



FOIA Public Liaison Q&A

On Dec. 7, 2009, the Office of Government Information Services joined the Department of Justice's Office of Information Policy (OIP) to host a training session for FOIA Public Liaisons. The training detailed the duties and responsibilities of the Public Liaisons and also outlined examples of specific concerns raised by the FOIA requester community at an Aug. 5, 2009 FOIA Requester Roundtable hosted by OIP. The training provided solutions on ways to make the process work more effectively.

At the training session, OGIS explained its mission and how the office will work with Public Liaisons. OGIS will offer mediation services to resolve disputes between requesters and agencies and the Public Liaisons will also work with requesters to reach solutions. The following are some of the questions raised at the training and the answers given.

Q: How specifically will OGIS work with FOIA Public Liaisons to resolve disputes?

A: When requesters have disputes with FOIA specialists or are unsuccessful in making contact with the appropriate staff within an agency, their next call should be to the FOIA Public Liaison. The Public Liaison is essentially the first line of defense in resolving disputes and can go a long way to help both requesters and agency staff find middle ground. As such, it is crucial that FOIA Public Liaisons' contact information be easy to find on an agency's Web site and that the contact information is up-to-date. It is also important that Public Liaisons work diplomatically with requesters just as they would with their own colleagues within their agencies to provide good customer service. OGIS will then work with the FOIA Public Liaisons and the requesters to try to reach an amicable conclusion.

Q: Where in the process will OGIS get involved with records disputes?

A: OGIS was created to complement the existing FOIA practice and procedure. The office is meant to work in conjunction with the current request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. However, there are times where it will be more practical for OGIS to help earlier in the process, for example, if an appeal is delayed for some time or if an agency is attempting to work with a requester to narrow the scope of the request and OGIS can help.

Q: OGIS has limited staff and resources; how will it respond to requests for assistance that may be frivolous or repetitive since, rather than going to court, it is a cost-free alternative to resolve disputes?

A: Any requester or agency has the right to come to OGIS to lodge complaints or ask for assistance but it is the hope of the office that such requests will not make up a large portion of the individuals seeking help from OGIS.

Q: How will agencies' Alternative Dispute Resolution and FOIA programs work together to resolve disputes?

A: The Administrative Dispute Resolution Act of 1996 was enacted to coordinate, promote, and facilitate the effective use of ADR throughout the federal government; however, until now, it has not been widely implemented in agencies with regard to FOIA. Likewise, FOIA specialists have, for the most part, not received training in ADR or mediation skills. OGIS plans to provide training for ADR specialists on FOIA issues and vice versa to help agencies to use existing staff resources to resolve FOIA disputes internally.

Q: The statute says that OGIS "shall offer mediation services to resolve disputes between persons making requests ... and administrative agencies as a non-exclusive alternative to litigation." If a requester asks for mediation, must a government agency agree to engage in that process with OGIS?

A: Congress has provided OGIS with statutory authority to mediate disputes. However, both the agency and the requester must be willing to engage in mediation. Generally, alternative dispute resolution, such as formal mediation, is a tool in reaching the goal of settling agency and requester disputes out of court, but is not a requirement and is not exclusive of other remedies or methods.

Q: On Dec. 7, 2009, OGIS and the Justice Department's Office of Information Policy (OIP) hosted a training session for government FOIA specialists to discuss how to most effectively work with FOIA requesters — in secret. Why was the meeting closed to the public and how can such action be consistent with the mission and function of OGIS?

A: The training was held at the Department of Commerce and was closed for several reasons: In large part the meeting was limited to government personnel to facilitate the free exchange of ideas, questions and dialogue among agency FOIA personnel and the senior FOIA officials who could best advise them with regard to particularized instances or problems — much like any deliberative process would be protected from public release. Also, logistically, government buildings require either government identification or a government escort for entry, which is difficult to arrange for

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members of the public, and, in addition, space in these training auditoriums is limited with many of the sessions resulting in overflow attendees. OGIS and OIP have since held that same training publicly.

As OGIS establishes its policies and procedures, many of them will likely need to be revisited and discussed to ensure they are the most effective and appropriate. Whether to allow members of the public to attend training sessions is currently something OGIS is revisiting with OIP. We hope that OGIS can be a model for government transparency and can find a way to fulfill the need for free exchange among government employees as well as serve the public's interest in accessing government information.

The slides from the training session were made available on the DOJ web site the day of the training and are also available at: <http://archives.gov/ogis/>. Additionally, OGIS and OIP conducted the same training session for the public through the American Society of Access Professionals on March 10, 2010.

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