

The National Labor Relations Board 2022 Chief FOIA Officer Report

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's [FOIA Guidelines](#) is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. FOIA Leadership

- 1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at this level?**

Answer: Yes. Under National Labor Relations Board (NLRB) Rules and Regulations, 29 C.F.R. § 102.117(a)(2)(ii), the Associate General Counsel for the Division of Legal Counsel is the Agency's designated Chief FOIA Officer.

- 2. Please provide the name and title of your agency's Chief FOIA Officer.**

Answer: Nancy E. Kessler Platt, Associate General Counsel, Division of Legal Counsel

B. FOIA Training

- 3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.**

Answer: The Agency has taken the following measures to ensure proper FOIA training is made available and used by Agency personnel:

- In 2021, the FOIA Branch added a FOIA training section to the NLRB's Human Resources onboarding presentation for all newly hired employees. During each orientation session, a FOIA staff attorney provides an overview of the FOIA, including records disclosure guidelines and employees' FOIA responsibilities. This is an on-going activity that occurs regularly throughout the year.
- On June 24 and July 8, 2021, the FOIA Officer and a supervisor conducted Agency trainings on email records and the FOIA at the request

of the Chairman and General Counsel. Over 200 employees from across the country attended these virtual trainings. During the trainings, the presenters promoted and encouraged the use of the DOJ training tools such as the FOIA Professional e-Learning Module and the Federal Employee e-Learning Module for Agency employees, which is located on the FOIA Branch's SharePoint page. Videos of the trainings were made available on the FOIA Branch SharePoint page so that other employees could view them.

- On July 20, 2021, the FOIA Officer conducted a virtual FOIA overview training to summer interns across the Agency.
- In Fall 2021, the FOIA Officer conducted briefings for newly appointed Board Members on how the FOIA applies to records originating from their offices.
- The FOIA officer regularly conducts FOIA trainings for staff in regional offices on employees' FOIA responsibilities and obligations, as well as an overview of how the FOIA applies to investigatory and litigation records.
- On February 7, 2022, the FOIA officer conducts a FOIA training for NLRB honors attorneys as a part of their orientation.
- During Sunshine Week in March 2022, the General Counsel and the Chairman sent an Agency-wide memorandum reaffirming their commitment to transparency, reminding all staff of their responsibilities under the FOIA, recognizing the substantial accomplishments of the FOIA Branch and referencing training and other FOIA resources available to everyone. The memorandum was consistent with the 2018-2020 FOIA Federal Advisory Committee Recommendation 17 which encourages "agency leadership annually issue a memorandum reminding the workforce of its responsibilities and obligations under FOIA and encouraging the workforce to contact the agency's FOIA officer for assistance with the FOIA process."

4. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

Answer: Yes. Please see below.

5. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

Answer: Throughout 2021 and 2022, one or more NLRB FOIA Branch staff attended the following trainings:

- DOJ OIP Training: Continuing FOIA Education Training
- DOJ OIP Training: Virtual Exemption 1 and Exemption 7 Workshop
- DOJ OIP Training: Virtual Introduction to the Freedom of Information Act

- DOJ OIP Training: Virtual Procedural Requirement and Fees Workshop
- DOJ OIP Training: Virtual Freedom of Information Act Litigation Seminar
- DOJ OIP Training: Virtual Annual FOIA Report Training
- DOJ OIP Training: Chief FOIA Officer Refresher Training
- DOJ OIP Training: Virtual Privacy Considerations Training
- DOJ OIP Training: Virtual Advanced Freedom of Information Act Training
- Federal Electronic Discovery Working Group Virtual Conference (FEDWG)
- Digital Government Institute (DGI) Virtual Digitization RM Conference @930gov
- American Society of Access Professionals (ASAP) Annual Conference
- Meeting with the Co-chairs of the Chief FOIA Officers Council

At the FOIA Branch staff meetings, FOIA staff conducted trainings on case law updates, FOIA policies, and FOIA technology tools. Team members will also share any technology tips and practice tips they learn that will assist their colleagues in performing their jobs.

6. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

Answer: 100% of NLRB FOIA Branch staff attended substantive FOIA training.

7. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Answer: This does not apply to the NLRB because all FOIA staff attended FOIA trainings.

8. Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?

Answer: The NLRB FOIA Branch staff completed records management training online through the Skillport application.

9. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Answer: Yes. On November 9, 2021, NLRB's FOIA Officer participated on a moderated panel of agencies at the 2021 FEDWG Virtual Conference discussing best practices, tips and tricks, technology options, redaction and production tools, staffing considerations, and other issues related to Agency responses to FOIA requests. Additionally, NLRB's FOIA Officer serves on the educational advisory committee of an organization that convenes and educates communities of interest across the government to address issues affecting technology, records/information management and data strategy. Finally, a FOIA supervisor presented on a moderated panel discussing these issues on September 15, 2021 at Digital Government Institute (DGI) Virtual Digitization RM Conference @930gov.

D. Other Initiatives

10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe: how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

Answer: The Agency has taken the following efforts to inform non-FOIA professionals at all levels of their obligations under the FOIA:

- In 2021, the FOIA Branch added a FOIA training section to the NLRB's Human Resources onboarding presentation for all newly hired employees. During each orientation session, a FOIA staff attorney provides an overview of the FOIA, including records disclosure guidelines and employees' FOIA responsibilities. This is an on-going activity that occurs regularly throughout the year.
- On April 9, 2021, the FOIA Officer conducted a training for the Regional Directors on their FOIA obligations.
- On June 24 and July 8, 2021, the FOIA Officer and a supervisor conducted an Agency training on email records and the FOIA at the request of the Chairman and General Counsel. More than 200 employees from across the country attended these virtual trainings. During the trainings, the presenters promoted and encouraged the use of the DOJ training tools such as the FOIA Professional e-Learning Module and the Federal Employee e-Learning Module for Agency employees, which is located on the FOIA Branch's SharePoint page.
- On July 20, 2021, the FOIA Officer conducted a virtual FOIA overview training to summer interns across the Agency.
- In Fall 2021, the FOIA Officer conducted briefings for newly appointed Board Members on how the FOIA applies to records originating from their offices.

- On December 3, 2021, the FOIA Officer conducted a training for the Division of Administrative Law Judges as a part of the ALJ annual training conference. The topics including exemption 4, proactive disclosures, and electronic records.
- On January 12, 2022, the FOIA officer conducted a FOIA training for staff in a regional office on employees' FOIA responsibilities and obligations, as well as an overview of how the FOIA applies to investigatory and litigation records.
- On February 7, 2022, the FOIA officer conducts a FOIA training for NLRB honors attorneys as a part of their orientation.

11. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Answer: This does not apply to the NLRB.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

DOJ's [FOIA Guidelines](#) emphasize that “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

1. For Fiscal Year 2021, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A of your agency's Fiscal Year 2021 Annual FOIA Report.

Answer: The NLRB adjudicated requests for expedited processing, on average, in less than three days in FY 2021.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: This does not apply to the NLRB.

- 3. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?**

Answer: Yes. The NLRB timely updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016. Further, the NLRB FOIA Branch is in the process of making additional revisions to the Agency's current FOIA regulations.

- 4. Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's [guidance](#), having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?**

Answer: Yes.

- 5. If not, please provide a timeline for when your agency plans to develop or update its SOPs.**

Answer: This does not apply to the NLRB.

- 6. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?**

Answer: No.

- 7. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.**

Answer: At this time, the NLRB has not explored opportunities for alternative access to records by first-party requesters.

- 8. Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data**

analysis methods or technologies used to assess your agency's FOIA program.

Answer: Yes. With FOIAonline, the NLRB FOIA Branch tracks various metrics related to the processing of FOIA, including monitoring workflow, running reports to track the review status of FOIA requests, and assessing the timeliness of responses. For example, the FOIA Branch compares the Quarterly Reports and the FOIA Annual Reports to analyze quarterly and yearly trends and levels of productivity. The FOIA Branch will continue to use the FOIAonline reporting features to assess its productivity and assist it in streamlining processes and procedures. Additionally, the FOIA Branch holds an annual staff meeting to review and discuss the Quarterly Reports, Annual FOIA Report, the Chief FOIA Officer Report, and the DOJ 2020 Chief FOIA Officers' Report Assessment and Summary to highlight areas of improvement and discuss areas of focus for improvement in the next fiscal year.

Since Fiscal Year 2019, the FOIA Branch has been conducting self-assessments using the DOJ FOIA Self-Assessment Toolkit modules ("Toolkit") to increase efficiency and productivity. For example, in Fiscal Year 2020 and Fiscal Year 2021, the FOIA Branch used the Toolkit to assist with drafting the new FOIA regulations and updating the Agency's FOIA Manual.

9. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2021 (please provide a total number or an estimate of the number).

Answer: Approximately 144 contacts.

10. Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Answer: Yes. The FOIA Branch continually assesses its resources against changing business demands. Where additional resources are needed, the FOIA Branch adjusts staffing assignments to leverage expertise among current staff, as well as augments staff resources through collaboration with other offices or by seeking authorization to hire additional FTEs.

11. Optional -- Please describe:

Best practices used to ensure that your FOIA system operates efficiently and effectively

Answer: The media often will check the case pages of high profiles NLRB cases on the Agency's web site to search for posted records. In response to their

ongoing request for quicker access, NLRB's Office of Chief Information Officer (OCIO) staff collaborated with the FOIA Branch to create and deploy a tool that enabled FOIA staff to post records specific to a particular NLRB case directly from FOIAonline to that NLRB case page. Implementation of this tool eliminated the extra step and time delay of involving OCIO staff with these proactive disclosures and resulted in fewer FOIA requests filings. The posted FOIA records also include a copy of the FOIA determination so that members of the public can familiarize themselves with the kinds of records available at the NLRB.

Any challenges your agency faces in this area.

Answer: As with all agencies, the NLRB faces occasional technological issues that impede the FOIA Branch's ability to process and post records without delay. Additionally, the retirement of FOIAonline system will require the Agency to seek a new software system, resulting in reduced efficiencies of processing as the Agency migrates the data to the new system and trains staff.

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

Answer: Consistent with subsection (a)(2) of the FOIA, the NLRB proactively makes available to the public non-exempt information from certain categories of records without waiting for a specific request to be received. This automatically-released public information consists of both data and documents discussed in the next item below. Through an automated process linking the NLRB's case management database, NxGen, with the Agency website, certain documents such as Decision and Direction of Election, Notices of Election, and various case motions and orders are made available for immediate download without redactions shortly after they are filed or issued. Finally, the FOIA Branch retrieves, reviews and posts [Advice Memoranda](#) to the NLRB website in batches on a monthly basis.

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have

been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

Answer: The NLRB maintains a robust FOIA E-Library. The FOIA Branch has identified the following records that the Agency routinely posts online proactively:

- Final Agency opinions and orders rendered in the adjudication of cases
 - [Advice Memoranda](#)
 - [Decisions and Orders of the NLRB](#)
 - [Administrative Law Judge Decisions](#)
 - [Regional Election Decisions](#)
- Specific policy statements that are not published in the Federal Register
 - Memoranda issued by the [General Counsel](#)
 - Memoranda issued by the NLRB's [Operations Management](#)
- Administrative staff manuals and instructions to staff that affect a member of the public
 - [Manuals](#): 15 NLRB casehandling manuals and other materials regarding NLRB case procedures
- Frequently requested records available through [FOIAonline](#)
- Additional proactive postings and online databases include:
 - [Monthly records](#) related to representation and unfair labor practice cases
 - [Cases and Organizations of Interest](#)
 - [Case Search](#) database
 - [NLRB Case File Search](#)
 - [Tally of Ballots Search](#)
 - [Performance and Accountability Reports \(PARs\)](#)
 - [Election Reports](#) of all elections conducted in the NLRB's regions
 - [Annual Reports](#) from FY 1936-2009
 - Other [reports](#) containing various types of information related to casehandling, the Agency's performance, the FOIA, and Office of the Inspector General
 - [Graphs and Data section](#) containing statistical information

Further, the posting of FOIA records to the case page is not limited to records that have been requested three or more times. Records sought in every media request are posted by FOIA Branch personnel to the corresponding Agency case page. See *Springfield Symphony Orchestra Inc.*, Case No. 01-CA-277037 <https://www.nlr.gov/case/01-CA-277037>; *Walt Disney Parks and Resorts U.S., Inc. d/b/a Walt Disney World Company*, Case Number: 12-CA-280459 <https://www.nlr.gov/case/12-CA-280459>; and *Dolgenercorp, LLC, d/b/a Dollar General*, Case No. 22-RC-216702 <https://www.nlr.gov/case/22-RC-216702>. Additionally, *Amazon.com Services LLC*, Case No. 10-RC-269250 <https://www.nlr.gov/case/10-RC-269250>, is a high-profile case where dozens of FOIA requests have been filed. Links to records requested through FOIA requests are added by FOIA Branch personnel to the *Amazon* case page.

3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.

Answer: Please see the response to III.2 above. Additionally, the FOIA Branch staff provides assistance to requesters who seek data available through the Advanced Data Search on the Agency's website.

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Answer: Yes.

5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

Answer: In Fiscal Year 2020, the NLRB created the Advanced Data Search on the Agency's website which is located at <https://www.nlr.gov/advanced-search>. The Advanced Data Search tool allows requesters to create customized downloadable data sets (up to 100,000 records at a time) from information regarding cases and elections contained in the Agency's electronic case tracking system, NxGen. During Fiscal Year 2021, enhancements were made to Advanced Data Search to include additional downloadable case data fields such as case allegations and participants, which were already disclosed on the individual case pages but were not available for download.

6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Answer: NLRB's Office of Chief Information Officer (OCIO) staff collaborated with the FOIA Branch staff to create and deploy a tool to post records directly from FOIAonline to the NLRB case page. Implementation of this tool eliminated the extra step and time delay of involving OCIO staff with these proactive disclosures. Additionally, the FOIA Branch routinely communicates with the NLRB's Office of Public and Congressional Affairs and the Agency's Regional offices to ensure the timely release of records in high-profile cases. See also the response to question II.11, above.

Optional -- Please describe:

Best practices used to improve proactive disclosures

Answer: The NLRB's FOIA case management initially experienced barriers to posting FOIA records to the NLRB web site. In response, the OCIO staff developed a tool that allows the FOIA staff to link processed FOIA requests, including the FOIA determination letter, to the NLRB case page. This process has many advantages. Requesters can access voluminous records from the NLRB case page without a file storage account or an account within the NLRB's FOIA system. Members of the public can now view the NLRB case page to determine if a request has been made before filing their own request. Journalists can more easily and quickly access information of interest by just visiting the case page.

Any challenges your agency faces in this area

Answer: The FOIA Branch is discussing options for utilizing technology to process and provide records more quickly.

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

- 1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?**

Answer: Yes.

- 2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.**

Answer: The FOIA Branch has met with NLRB's OCIO staff and with E-Litigation teams to identify the FOIA Branch's technological needs, including deduplication and dethreading of voluminous email chains. Staff in these offices have developed in-house solutions and/or provided information about cost-effective vendors that can address the need. For example, OCIO has developed a proactive disclosure tool to post records directly from FOIAonline to the NLRB case page, and the E-Litigation team has facilitated the processing of records currently in litigation using the Relativity software.

Additionally, the FOIA Branch has also leveraged the following technologies, tools and processes to enhance the FOIA program:

- Increasingly utilized SharePoint sites, Teams Channels, and documents to enable collaboration with multiple processors and to share real-time feedback with each other, ensuring a unified approach to records processing.
- Reviewed and updated the process for exporting individual files from an entire case to allow multiple case files to be exported at one time and merged into a single export file folder, arranging the individual files into overall chronological order regardless of which case file they came from.

Finally, the FOIA Branch is currently exploring options for a new FOIA software program as FOIAonline is retired.

- 3. OIP issued [guidance](#) in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources, and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?**

Answer: Yes.

- 4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?**

Answer: Yes.

- 5. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2022.**

Answer: This does not apply to the NLRB.

- 6. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.**

Answer: Please see [FOIA Reports \(National Labor Relations Board\)](#).

- 7. Optional -- Please describe:**

Best practices used in greater utilizing technology

Any challenges your agency faces in this area

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA

Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's FY 2020 and 2021 Annual FOIA Reports.

A. Simple Track

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Answer: No. The NLRB does not have a separate track for simple requests pursuant to NLRB's current Rules and Regulations. However, the FOIA Branch is in the process of updating the Agency's FOIA regulations and will provide for separate tracks for simple and complex requests in the future.

2. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?

Answer: This does not apply to the NLRB.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

Answer: This does not apply to the NLRB.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Answer: Yes. The average number of days to process all non-expedited requests was 10 working days.

B. Backlogs

When answering these questions, please refer to you Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

BACKLOGGED REQUESTS

- 5. If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?**

Answer: No. The NLRB had a FOIA request backlog of three at the end of FY 2020. At the end of FY 2021, the NLRB had a FOIA request backlog of seven, which reflects a slight increase of four.

- 6. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?**

Answer: Yes.

- 7. If your agency's request backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

Answer: The following factors contributed to the slight increase in the NLRB's FOIA backlog in FY 2021: an increase in the number of incoming requests, a loss of staff, an increase in the complexity of the requests received, and the impact of COVID-19. Specifically, the FOIA Branch received slightly more requests in FY 2021 than in FY 2020, but the scope and complexity of many of those requests was significantly greater. Additionally, the FOIA Branch lost a key member of its management team and was not able to backfill the position in FY 2021. Finally, the COVID-19 adversely impacted the FOIA Branch's processing of FOIA requests because the high usage of the network slowed the records retrieval and review process.

Any other reasons – please briefly describe or provide examples when possible.

- 8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."**

Answer: Less than half of 1%. (7 backlogged requests/1,436 requests received=.49%)

BACKLOGGED APPEALS

- 9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?**

Answer: The NLRB did not maintain a backlog of FOIA administrative appeals in FY 2020 or FY 2021.

- 10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?**

Answer: No.

- 11. If your agency's appeal backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

An increase in the number of incoming appeals.

A loss of staff.

An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

Impact of COVID-19 and workplace and safety precautions.

Any other reasons – please briefly describe or provide examples when possible.

Answer: The NLRB did not maintain a backlog of FOIA administrative appeals in FY 2020 or FY 2021.

- 12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."**

Answer: The NLRB did not maintain a backlog of FOIA administrative appeals in FY 2020 or FY 2021.

C. Backlog Reduction Plans

13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2021?

Answer: This does not apply to the NLRB as the NLRB did not maintain a backlog of FOIA requests in excess of 1,000 requests.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.

Answer: This does not apply to the NLRB as the NLRB did not maintain a backlog of FOIA requests in excess of 1,000 requests.

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?

Answer: Yes.

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: This does not apply to the NLRB.

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

Answer: This does not apply to the NLRB.

TEN OLDEST APPEALS

18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?

Answer: This does not apply to the NLRB as the NLRB had no FOIA administrative appeals pending at the end of FY 2020.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: This does not apply to the NLRB as the NLRB had no FOIA administrative appeals pending at the end of FY 2020.

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

Answer: This does not apply to the NLRB.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?

Answer: This does not apply to the NLRB as the NLRB received no requests for consultation in FY 2020.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: This does not apply to the NLRB as the NLRB received no requests for consultation in FY 2020.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.

Answer: Technological limitations and the inability to dethread email chains and easily remove duplicate messages impeded the Agency's ability to close some of the oldest FOIA requests. In addition, some of the requests were voluminous in nature. The Agency had no major impediments to closing its old appeals.

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Answer: This does not apply to the NLRB.

25. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2022.

Answer: This does not apply to the NLRB.

F. Success Stories

Out of all the activities undertaken by your agency since March 2021 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas, but should not be something that you have reported in a prior year. As noted above, these agency [success stories](#) will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer: The NLRB’s Public Affairs staff requested a way for reporters to make records in high-profile cases available to the public more quickly, in response to feedback from journalists. The Office of Information Officer (OCIO) staff developed a tool for FOIAonline records from NLRB FOIA requests to be posted on the case page of the NLRB’s website. Before filing a request, FOIA requesters interested in specific NLRB cases can now go to the case’s page on the NLRB website to see if any FOIA records have been released already. Posting the FOIA records from FOIAonline to the NLRB case page offers several benefits:

- The records are easier to locate.
- High-profile cases are easier to track.

- Members of the public can immediately access the records and thus make fewer FOIA requests.
- Requesters can more easily download large case files without a file storage account or account in the NLRB's FOIA system.
- The FOIA Branch receives fewer FOIA requests.
- The posted FOIA determination letters advise the requester community of the kinds of records that are available, information that is exempt, the fee categories, and the Agency's process of searching for responsive records.

Additionally, to further inform the requester community, the NLRB also made policy changes to how the Agency provides FOIA records. Request descriptions, response letters and records released in third-party requests are now available through FOIAonline.