



OFFICE OF THE DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

March 4, 2021

MEMORANDUM FOR DoD FOIA PUBLIC LIAISONS

SUBJECT: FOIA requests from Stars and Stripes personnel

It has come to our attention that more than one DoD component has received FOIA requests from Stars and Stripes (S&S) employees. This situation has been previously addressed as reflected by the attached memorandums dated January 18, 1999, and most recently, April 13, 2018.

The FOIA states that a FOIA request can be made by “any person,” which is defined at 5 U.S.C. § 551(2), as an “individual, partnership, corporation, association, or public or private organization other than an agency.” Because this statute specifically excludes federal agencies from the definition of “any person,” a federal agency, or a representative of a federal agency, may not submit a FOIA request to a federal agency.

S&S is a component of the Defense Media Activity (DMA), and as such is a federal agency. Accordingly, any representative of S&S cannot use the FOIA to gain access to DoD information. A S&S employee may only submit a DoD FOIA request if (a) it is filed in his or her individual capacity, not on behalf of S&S; and (b) the requester demonstrates that he or she has obtained prior approval from S&S to engage in outside journalistic employment, as required by DoDD 5500.7. The requester may file such individual requests as a representative of the news media, so long as the above approval has been demonstrated and the request is not made in the requester’s capacity as a S&S employee. If you receive a request from a S&S employee that does not demonstrate S&S approval, you should close it as “not a proper FOIA request” and provide the below as a response in your close out letter:

“You are identified as a Stars and Stripes reporter on the Stars and Stripes website. [*Where requester has self-identified as S&S reporter in public forums (social media, etc.), note that fact here.*] Per Department of Defense Directive (DoDD) 5122.11, paragraph E6.3.2.2, you may not file a FOIA request in your capacity as a Stars and Stripes reporter and DoD employee. Nor may you file a FOIA request as a representative of the news media outside your capacity as a Stars and Stripes reporter. Per DoDD 5122.11, paragraph 4.4.1, Stars and Stripes must operate in accordance with DoDD 5500.7, which requires DoD employees to obtain prior approval before engaging in outside employment. Prior approval has not been demonstrated here. [Therefore we are closing your request, etc.]”

Should you have questions regarding this matter please contact Ms. Toni Fuentes, Assistant Division Chief (FOIA) at OSD.FOIALiaison@mail.mil.

Lyn M. Kirby
Chief, Defense Privacy, Civil Liberties, and
Transparency Division