

## Corporation for National and Community Service

## § 2507.16

(c) *When appeal is required.* A requester must generally submit a timely administrative appeal before they seek court review of the Agency's adverse determination.

(d) *Requirements for making an appeal.* A requester must:

- (1) Make the appeal in writing;
- (2) Transmit or postmark the appeal within 90 calendar days after the date of adverse determination;
- (3) Clearly identify the assigned request number and the Agency determination they are appealing;
- (4) Mark the subject line of the appeal email, or letter and envelope, with "FOIA Appeal."

(e) *Where to file an appeal.* A requester may file an appeal by sending an email to [foia@cns.gov](mailto:foia@cns.gov) to the attention of the FOIA Appeals Officer, or a letter to: FOIA Appeals Officer, AmeriCorps, 250 E Street SW, Washington, DC 20525. There is no charge for filing an administrative appeal.

(f) *Adjudication of appeals.* (1) The FOIA Appeals Officer will conduct *de novo* review and make the final determination on appeals.

(2) An appeal ordinarily will not be adjudicated if the request becomes a matter of FOIA litigation.

(g) *Decisions on appeals.* The FOIA Appeals Officer will provide the decision on any appeal in writing within 20 days (excepting Saturdays, Sundays, and legal public holidays) from the date the FOIA Appeals Officer received the appeal. The FOIA Appeals Officer's determination of an appeal constitutes the Agency's final action.

(1) If the FOIA Appeals Officer's decision upholds the Agency's determination, the decision will:

- (i) State the reasons for the affirmation, including any FOIA exemptions applied;
- (ii) Notify the requester of their statutory right to file a lawsuit; and
- (iii) Inform the requester of the mediation services offered by OGIS as a non-exclusive alternative to litigation.

(2) If the FOIA Appeals Officer's decision remands or modifies the Agency determination, either in whole or in part, they will notify the requester of that determination in writing. Thereafter, AmeriCorps will re-process the FOIA request in accordance with that

determination and, if applicable, promptly send the releasable records to the requester, unless a reasonable delay is justified.

[87 FR 55309, Sept. 9, 2022; 87 FR 57643, Sept. 21, 2022]

### § 2507.15 Mediation and dispute resolution services.

If a requester receives an adverse determination on a FOIA request, they have the right to seek dispute resolution services from the FOIA Public Liaison or mediation services from OGIS. Congress has charged OGIS with resolving FOIA disputes between Federal agencies and requesters. OGIS's mediation services are an alternative to litigation, but do not preclude it.

## Subpart G—Fees

### § 2507.16 Definitions for this subpart.

In addition to the definitions in § 2507.3, the following definitions apply to this subpart:

*Commercial use request* is a FOIA request for a purpose that furthers a commercial, trade, or profit interest, which can include furthering those interests through litigation. The Agency's decision to place a requester in the commercial use category will be made on a case-by-case basis, in consideration of the requester's intended use of the information.

*Direct costs* are the expenses AmeriCorps incurs in searching for and duplicating (and, in the case of commercial use requests, reviewing) records in order to respond to a FOIA request. Direct costs do not include overhead expenses such as the costs of space, or of heating or lighting a facility.

*Duplication fees* are the reasonable direct costs of making copies of records to respond to a FOIA request, including the cost of materials to produce paper copies and materials plus operator time to produce tapes, disks, or other media.

*Educational institution* is any school that operates a program of scholarly research. To qualify for this fee category, a requester must show that the request is authorized by, and made under the auspices of, an educational institution and that the records are not

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sought for a commercial use, but rather are sought to further scholarly research. The request must serve the scholarly research goals of the institution rather than an individual research goal.

*Fee waiver* is a waiver or reduction of processing fees if a requester can demonstrate that certain statutory standards are satisfied, including that the information is in the public interest and is not requested for a commercial interest.

*Noncommercial scientific institution* is an institution that is not operated on a “commercial” basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by, and made under the auspices of, a qualifying institution and that the records are sought to further scientific research and are not for a commercial use.

*Representative of the news media* is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term “news” means information that is about current events or that would be of current interest to the public. A freelance journalist will be regarded as a representative of the news media if they demonstrate a solid basis for expecting publication through a news media entity.

*Review fees* are the direct costs incurred during the initial examination of a document to determine if it must be disclosed under the FOIA. This includes doing all that is necessary to prepare a record for disclosure, such as redacting the record and marking the appropriate exemptions. Review time also includes time spent obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter. It does not include time spent resolving general legal or policy issues regarding the application of exemptions. Review fees are properly charged even if a record ultimately is not disclosed.

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*Search fees* are costs of all time spent looking for responsive material, including, if necessary, page-by-page or line-by-line identification of information within records.

### § 2507.17 Fees overview.

(a) AmeriCorps will charge fees for processing FOIA requests in accordance with the provisions of this subpart and with the OMB Guidelines, unless a waiver or reduction of fees has been granted under § 2507.24.

(b) AmeriCorps will search for, review, and duplicate records in the most efficient and the least expensive manner.

(c) AmeriCorps may properly charge for time spent searching even if it does not locate any responsive records or if it determines that the records are entirely exempt from disclosure.

(d) When a request is made for commercial purposes, review fees will be assessed for the Agency’s time spent on its initial analysis to determine whether an exemption applies to a record or portion of a record.

(e) No charge will be made at the administrative review stage for review of exemptions that were applied at the initial review stage. However, if one or more exemptions are deemed to no longer apply, the costs associated with the Agency’s re-review of the records to consider the use of other exemptions may be assessed as review fees.

(f) Requesters may seek a fee waiver. AmeriCorps will consider requests for a fee waiver in accordance with the requirements in § 2507.24.

(g) To resolve any fee issues that arise under this section, AmeriCorps may contact a requester for additional information.

### § 2507.18 Requester categories and fees charged.

(a) The FOIA establishes the following categories of requesters and, depending on the category, these types of fees to be paid:

(1) Commercial use requesters: these pay search, review, and duplication fees.

(2) Non-commercial scientific institutions, educational institutions whose