

§ 5.1 Purpose.

This part implements the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, for Department of Health and Human Services (HHS) records that are subject to the FOIA. This part should be read in conjunction with the text of the FOIA and the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget. This part contains the rules that we follow to process FOIA requests, such as the amount of time we have to make a determination regarding the release of records, who can decide to release records and who can decide not to release them, the fees we may charge, if applicable, the reasons why some records are exempt from disclosure under the FOIA, and the administrative and legal remedies available should a requester disagree with our initial disclosure determination.

(a) The FOIA provides a right of access to agency records, except to the extent that any portions of the records are protected from public disclosure by an exemption or exclusion in the statute. The FOIA does not require us to perform research for you or to answer your questions. The FOIA does not require agencies to create new records or to perform analysis of existing records; for example, by extrapolating information from existing agency records, reformatting publicly available information, preparing new electronic programs or databases, or creating data through calculations of ratios, proportions, percentages, trends, frequency distributions, correlations, or comparisons. However, at our discretion and if it would conserve government resources, we may decide to supply requested information by consolidating information from various records.

(b) This part does not apply to data generated by an agency grant recipient under the provisions of 45 CFR part 75 to the extent the requirements of 45 CFR 75.322(e) do not apply to the data. We will not process your request under the FOIA or these regulations if that data is already available to the public through an archive or other source. In that situation, we will refer you to that other source. The procedures for requesting research data made available under the provisions of 45 CFR 75.322(e) are referenced in § 5.23(a).