



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

FOIA Service Center

February 9, 2023

Ian Prior
Senior Advisor
America First Legal

RE: FOIA Request No. 23-00913-F

Dear Ian Prior:

This letter is in response to your request dated February 1, 2023, requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was received in this office on February 2, 2023. Your request has been assigned to the appropriate office(s) within the Department to search for documents that may be responsive to your request.

You have asked for expedited processing of your request. That request is denied. The Department has concluded that you have not demonstrated a compelling need for the information. In addition, you have not substantiated that there is an urgency to inform the public concerning any actual or alleged Federal Government activity.

Enclosed with this letter is a general informational sheet for Expedited Processing. Should you still wish to claim that your request should be granted expedited processing, you must provide more specific and detailed evidence to support your claims under each statutory requirement described in our FOIA regulations available on the internet at: <https://www2.ed.gov/policy/gen/leg/foia/foiatoc.html> and outlined in the attachment to this letter.

You have the right to seek assistance and/or dispute resolution services from the Department's FOIA Public Liaison or the Office of Government Information Services (OGIS). The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes. OGIS, which is outside the Department of Education, offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

They can be contacted by:

Mail	FOIA Public Liaison Office of the Secretary U.S. Department of Education 400 Maryland Ave., SW LBJ 7W104 Washington, DC 20202-4500	Office of Government Information Services National Archives and Records Administration 8601 Adelphi Road, Room 2510 College Park, MD 20740-6001
E-mail	robert.wehausen@ed.gov	OGIS@nara.gov
Phone	202-205-0733	202-741-5770; toll free at 1-877-684-6448
Fax	202-401-0920	202-741-5769

Lastly, you have the right to appeal this determination. You must submit any appeal within 90 calendar days after the date of this letter. Using the services described above does not affect your right, or the deadline, to pursue an appeal. An appeal must be in writing and must include a detailed statement of all legal and factual bases for the appeal; it should be accompanied by a copy of this letter, the initial letter of request, and any documentation that serves as evidence or supports the argument you wish the Department to consider in resolving your appeal.

Appeals may be submitted using the on-line form available at www.ed.gov/policy/gen/leg/foia/foia-appeal-form.pdf.

Appeals can also be submitted by:

E-mail: EDFOIAappeals@ed.gov
Fax: 202-401-0920
Mail: Appeals Office
Office of the Secretary
U.S. Department of Education
400 Maryland Avenue, SW, LBJ 7W104
Washington, DC 20202-4500

If you have any questions, please contact the FOIA Requester Service Center at (202) 401-8365 or via e-mail at EDFOIAManager@ed.gov (please include the case number).

Sincerely,

Elise Cook
Government Information Specialist

Enclosure

Freedom of Information Act
EXPEDITED PROCESSING CRITERIA
(Department of Justice General Information)

Compelling Need

Expedited processing is provided if the requester demonstrates a compelling need. A requester can show compelling need in one of two ways: by establishing that his or her failure to obtain the records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or, if the requester is a person primarily engaged in disseminating information, by demonstrating that an urgency to inform the public concerning actual or alleged Federal Government activity exists.

Loss of Substantial Due Process Rights

As a general rule, a request also should be expedited if it is shown that substantial due process rights of the requester would be impaired by the failure to process immediately and that the information sought is not otherwise available. It is not sufficient, however, for a requester merely to allege that requested records are needed in connection with some judicial or administrative proceeding; rather, the immediate use of the FOIA must be shown to be critical to the preservation of a substantial right.

Other Considerations

Beyond these two categories, it is unclear to what extent agencies have the discretion to grant requests for expedition under any other circumstances. Moreover, agencies should not forget the interests of all requesters in having their requests treated equitably, as well as the public interest in the integrity of FOIA processing. Because a decision to take a FOIA request out of turn necessarily entails further delay for other requesters waiting patiently in line, simple fairness demands that it be made only upon careful scrutiny of truly exceptional circumstances.