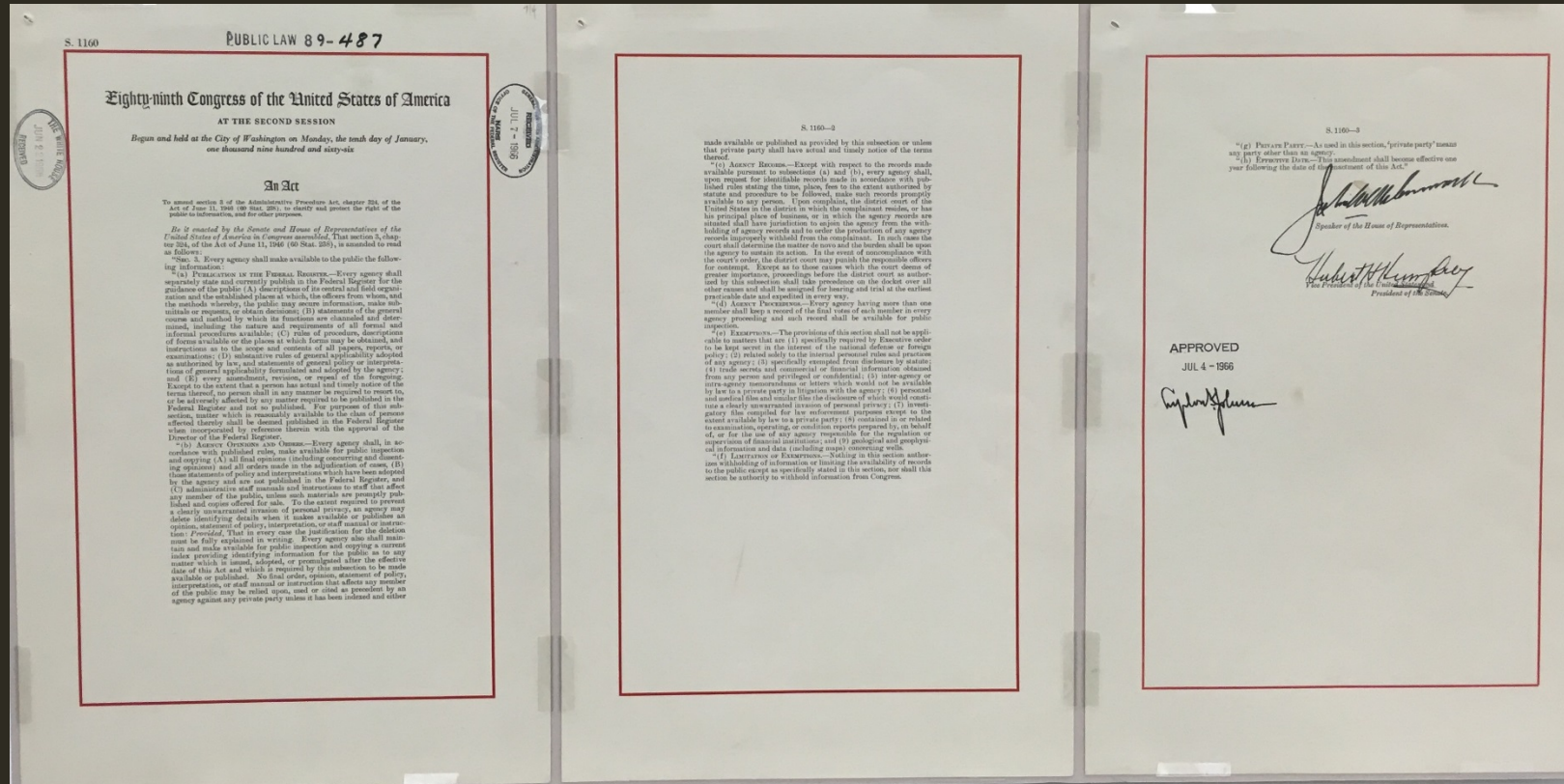


# BEST PRACTICES AND LESSONS LEARNED IN MEDIATION

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# THE FREEDOM OF INFORMATION ACT

## 5 U.S.C. § 552



# **OPEN GOVERNMENT ACT OF 2007 FOIA PUBLIC LIAISONS**

**5 U.S.C. § 552(I)**

**“FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.”**

**OPEN GOVERNMENT ACT OF 2007  
THE OFFICE OF GOVERNMENT  
INFORMATION SERVICES**

**5 U.S.C. § 552(h)(3)**

**“The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation...”**

# FOIA IMPROVEMENT ACT OF 2016

Expanded role of OGIS and FOIA Public Liaisons in  
the process

Reporting on dispute resolution by agencies and OGIS



# SCENARIOS

Unusual Circumstances

Adverse Determinations

Post-Appeal

# UNUSUAL CIRCUMSTANCES

When unusual circumstances prevent an agency from processing a request within FOIA's time limit, the agency must make its FOIA Public Liaison available to assist in resolving the dispute and notify OGIS to assist.

# SCENARIO

A requester seeks all records (emails, reports, Congressional correspondence) related to a specific policy change. Agency X estimates that there are 11,000 responsive records and that the request will take 20 months to process.



# ADVERSE DETERMINATION

Agencies are required to inform requesters of the availability of FPLs and OGIS to help resolve disputes if the agency makes an adverse determination during its initial processing of the request.

# SCENARIO

**A reporter filed a request for a database nine months ago, and agency Y responded by releasing the database in full. However, the database uses codes that the requester can't understand.**

# POST-APPEAL

OGIS's mediation services provide non-exclusive alternative to litigation. Agencies should notify requesters of this service.

# SCENARIO

**A freelance journalist appealed Agency Z's decision to deny his request for a waiver of fees. The agency upheld the initial determination, explaining that the list of previous publications provided by the requester did not meet the threshold for a fee waiver.**

# **TIPS FOR RESOLVING FOIA DISPUTES**

**Pick up the phone**

**Get comfortable with giving bad news (or the same news)**

**Provide as much detail as possible**

**Be hard on the problem, not the person**

**Follow up with an email**

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