

## Office of the Secretary, Education

## § 5.10

AUTHORITY: 5 U.S.C. 552.

SOURCE: 75 FR 33510, June 14, 2010, unless otherwise noted.

### Subpart A—General Provisions

#### § 5.1 Purpose.

This part contains the regulations that the United States Department of Education follows in processing requests for records under the Freedom of Information Act, as amended, 5 U.S.C. 552. These regulations must be read in conjunction with the FOIA, including its exemptions to disclosure, and, when appropriate, in conjunction with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, and its implementing regulations in 34 CFR part 5b.

(Authority: 5 U.S.C. 552(a), 20 U.S.C. 3474)

#### § 5.2 Definitions.

As used in this part:

(a) *Act* or *FOIA* means the Freedom of Information Act, as amended, 5 U.S.C. 552.

(b) *Department* means the United States Department of Education.

(c) *Component* means each separate bureau, office, board, division, commission, service, administration, or other organizational entity of the Department.

(d) *FOIA request* means a written request for agency records that reasonably describes the agency records sought, made by any person, including a member of the public (U.S. or foreign citizen/entity), partnership, corporation, association, and foreign or domestic governments (excluding Federal agencies).

(e)(1) *Agency records* are documentary materials regardless of physical form or characteristics that—

(i) Are either created or obtained by the Department; and

(ii) Are under the Department's control at the time it receives a FOIA request.

(2) *Agency records* include—

(i) Records created, stored, and retrievable in electronic format;

(ii) Records maintained for the Department by a private entity under a records management contract with the Federal Government; and

(iii) Documentary materials preserved by the Department as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Department or because of the informational value of data contained therein.

(3) *Agency records* do not include tangible, evidentiary objects or equipment; library or museum materials made or acquired and preserved solely for reference or exhibition purposes; extra copies of documents preserved only for convenience of reference; stocks of publications; and personal records created for the convenience of an individual and not used to conduct Department business or incorporated into the Department's record keeping system or files.

(Authority: 5 U.S.C. 552(a), 20 U.S.C. 3474)

### Subpart B—Agency Records Available to the Public

#### § 5.10 Public reading room.

(a) *General*. Pursuant to 5 U.S.C. 552(a)(2), the Department maintains a public reading room containing agency records that the FOIA requires to be made regularly available for public inspection and copying. Published records of the Department, whether or not available for purchase, are made available for examination. The Department's public reading room is located at the National Library of Education, 400 Maryland Avenue, SW., Plaza Level (Level B), Washington, DC 20202-0008. The hours of operation are 9:00 a.m. to 5:00 p.m., Monday through Friday (except Federal holidays).

(b) *Reading room records*. Agency records maintained in the public reading room include final opinions and orders in adjudications, statements of policy and interpretations adopted by the Department and not published in the FEDERAL REGISTER, administrative staff manuals and instructions affecting the public, and copies of all agency records regardless of form or format released to the public pursuant to a FOIA request that the Department determines are likely to be the subject of future FOIA requests.

(c) *Electronic access*. The Department makes reading room records created on