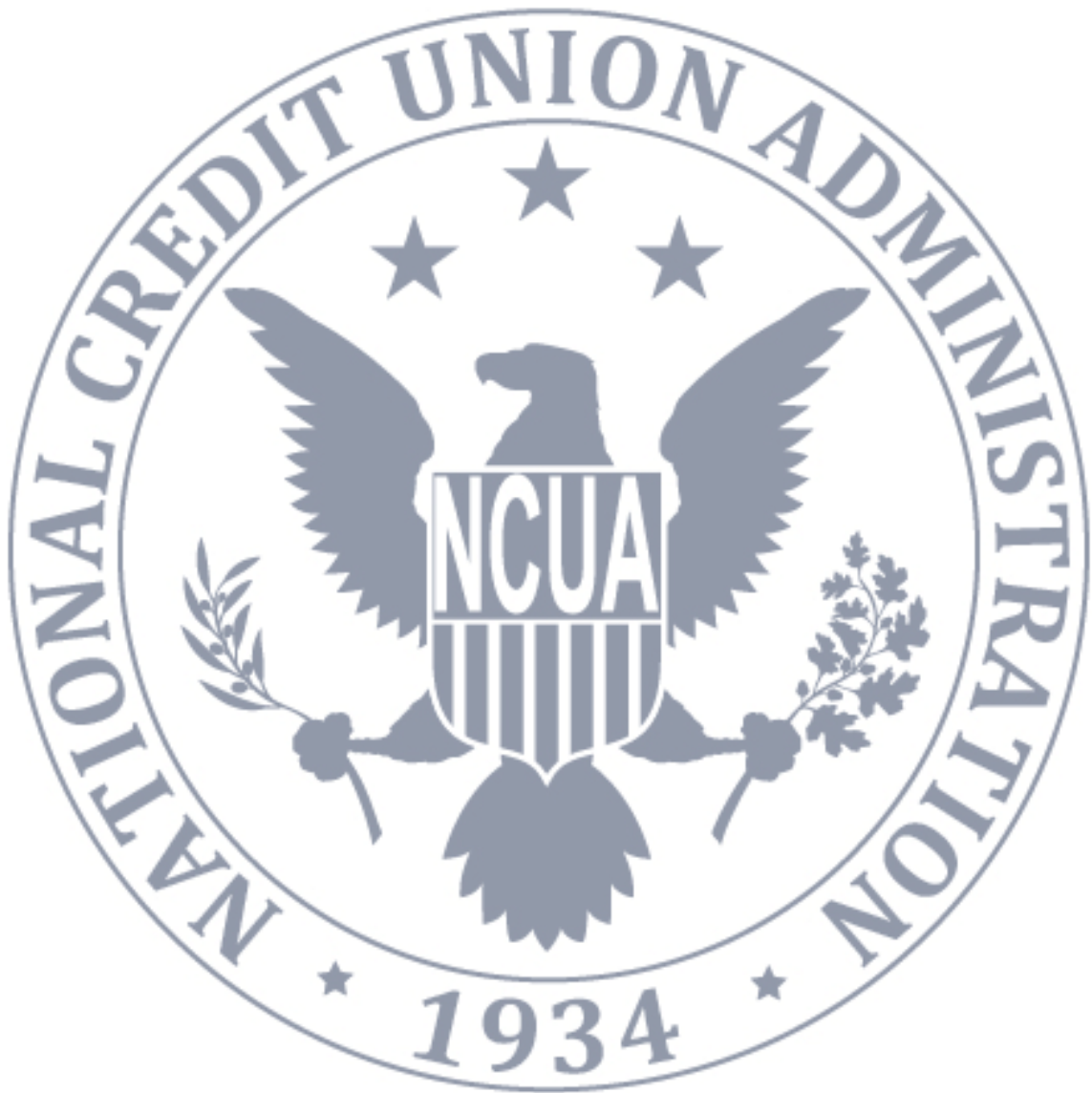




NCUA
National Credit Union Administration

National Credit Union Administration Chief FOIA Officer Report

2023





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Section I: FOIA Leadership and Applying the Presumption of Openness

A. Leadership Support for FOIA

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? **Yes.**
2. Please provide the name and title of your agency's Chief FOIA Officer. **Linda Dent, Deputy General Counsel.**
3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan? **The NCUA has not incorporated FOIA into its core mission; however, the NCUA Board and NCUA executives understand and appreciate the importance of the FOIA program and fully support its ongoing success.**

B. Presumption of Openness

4. The Attorney General's 2022 FOIA Guidelines provides that "agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions." Does your agency provide such confirmation in its response letters? **Yes. The NCUA began including foreseeable harm language into its response letters this year and will continue to do so going forward.**
5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interest protected by a FOIA exemption. This is commonly referred to as a Glomar response. With respect to these responses, please answer the below questions:
 - a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a Glomar response? **No. The NCUA did not have any Glomar responses for FY 2022.**
 - b. If yes, please provide:
 - i. the number of times your agency issued a full or partial Glomar response (separate full and partial if possible); **N/A.**



- ii. The number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times). *N/A.*
- c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved. **The NCUA does not track *Glomar* responses because it is rarely used; however, it could be tracked with minimal costs.**

Section II: Ensuring Fair and Effective FOIA Determination

A. FOIA Training

1. 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. **The agency provided all employees with training addressing their FOIA obligations. Specifically, along with annual information security training, the agency requires all employees to complete a “Privacy, Records Management, and FOIA” training every year. The training is web-based. Additionally, FOIA responsibilities are covered in the agency’s “New Supervisors” training, which all new supervisors are required to take.**
2. 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? **Yes.**
3. If yes, please provide a brief description of the type of training attended or conducted and the topics covered. **NCUA FOIA staff attended the Department of Justice’s trainings, such as FOIA training for attorneys and access professionals. The trainings covered the basic principles for processing FOIA requests from start to finish and the FOIA’s proactive disclosure requirements.**
4. 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. **100% of the NCUA’s FOIA professionals and staff attended substantive FOIA training during this reporting period.**
5. 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. N/A.

6. 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? **The agency provides FOIA training annually to all employees online as part of the required Security, Privacy, Records Management, and FOIA Awareness training. In addition, the FOIA team periodically briefed non-FOIA staff (including senior agency leaders) in various agency offices on FOIA requirements and processes. This included "New Supervisors" training and other role-based trainings. All briefings and trainings were conducted virtually.**

B. Outreach

7. 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. **NCUA's FOIA professionals periodically engaged in dialogue with the requester community on strategies for improving customer service and coordination.**

8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and, if applicable, any specific examples. **Yes. When a request is complex or voluminous, the FOIA team contacts the requester in an effort to clarify or narrow the request so the requester can receive responses more quickly. For example, one requester sought copies of four charter applications – a voluminous request that would have taken substantial time to process. However, by conversing with the requester, the FOIA team learned that the requester actually just wanted an example of a recent application, *i.e.* not specifically the four he requested. By chance, the team had recently processed a request for a recent charter application, so they gave the requester the option to narrow his request accordingly. The result was "win-win" for the requester and the FOIA team.**

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 Fiscal Year 2022 (please provide a total number or an estimate of the number). **Requesters sought assistance from NCUA's FOIA Public Liaison approximately two (2) times in FY 2022.**

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement. **Yes. FOIA assignments are being distributed to additional members of the Information and Access Law team to increase preparedness in case of an uptick in requests.**

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used. **The NCUA uses a commercially available FOIA request management system which produces the following: request progress reports, monthly statistical reports, volume reports, billing reports, and document reports. The FOIA team uses the reports to manage team workload and ensure efficient retrieval of data needed for OIP reports.**

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here. -

Section III: Proactive Disclosures

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures. **NCUA's FOIA staff reviews each FOIA records request and release to identify whether the agency is required proactively to post publicly the information pursuant to (a)(2). The agency also proactively posts on the agency public website the non-exempt information from the following records categories without a specific request: final agency opinions and orders; specific policy statements not published in the Federal Register; administrative staff manuals and staff instructions affecting the public; and records that are or are likely to become the subject of subsequent requests; as well as records requested multiple times. The FOIA staff track and count the number of records publicly posted under (a)(2). Staff work with the agency's Office of External Affairs and Communications and Office of the Chief Information Officer to post the disclosures.**

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). Examples are [Letters to Credit Unions and Other Guidance](#) and [Aggregate Financial Performance Reports](#).

3. 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? **Yes.**

4. 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. **The NCUA is committed to ensuring its websites and content are more useful to the public, including in open formats, to the extent feasible, as evidenced by the following examples:**

- The NCUA posted additional [Administrative Orders](#) pursuant to Section 206 of the Federal Credit Union Act (FCUA) (12 U.S.C. § 1786).
- The NCUA posted updates to its [Financial Reports and Statements](#).

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? **Yes.** If so, describe this interaction. **The FOIA team coordinates with the agency's Office of External Affairs and Communications and Office of the Chief Information Officer, as well as the office(s) the records are from prior to any proactive disclosure.**

Section IV: Steps Taken to Greater Utilize Technology

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

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program. **The NCUA continues to utilize a commercially available FOIA request management system.**

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology. **Yes. The FOIA software that the NCUA uses includes the following technologies: full text searches, independent review layers**



for staffers, and find search/replace redactions. It is not possible to estimate how much time and financial resources have been saved because this tool is the only software the team has used for many years.

4. 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? **Yes.**

5. Did all four of your agency's quarterly reports for Fiscal Year 2022 appear on your agency's website and on FOIA.gov? **The NCUA's quarterly FOIA reports appear on [FOIA.gov](https://www.foia.gov), but not on the agency's website.**

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023. **N/A.**

7. 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 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report. **The link is <https://www.ncua.gov/foia/annual-reports>.**

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance? **Yes.**

Section V: Steps Taken to Remove Barriers to Access, Improve Timeliness in Responding to Requests, and Reducing Backlogs

A. Remove Barriers to Access

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

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know. **Individuals that file consumer complaints with the NCUA's**



Consumer Access Center can submit first party requests to the Consumer Access Center.

B. Timeliness

3. For Fiscal Year 2022, 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 2022 Annual FOIA Report. **N/A.**

4. 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 2022 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. **N/A.**

5. Does your agency utilize a separate track for simple requests? **Yes.**

6. 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 2022? **Yes, the overall average number of days to process simple requests was approximately ten days.**

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year? **N/A.**

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 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. **Approximately 15%.**

9. 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? **N/A.**

C. Backlogs

BACKLOGGED REQUESTS

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, 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 2021? **N/A.**



11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021? **N/A.**

12. If your agency's request backlog increased during Fiscal Year 2022, 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 requests

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

N/A.

13. 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 2022. 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." **N/A.**

BACKLOGGED APPEALS

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, 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 2021? **N/A.**

15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021? **N/A.**

16. If your agency's appeal backlog increased during Fiscal Year 2022, 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

N/A.

17. 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 2022. 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 2022 and/or has no appeal backlog, please answer with "N/A."

N/A.

D. Backlog Reduction Plans

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? **N/A.** 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 2022? **N/A.**

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency's plan to reduce this backlog during Fiscal Year 2023. **N/A.**

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?
Yes.



21. 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. **N/A.**

22. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests. **The agency took steps to reduce the overall age of the pending requests by generally processing the older requests before the newer requests, within the complex and simple tracks.**

TEN OLDEST APPEALS

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report? **Yes.**

24. 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 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. **The agency had two (2) appeals pending and they were closed in a timely manner.**

25. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals. **N/A.**

TEN OLDEST CONSULTATIONS

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report? **N/A. The agency had zero (0) consultations pending.**

27. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that. **The agency had zero (0) consultations to close.**

ADDITIONAL INFORMATION REGARDING TEN OLDEST

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023. **N/A.**

F. Additional Information about FOIA Processing



29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration. **No.**

30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency's FY22 raw data). **Ninety-seven (97).**