusual circumstances” are and providing the requester with an opportunity to narrow his/her request or to arrange an alternative time for processing:

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact *[optional: the analyst handling your request at ---, or]* our FOIA Public Liaison **[NAME]** at:

[MAILING ADDRESS]

[TELEPHONE NUMBER]

[EMAIL ADDRESS]

[FAX # - if applicable]

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Overview of FOIA Public Liaison & FOIA Requester Service Center Duties

FOIA Requester Service Centers

Requesters typically contact Requester Service Centers first when they have questions, are seeking information about how the FOIA works, or are inquiring about the status of their requests.

FOIA Public Liaisons

- Supervisory agency officials who requesters can contact to raise concerns about the service received from the FOIA Requester Service Center.
- Designated by and report to agency Chief FOIA Officers.

FOIA Public Liaisons

Over-arching Statutory Duties:

- Assisting in reducing delays,
- Increasing transparency and understanding of the status of requests, and
- Assisting in the resolution of disputes.

FOIA Public Liaisons

Many available resources to assist FOIA Public Liaisons in carrying out their duties:

- Institutional Knowledge of agency's FOIA Process
- Agency Reference Guide
- Agency FOIA Regulations
- FOIA Requester Service Center
- Agency FOIA Professionals

Links to OIP Guidance

- Importance of Good Communication with FOIA Requesters 1.0
<https://www.justice.gov/oip/blog/foia-post-2010-oip-guidance-importance-good-communication-foia-requesters> (March 1, 2010)
- Notifying Requesters of Mediation Services Offered by OGIS
<https://www.justice.gov/oip/blog/foia-post-2010-oip-guidance-notifying-requesters-mediation-services-offered-ogis> (July 9, 2010)
- Importance of Good Communication with FOIA Requesters 2.0
<https://www.justice.gov/oip/blog/foia-guidance-0> (November 22, 2013)
- Assigning Tracking Numbers & Providing Status Information for Requests
<https://www.justice.gov/oip/oip-guidance-1> (July 8, 2014)
- Limitations on Use of “Still-Interested” Inquiries
<https://www.justice.gov/oip/oip-guidance-8> (July 2, 2015)

Dispute Resolution in the FOIA Process

Alina M. Semo, Director
Office of Government Information Services

Statutory Changes

- OPEN Government Act of 2007
 - Codification of FOIA Public Liaisons
 - Creation of OGIS
- FOIA Improvement Act of 2016
 - Requester notification
 - Expansion of role throughout the process

Who Can Help You Through the Freedom of Information Act (FOIA) Process?



**AGENCY FOIA
PUBLIC LIAISON**



**OFFICE OF GOVERNMENT
INFORMATION SERVICES**

BEFORE YOU FILE A FOIA REQUEST

- ☞ Explains agency records
- ☞ Suggests offices that might have responsive records
- ☞ Explains the agency's FOIA process

- ☞ Explains the FOIA process
- ☞ Suggests appropriate agencies to contact

DURING THE FOIA PROCESS

- ☞ Provides an estimated date of completion
- ☞ Discusses how to reformulate requests to address fees and processing time

- ☞ Establishes communication between the requester and the agency
- ☞ Acts as a liaison

AFTER THE APPEAL PROCESS

- ☞ Explains agency actions
- ☞ Resolves disputes and narrow issues

Dispute Resolution by the Numbers

- Agencies estimate that they provided dispute resolution services **67,192** times in 2016 – an average of **1,018** requests for assistance per agency
- About **40%** of agencies reported that on average they provided dispute resolution services about once per month
- In Fiscal Year 2016, OGIS opened **1,755** mediation cases – we are on track to ***quadruple*** our caseload in Fiscal Year 2017

OGIS Mediation Program

- Provide services to resolve FOIA disputes
 - Neutral third-party
 - Requests come from both agencies and requesters
 - Voluntary process
 - Party-driven approach
 - Goal of preventing litigation
- ** Not mandatory, not binding, does not preclude litigation **

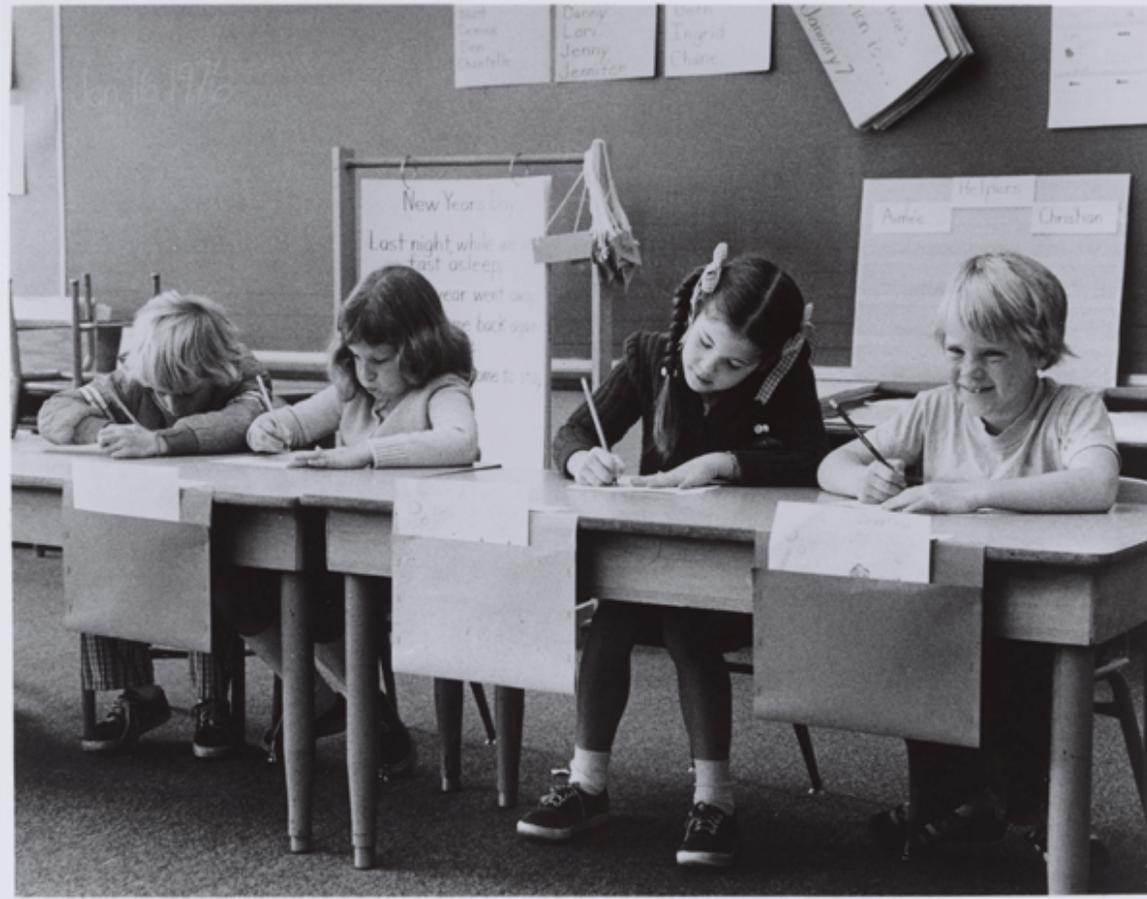
OGIS Mediation Program – continued

- OGIS does not
 - Compel agencies to release documents
 - Enforce FOIA
 - Process requests or review appeals
 - Provide assistance outside the realm of FOIA
 - Make determinations or dictate resolutions to disputes

OGIS Case Studies

- OGIS cases range from the simple (Ombudsman Function):
 - Answering questions about the FOIA process
 - Providing more information to requesters about FOIA exemptions
 - Obtaining information about the status of a request from the agency
- to the complex:
 - Facilitating phone calls between agencies & requesters
 - Mediating discussions about discretionary exemption use
 - Facilitating communication between multiple agencies dealing with the same or similar requests

Dispute Resolution Skills Training Sessions



- Generally host two sessions each Fiscal Year
- Day-long training at the National Archives
- Registration fills up fast!
- We also provide individualized training for agencies upon request

Contact OGIS

www.archives.gov/ogis

OGIS@nara.gov

(202) 741-5770

(877) 684-6448

Read our blog: www.foia.blogs.archives.gov

Follow Us on Twitter: @FOIA_Ombuds