



U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001

U.S. Election Assistance Commission Freedom of Information Act Annual Report Fiscal Year 2021

Section I: Basic Information Regarding Report

1. Interested parties with questions regarding this report may contact:
 - Camden Kelliher, Associate Counsel
633 3rd Street NW, Suite 200 Washington, DC 20001
(202) 360-3160
ckelliher@eac.gov
2. The report is available via the following link: [Election Assistance Commission Website - FOIA Reading Room](#)
3. A copy of the Report in paper form can be obtained by contacting the EAC via phone, email, or mail. Contact information for the EAC is found at <https://www.eac.gov/contactuseac>

Section II: Making a FOIA Request

1. Please direct FOIA requests to the following:
 - Camden Kelliher, Associate Counsel
633 3rd Street NW, Suite 200 Washington, DC 20001
(202) 360-3160
ckelliher@eac.gov
2. Please see below for a brief description of why some requests are not granted and an overview of certain general categories of the agency's records to which the FOIA exemptions apply:
 - Under the Freedom of Information Act, interested parties may request access to records held by the U.S. Election Assistance Commission. An important part of the EAC response process is ensuring that certain protected information is not improperly disclosed when records are provided. Such information is withheld if disclosure would harm an interest protected by one of the nine exemptions provided by FOIA. EAC records that are withheld from disclosure are typically protected by Exemptions 3, 4, 5, and 6, which encompass privacy concerns, predecisional and deliberative processes, and trade secrets. From a policy perspective, these exemptions are important to the mission of the EAC to encourage open discussions on matters of policy between subordinates and superiors, to protect against premature disclosure of proposed policies before formal adoption, and to protect against public confusion that might result from

disclosure of reasons and rationales that were not ultimately grounds for an agency's action.

3. Below please find a link to agency FOIA regulations, including the agency's fee schedule. (NOTE: Agency FOIA Regulations were formerly listed at Section XI of the human-readable version of the Report).

- [Election Assistance Commission Website - FOIA Guide](#)

Section III: Acronyms, Definitions, and Exemptions

Component Abbreviation	Component Name
EAC	U.S. Election Assistance Commission

- a. Administrative Appeal – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. 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.
- c. Backlog – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
- d. Component – for agencies that process requests on a decentralized basis, a "component" is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. Consultation – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency or component within the same agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency or component within the same agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. Exemption 3 Statute – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. FOIA Request – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a "thirdparty" request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., "first-party" requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act "systems of records" or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report. Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. Full Grant – an agency decision to disclose all records in full in response to a FOIA request.
- i. Full Denial – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entireties under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. Median Number – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. 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 granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. Expedited Processing – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. Simple Request – a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the low volume and/or simplicity of the records requested.
 - iii. Complex Request – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. Partial Grant/Partial Denial – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. Pending Request or Pending Administrative Appeal – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. Perfected Request – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. Processed Request or Processed Administrative Appeal – a request or administrative appeal for which an agency has taken final action in all respects.
- p. Range in Number of Days – the lowest and highest number of days to process requests or administrative appeals.
- q. Time Limits – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

Descriptions of the nine FOIA exemptions:

- a. Exemption 1: classified national defense and foreign relations information
- b. Exemption 2: information that is related solely to the internal personnel rules and practices of an agency
- c. Exemption 3: information that is prohibited from disclosure by another federal law
- d. Exemption 4: trade secrets and other confidential business information
- e. Exemption 5: inter-agency or intra-agency communications that are protected by legal privileges
- f. Exemption 6: information involving matters of personal privacy
- g. Exemption 7: records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere

with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual

- h. Exemption 8: information relating to the supervision of financial institutions
- i. Exemption 9: geological information on wells

AGENCY OVERALL	11	11	0	21	0	2	0	0	0	0	0	0	0	45
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V.B.(2). DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS BASED ON REASONS OTHER THAN EXEMPTIONS"

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
EAC	N/A	0	0
AGENCY OVERALL			0

V.B.(3). DISPOSITION OF FOIA REQUESTS -- NUMBER OF TIMES EXEMPTIONS APPLIED

Agency / Component	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
EAC	0	1	0	1	3	8	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	1	0	1	3	8	0	0	0	0	0	0	0	0

VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS

Agency / Component	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
EAC	2	4	6	0
AGENCY OVERALL	2	4	6	0

VII.A. FOIA REQUESTS -- RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
EAC	14	72	1	579	320	317	15	488	107	102	9	178
AGENCY OVERALL	14	72	1	579	320	317	15	488	107	102	9	178

VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
EAC	129	183	10	579	340	355	297	488	176	144	47	178
AGENCY OVERALL	129	183	10	579	340	355	297	488	176	144	47	178

VII.C. PROCESSED SIMPLE REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
EAC	20	2	0	1	0	0	1	1	0	0	2	0	1	28

AGENCY OVERALL	20	2	0	1	0	0	1	1	0	0	2	0	1	28
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VII.C. PROCESSED COMPLEX REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
EAC	1	0	0	0	0	0	0	0	0	0	2	5	1	9
AGENCY OVERALL	1	0	0	0	0	0	0	0	0	0	2	5	1	9

VII.C. PROCESSED REQUESTS GRANTED EXPEDITED PROCESSING -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
EAC	1	1	2	0	0	0	0	0	4	0	0	0	0	8
AGENCY OVERALL	1	1	2	0	0	0	0	0	4	0	0	0	0	8

VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

Agency / Component	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
AGENCY OVERALL	56	174	181	24	201	239	8	257	271

VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
EAC	Date of Receipt	2020-03-20	2020-03-15	2020-02-13	2020-01-10	2020-01-10	2019-10-29	2019-10-29	2019-09-09	2019-05-20	2019-01-31
	Number of Days Pending	389	393	414	437	437	486	486	530	600	677
AGENCY OVERALL	Date of Receipt	2020-03-20	2020-03-15	2020-02-13	2020-01-10	2020-01-10	2019-10-29	2019-10-29	2019-09-09	2019-05-20	2019-01-31
	Number of Days Pending	389	393	414	437	437	486	486	530	600	677

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
EAC	8	6	21	20	2
AGENCY OVERALL	8	6	21	20	2

VIII.B. Requests for Fee Waiver

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate

EAC	16	12	16	16
AGENCY OVERALL	16	12	16	16

IX. FOIA Personnel and Costs

Agency / Component	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
EAC	0	1.48	1.48	156100.00	8000.00	164100.00
AGENCY OVERALL	0	1.48	1.48	156100.00	8000.00	164100.00

X. Fees Collected for Processing Requests

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
EAC	0.00	0.0000
AGENCY OVERALL	0.00	0.0000

XI.A. Number of Times Subsection (C) Used

Agency / Component	Number of Times Subsection Used
EAC	0
AGENCY OVERALL	0

XI.B. Number of Subsection (A)(2) Postings

Agency / Component	Number of Records Posted	Number of Records Posted
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EAC	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0

**XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT
-- REQUESTS RECEIVED AND PROCESSED**

Agency / Component	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
EAC	49	92	21	45
AGENCY OVERALL	49	92	21	45

**XII.D.(2). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT
-- BACKLOGGED REQUESTS**

Agency / Component	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
EAC	10	3
AGENCY OVERALL	10	3

XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
EAC	0	4	0	6
AGENCY OVERALL	0	4	0	6

XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

Agency / Component	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
EAC	0	0
AGENCY OVERALL	0	0