

FREEDOM OF INFORMATION ACT

Final Response Letter Requirements

You have asked for confirmation on new requirements for Freedom of Information (FOIA) final response letters as a result of the *FOIA Improvement Act of 2016* (P.L. 114-185); as well as what is required to be included in final FOIA response letters under the Privacy Act (PA) when a first party request for their own PA record is processed under both the FOIA and PA.

With the 2016 amendment of the FOIA under the FOIA Improvement Act, agency response letters must now provide the requester with the agency's public liaison contact information. For any response that denies information or provides another adverse response, the contact information for the Office of Government Information Services must also be provided. The time limit to file FOIA appeals with the agency has also been increased to 90 days. See 5 U.S.C. § 552.

Required information in FOIA response letters has not changed with respect to what must be included in the letters to first party FOIA requesters who sought a copy of their own PA record that was denied in whole or in part under the Privacy Act and, therefore, was also processed under the FOIA. These response letters must inform such FOIA requesters that their request was processed under both the FOIA and PA and advise the requester that they may appeal the agency release decision under either or both acts.

The appeal time frame for Privacy Act record denials to first party requesters is the same as the FOIA timeframe—90 days—as well as to which office is the Air Force appeal authority. See DoD 5400.11-R, *Department of Defense Privacy Program*; AFI 33-332, *Air Force Privacy and Civil Liberties Program*. Accordingly, FOIA final response letters to such requesters should only need to note the additional information as to what particular PA exemption was used to deny the record to the first party requester under the Privacy Act—thereby requiring its additional processing under the FOIA procedures.