



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Office of the Executive Secretariat

December 29, 2020

Ms. Abigail Moats
National Student Legal Defense Network
1015 15th Street, NW Suite 600
Washington, DC 20005
alice@defendstudents.org

RE: FOIA Request No. 20-00849-F

Dear Ms. Moats:

This letter is the final update to the Department's August 4, 2020 final response to your letter dated January 30, 2020 requesting information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was assigned to the following office within the Department to search for responsive records: Federal Student Aid (FSA). You requested the following information:

1. A copy of every letter of credit currently held by the Department that has been posted by, or on behalf of, any institution participating in one or more Title IV, HEA programs.
2. A copy of every communication from the Department wherein the Department requested or demanded an institution to post a letter of credit that is currently held by the Department.

To the extent this request is unduly burdensome on the Department, and without waiving any rights for full compliance with this request, Student Defense would be willing to receive a detailed log in lieu of the documents themselves, so long as the log provides the following information:

- OPEID;
- Institution Name
- State
- Institution Type
- Institution Fiscal Year End Date
- LOC Request Date
- Reason LOC Requested
- LOC Received Date
- LOC Amount
- LOC Percent Requested
- Notes

In response to Item 2, the Department has identified and is releasing 111 pages of responsive records.¹

¹ Please be advised that the Department has interpreted Item 2 of your request to seek only the letters from the Department requesting or demanding that an institution post a letter of credit, and not any subsequent negotiations

However, please be advised that “exceptional circumstances” exist regarding Item 2 of your request. 5 U.S.C. § 552(a)(6)(C)(i). Specifically, the Department does not currently have access to the document management system storing electronic copies of these records, while hard copies of the records are maintained separately throughout FSA’s regional offices, significantly slowing our processing speed. If you are willing to modify the scope of the request or discuss an alternate timeframe for processing this request, please contact Robert Wehausen at (202) 205-0733 or Robert.wehausen@ed.gov.

Additionally, certain information responsive to Item 2 has been withheld according to FOIA Exemption 6, specified below:

1. Records or portions of records relating to personal information is exempt pursuant to 5 U.S.C. §552 (b)(6) of the FOIA. Disclosure of this information would constitute a clearly unwarranted invasion of personal privacy.

You have the right to seek assistance and/or dispute resolution services from the Department’s FOIA Public Liaison or the Office of Government Information Services (OGIS). The FOIA Public Liaison is responsible, among other duties, for assisting in the resolution of FOIA disputes. OGIS, which is outside the Department of Education, offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to appeals or litigation.

They can be contacted by:

Mail	FOIA Public Liaison Office of the Executive Secretariat U.S. Department of Education 400 Maryland Ave., SW, LBJ 7C132 Washington, DC 20202-4500	Office of Government Information Services National Archives and Records Administration 8601 Adelphi Road Room 2510 College Park, MD 20740-6001
E-mail	robert.wehausen@ed.gov	OGIS@nara.gov
Phone	202-205-0733	301-837-1996; toll free at 1-877-684-6448
Fax	202-401-0920	301-837-0348

Lastly, you have the right to appeal this decision by writing to the address below, 90 calendar days from the date of this letter. Using the services described above does not affect your right or the deadline to file an appeal.

between the Department and an institution regarding that request or demand. If you intended to expand the scope of your FOIA request beyond this interpretation, please contact Robert Wehausen

Your appeal must be in writing and must include detailed statement of all legal and factual bases for the appeal; it should be accompanied by this letter, a copy of your initial letter of request, and any documentation that serves as evidence or supports the argument you wish the Department to consider in making an administrative determination on your appeal.

Appeals may be submitted using the on-line form available at www.ed.gov/policy/gen/leg/foia/foia-appeal-form.pdf.

E-mail: EDFOIAappeals@ed.gov
Fax: 202-401-0920
Mail: Appeals Office
Office of the Executive Secretariat
U.S. Department of Education
400 Maryland Avenue, SW, LBJ 7W106A
Washington, DC 20202-4536

Sincerely,

Robert Wehausen

Team Lead
FOIA Service Center
OS/Exec Sec