

(ii) On the reverse side of the form with an appropriate annotation under the title giving its location;

(iii) On a tear-off sheet attached to the form; or

(iv) As a separate supplement to the form.

(b) *Forms issued by non-DoD activities.*

(1) Forms subject to the Privacy Act issued by other Federal Agencies must have a Privacy Act Statement. Always ensure the statement prepared by the originating Agency is adequate for the purpose for which the form shall be used by the DoD activity. If the Privacy Act Statement provided is inadequate, the DoD Component concerned shall prepare a new statement or a supplement to the existing statement before using the form.

(2) Forms issued by agencies not subject to the Privacy Act (State, municipal, and other local agencies) do not contain Privacy Act Statements. Before using a form prepared by such agencies to collect personal data subject to this part, an appropriate Privacy Act Statement must be added.

Subpart D—Access by Individuals

§ 310.17 Individual access to personal information.

(a) *Individual access.* (1) The access provisions of this part are intended for use by individuals who seek access to records about themselves that are maintained in a system of records. Release of personal information to individuals under this part is not considered public release of the information.

(2) Make available to the individual to whom the record pertains all of the personal information contained in the system of records except where access may be denied pursuant to an exemption claimed for the system (see subpart F to this part). However, when the access provisions of this subpart are not available to the individual due to a claimed exemption, the request shall be processed to provide information that is disclosable pursuant to the DoD Freedom of Information Act program (see 32 CFR, part 286).

(b) *Individual requests for access.* Individuals shall address requests for access to personal information in a system of records to the system manager

or to the office designated in the DoD Component procedural rules or the system notice.

(c) *Verification of identity.* (1) Before granting access to personal data, an individual may be required to provide reasonable proof of his or her identity.

(2) Identity verification procedures shall not:

(i) Be so complicated as to discourage unnecessarily individuals from seeking access to information about themselves; or

(ii) Be required of an individual seeking access to records that normally would be available under the DoD Freedom of Information Act Program (see 32 CFR, part 286).

(iii) When an individual seeks personal access to records pertaining to themselves in person, proof of identity is normally provided by documents that an individual ordinarily possesses, such as employee and military identification cards, driver's license, other licenses, permits or passes used for routine identification purposes.

(iv) When access is requested by mail, identity verification may consist of the individual providing certain minimum identifying data, such as full name, date and place of birth, or such other personal information necessary to locate the record sought and information that is ordinarily only known to the individual. If the information sought is of a sensitive nature, additional identifying data may be required. An unsworn declaration under penalty of perjury (28 U.S.C. 1746, "Unsworn Declaration under Penalty of Perjury") or notarized signatures are acceptable as a means of proving the identity of the individual.

(A) If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

(B) If an unsworn declaration is executed outside the United States, it shall read "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and

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correct. Executed on (date). (Signature).”

(v) If an individual wishes to be accompanied by a third party when seeking access to his or her records or to have the records released directly to a third party, the individual may be required to furnish a signed access authorization granting the third-party access.

(vi) An individual shall not be refused access to his or her record solely because he or she refuses to divulge his or her SSN unless the SSN is the only method by which retrieval can be made. (See §310.15(b).)

(vii) The individual is not required to explain or justify his or her need for access to any record under this part.

(viii) Only a denial authority may deny access and the denial must be in writing and contain the information required by 310.18.

(d) *Granting individual access to records.* (1) Grant the individual access to the original record or an exact copy of the original record without any changes or deletions, except when deletions have been made in accordance with paragraph (e) of this Section. For the purpose of granting access, a record that has been amended under §310.19(b) is considered to be the original. See paragraph (e) of this Section for the policy regarding the use of summaries and extracts.

(2) Provide exact copies of the record when furnishing the individual copies of records under this part.

(3) Explain in terms understood by the requestor any record or portion of a record that is not clear.

(e) *Illegible, incomplete, or partially exempt records.* (1) Do not deny an individual access to a record or a copy of a record solely because the physical condition or format of the record does not make it readily available (for example, deteriorated state or on magnetic tape). Either prepare an extract or re-copy the document exactly.

(2) If a portion of the record contains information that is exempt from access, an extract or summary containing all of the information in the record that is releasable shall be prepared.

(3) When the physical condition of the record or its state makes it nec-

essary to prepare an extract for release, ensure the extract can be understood by the requester.

(4) Explain to the requester all deletions or changes to the records.

(f) *Access to medical records.* (1) Access to medical records is not only governed by the access provisions of this part but also by the access provisions of DoD 6025.18-R. The Privacy Act, as implemented by this part, however, provides greater access to an individual's medical record than that authorized by DoD 6025.18-R.

(2) Medical records in a system of records shall be disclosed to the individual to whom they pertain, even if a minor, but when it is believed that access to such records could have an adverse effect on the mental or physical health of the individual or may result in harm to a third party, the following special procedures apply.

(i) If a determination is made in consultation with a medical doctor that release of the medical information may be harmful to the mental or physical health of the individual or to a third party, the Component shall:

(A) Send the record to a physician named by the individual; and

(B) In the transmittal letter to the physician explain why access by the individual without proper professional supervision could be harmful (unless it is obvious from the record).

(ii) The Component shall not require the physician to request the records for the individual.

(3) If the individual refuses or fails to designate a physician, the record shall not be provided. Such refusal of access is not considered a denial under the Privacy Act (see paragraph (a) of §310.18).

(4) If records are provided the designated physician, but the physician declines or refuses to provide the records to the individual, the DoD Component is under an affirmative duty to take action to deliver the records to the individual by whatever means deemed appropriate. Such action should be taken expeditiously especially if there has been a significant delay between the time the records were furnished the physician and the decision by the physician not to release the records.

(5) Access to a minor's medical records may be granted to his or her parents or legal guardians. However, access is subject to the restrictions as set forth at paragraph C9.7.3 of DoD 6025.18-R.

(6) All members of the Military Services and all married persons are not considered minors regardless of age, and the parents of these individual do not have access to their medical records without written consent of the individual.

(g) *Access to information compiled in anticipation of civil action (see § 310.27).*

(h) *Non-Agency records.* (1) Certain documents under the physical control of DoD personnel and used to assist them in performing official functions, are not considered "Agency records" within the meaning of this part. Uncirculated personal notes and records that are not disseminated or circulated to any person or organization (for example, personal telephone lists or memory aids) that are retained or discarded at the author's discretion and over which the Component exercises no direct control are not considered Agency records. However, if personnel are officially directed or encouraged, either in writing or orally, to maintain such records, they may become "Agency records," and may be subject to this part.

(2) The personal uncirculated handwritten notes of unit leaders, office supervisors, or military supervisory personnel concerning subordinates are not systems of records within the meaning of this part. Such notes are an extension of the individual's memory. These notes, however, must be maintained and discarded at the discretion of the individual supervisor and not circulated to others. Any established requirement to maintain such notes (such as, written or oral directives, regulations, or command policy) may transform these notes into "Agency records" and they then must be made a part of a system of records. If the notes are circulated, they must be made a part of a system of records. Any action that gives personal notes the appearance of official Agency records is prohibited, unless the notes have been incorporated into a system of records.

(i) *Relationship between the Privacy Act (5 U.S.C. 552a) and the FOIA (5*

U.S.C. 552). Not all requesters are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may cite neither Act, but will imply one or both Acts. The below guidelines are provided to ensure requesters are given the maximum amount of information as authorized under both statutes. (1) Process requests for individual access as follows:

(i) If the records are required to be released under the Privacy Act, the FOIA (32 CFR part 286) does not bar release even if a FOIA exemption could be invoked if the request had been processed solely under FOIA. Conversely, if the records are required to be released under the FOIA, the Privacy Act does not bar disclosure.

(ii) Requesters who seek records about themselves contained in a Privacy Act system of records, and who cite or imply only the Privacy Act, will have their records processed under the provisions of this part and the FOIA (32 CFR part 286). If the system of records is exempt from the access provisions of this part, and if the records, or any portion thereof, are exempt under the FOIA, the requester shall be advised and informed of the appropriate Privacy and FOIA exemption. Only if the records can be denied under both statutes may the Department withhold the records from the individual. Appeals shall be processed under both Acts.

(iii) Requesters who seek records about themselves that are not contained in a Privacy Act system of records, and who cite or imply only the Privacy Act, will have their requests processed under the provisions of the FOIA (32 CFR part 286), because the access provisions of this part do not apply. Appeals shall be processed under the FOIA.

(iv) Requesters who seek records about themselves that are contained in a Privacy Act system of records, and who cite or imply the FOIA or both Acts, will have their requests processed under the provisions of this part and the FOIA (32 CFR part 286). If the system of records is exempt from the access provisions of this part, and if the records, or any portion thereof, are exempt under the FOIA, the requester

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shall be advised and informed of the appropriate Privacy and FOIA exemption. Appeals shall be processed under both Acts.

(v) Requesters who seek records about themselves that are not contained in a Privacy Act system of records, and who cite or imply the Privacy Act and FOIA, will have their requests processed under the FOIA (32 CFR part 286), because the access provisions of this part do not apply. Appeals shall be processed under the FOIA.

(2) Do not deny individuals' access to personal information concerning themselves that would otherwise be releasable to them under either Act solely because they fail to cite or imply either Act or cite the wrong Act or part.

(3) Explain to the requester which Act(s) was(were) used when granting or denying access under either Act.

(j) *Time limits.* DoD Components normally shall acknowledge requests for access within 10 working days after receipt and provide access within 30 working days.

(k) *Privacy case file.* Establish a Privacy Act case file when required. (See paragraph (p) of §310.19.)

§310.18 Denial of individual access.

(a) *Denying individual access.* (1) An individual may be denied access to a record pertaining to him or her only if the record:

(i) Was compiled in reasonable anticipation of a civil action or proceeding (see §310.27).

(ii) Is in a system of records that has been exempted from the access provisions of this part under one of the permitted exemptions. (See §310.28 and §310.29.)

(iii) Contains classified information that has been exempted from the access provision of this part under the blanket exemption for such material claimed for all DoD records systems. (See §310.26(c).)

(iv) Is contained in a system of records for which access may be denied under some other Federal statute that excludes the record from coverage of the Privacy Act (5 U.S.C. 552a).

(2) Where a basis for denial exists, do not deny the record, or portions of the

record, if denial does not serve a legitimate governmental purpose.

(b) *Other reasons to refuse access:*

(1) An individual may be refused access if:

(i) The record is not described well enough to enable it to be located with a reasonable amount of effort on the part of an employee familiar with the file; or

(ii) Access is sought by an individual who fails or refuses to comply with the established procedural requirements, including refusing to name a physician to receive medical records when required (see paragraph (f) of §310.17) or to pay fees (see §310.20).

(2) Always explain to the individual the specific reason access has been refused and how he or she may obtain access.

(c) *Notifying the individual.* Formal denials of access must be in writing and include as a minimum:

(1) The name, title or position, and signature of a designated Component denial authority.

(2) The date of the denial.

(3) The specific reason for the denial, including specific citation to the appropriate sections of the Privacy Act (5 U.S.C. 552a) or other statutes, this part, DoD Component instructions, or CFR authorizing the denial;

(4) Notice to the individual of his or her right to appeal the denial through the Component appeal procedure within 60 calendar days; and

(5) The title or position and address of the Privacy Act appeals official for the Component.

(d) *DoD Component appeal procedures.* Establish internal appeal procedures that, as a minimum, provide for:

(1) Review by the Head of the Component or his or her designee of any appeal by an individual from a denial of access to Component records.

(2) Formal written notification to the individual by the appeal authority that shall:

(i) If the denial is sustained totally or in part, include as a minimum:

(A) The exact reason for denying the appeal to include specific citation to the provisions of the Act or other statute, this part, Component instructions or the CFR upon which the determination is based;

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(B) The date of the appeal determination;

(C) The name, title, and signature of the appeal authority; and

(D) A statement informing the applicant of his or her right to seek judicial relief.

(ii) If the appeal is granted, notify the individual and provide access to the material to which access has been granted.

(3) The written appeal notification granting or denying access is the final Component action as regards access.

(4) The individual shall file any appeal from denial of access within no less than 60 calendar days of receipt of the denial notification.

(5) Process all appeals within 30 days of receipt unless the appeal authority determines that a fair and equitable review cannot be made within that period. Notify the applicant in writing if additional time is required for the appellate review. The notification must include the reasons for the delay and state when the individual may expect an answer to the appeal.

(e) *Denial of appeals by failure to act.* A requester may consider his or her appeal formally denied if the appeal authority fails:

(1) To act on the appeal within 30 days;

(2) To provide the requester with a notice of extension within 30 days; or

(3) To act within the time limits established in the Component's notice of extension (see paragraph (d)(5) of this section).

(f) *Denying access to OPM records held by the DoD Components.* (1) The records in all systems of records maintained in accordance with the OPM Government-wide system notices are technically only in the temporary custody of the Department of Defense.

(2) All requests for access to these records must be processed in accordance with 5 CFR part 297 as well as applicable Component procedures.

(3) When a DoD Component refuses to grant access to a record in an OPM system, the Component shall advise the individual that his or her appeal must be directed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E

Street, NW., Washington, DC, in accordance with the procedures of 5 CFR part 297.

§ 310.19 Amendment of records.

(a) *Individual review and correction.* Individuals are encouraged to review the personal information being maintained about them by the DoD Components periodically and to avail themselves of the procedures established by this part and other Regulations to update their records.

(b) *Amending records.* (1) An individual may request the amendment of any record contained in a system of records pertaining to him or her unless the system of records has been exempted specifically from the amendment procedures of this part under paragraph (b) of §310.26. Normally, amendments under this part are limited to correcting factual matters and not matters of official judgment, such as performance ratings, promotion potential, and job performance appraisals.

(2) While a Component may require that the request for amendment be in writing, this requirement shall not be used to discourage individuals from requesting valid amendments or to burden needlessly the amendment process.

(3) A request for amendment must include:

(i) A description of the item or items to be amended;

(ii) The specific reason for the amendment;

(iii) The type of amendment action sought (deletion, correction, or addition); and

(iv) Copies of available documentary evidence supporting the request.

(c) *Burden of proof.* The applicant must support adequately his or her claim.

(d) *Identification of requesters.* (1) Individuals may be required to provide identification to ensure that they are indeed seeking to amend a record pertaining to themselves and not, inadvertently or intentionally, the record of others.

(2) The identification procedures shall not be used to discourage legitimate requests or to burden needlessly or delay the amendment process. (See paragraph (c) of §310.17.)

(e) *Limits on attacking evidence previously submitted.* (1) The amendment process is not intended to permit the alteration of records presented in the course of judicial or quasi-judicial proceedings. Any amendments or changes to these records normally are made through the specific procedures established for the amendment of such records.

(2) Nothing in the amendment process is intended or designed to permit a collateral attack upon what has already been the subject of a judicial or quasi-judicial determination. However, while the individual may not attack the accuracy of the judicial or quasi-judicial determination under this part, he or she may challenge the accuracy of the recording of that action.

(f) *Sufficiency of a request to amend.* Consider the following factors when evaluating the sufficiency of a request to amend:

(1) The accuracy of the information; and

(2) The relevancy, timeliness, completeness, and necessity of the recorded information.

(g) *Time limits.* (1) Provide written acknowledgement of a request to amend within 10 working days of its receipt by the appropriate systems manager. There is no need to acknowledge a request if the action is completed within 10 working days and the individual is so informed.

(2) The letter of acknowledgement shall clearly identify the request and advise the individual when he or she may expect to be notified of the completed action.

(3) Only under the most exceptional circumstances shall more than 30 days be required to reach a decision on a request to amend. Document fully and explain in the Privacy Act case file (see paragraph (p) of this section) any such decision that takes more than 30 days to resolve.

(h) *Agreement to amend.* If the decision is made to grant all or part of the request for amendment, amend the record accordingly and notify the requester.

(i) *Notification of previous recipients.* (1) Notify all previous recipients of the record, as reflected in the disclosure accounting records, that an amend-

ment has been made and the substance of the amendment. Recipients who are known to be no longer retaining the information need not be advised of the amendment. All DoD Components and Federal agencies known to be retaining the record or information, even if not reflected in a disclosure record, shall be notified of the amendment. Advise the requester of these notifications.

(2) Honor all requests by the requester to notify specific Federal agencies of the amendment action.

(j) *Denying amendment.* If the request for amendment is denied in whole or in part, promptly advise the individual in writing of the decision to include:

(1) The specific reason and authority for not amending;

(2) Notification that he or she may seek further independent review of the decision by the Head of the DoD Component or his or her designee;

(3) The procedures for appealing the decision citing the position and address of the official to whom the appeal shall be addressed; and

(4) Where he or she can receive assistance in filing the appeal.

(k) *DoD Component appeal procedures.* Establish procedures to ensure the prompt, complete, and independent review of each amendment denial upon appeal by the individual. These procedures must ensure:

(1) The appeal with all supporting materials both that furnished the individual and that contained in Component records is provided to the reviewing official; and

(2) If the appeal is denied completely or in part, the individual is notified in writing by the reviewing official that:

(i) The appeal has been denied and the specific reason and authority for the denial;

(ii) The individual may file a statement of disagreement with the appropriate authority and the procedures for filing this statement;

(iii) If filed properly, the statement of disagreement shall be included in the records, furnished to all future recipients of the records, and provided to all prior recipients of the disputed records who are known to hold the record; and

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(iv) The individual may seek a judicial review of the decision not to amend.

(3) If the record is amended, ensure:

(i) The requester is notified promptly of the decision;

(ii) All prior known recipients of the records who are known to be retaining the record are notified of the decision and the specific nature of the amendment (see (l) of this section); and

(iii) The requester is notified which DoD Components and Federal agencies have been told of the amendment.

(4) Process all appeals within 30 days unless the appeal authority determines that a fair review cannot be made within this time limit. If additional time is required for the appeal, notify the requester, in writing, of the delay, the reason for the delay, and when he or she may expect a final decision on the appeal. Document fully all requirements for additional time in the Privacy Case File. (See paragraph (p) of this section.)

(1) *Denying amendment of OPM records held by the DoD Components.* (1) The records in all systems of records controlled by the OPM Government-wide system notices are technically only temporarily in the custody of the Department of Defense.

(2) All requests for amendment of these records must be processed in accordance with 5 CFR part 297. The Component denial authority may deny a request. However, when an amendment request is denied, the DoD Component shall advise the individual that his or her appeal must be directed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E Street, Washington, DC 20415 in accordance with the procedures of 5 CFR 297.

(m) *Statements of disagreement submitted by individuals.* (1) If the appellate authority refuses to amend the record as requested, the individual may submit a concise statement of disagreement setting forth his or her reasons for disagreeing with the decision not to amend.

(2) If an individual chooses to file a statement of disagreement, annotate the record to indicate that the state-

ment has been filed (see paragraph (n) of this section).

(3) Furnish copies of the statement of disagreement to all DoD Components and Federal agencies that have been provided copies of the disputed information and who may be maintaining the information.

(n) *Maintaining statements of disagreement.* (1) When possible, incorporate the statement of disagreement into the record.

(2) If the statement cannot be made a part of the record, establish procedures to ensure that it is apparent from the records a statement of disagreement has been filed and maintain the statement so that it can be obtained readily when the disputed information is used or disclosed.

(3) Automated record systems that are not programmed to accept statements of disagreement shall be annotated or coded so they clearly indicate that a statement of disagreement is on file, and clearly identify the statement with the disputed information in the system.

(4) Provide a copy of the statement of disagreement whenever the disputed information is disclosed for any purpose.

(o) *The DoD Component statement of reasons for refusing to amend.* (1) A statement of reasons for refusing to amend may be included with any record for which a statement of disagreement is filed.

(2) Include in this statement only the reasons furnished to the individual for not amending the record. Do not comment on or respond to comments contained in the statement of disagreement. Normally, both statements are filed together.

(3) When disclosing information for which a statement of reasons has been filed, a copy of the statement may be released whenever the record and the statement of disagreement are disclosed.

(p) *Privacy case files.* (1) Establish a separate Privacy case file to retain the documentation received and generated during the amendment or access process.

(2) The Privacy case file shall contain as a minimum:

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(i) The request for amendment and access.

(ii) Copies of the DoD Component's reply granting or denying the request;

(iii) Any appeals from the individual;

(iv) Copies of the action regarding the appeal with supporting documentation that is not in the basic file; and

(v) Any other correspondence generated in processing the appeal, to include coordination documentation.

(3) Only the items listed in paragraphs (p)(4) and (p)(5) of this section may be included in the system of records challenged for amendment or for which access is sought. Do not retain copies of the original record in the basic record system if the request for amendment is granted and the record has been amended.

(4) The following items relating to an amendment request may be included in the disputed record system:

(i) Copies of the amended record.

(ii) Copies of the individual's statement of disagreement (see paragraph (m) of this section).

(iii) Copies of the Component's statement of reasons for refusing to amend (see paragraph (o) of this section).

(iv) Supporting documentation submitted by the individual.

(5) The following items relating to an access request may be included in the basic records system:

(i) Copies of the request;

(ii) Copies of the Component's action granting total or partial access. (NOTE: A separate Privacy case file need not be created in such cases.)

(iii) Copies of the Component's action denying access.

(iv) Copies of any appeals filed.

(v) Copies of the reply to the appeal.

(6) Privacy case files shall not be furnished or disclosed to anyone for use in making any determination about the individual other than determinations made under this part.

§ 310.20 Reproduction fees.

(a) *Assessing fees.* (1) Charge the individual only the direct cost of reproduction.

(2) Do not charge reproduction fees if copying is:

(i) The only means to make the record available to the individual (for example, a copy of the record must be

made to delete classified information); or

(ii) For the convenience of the DoD Component (for example, the Component has no reading room where an individual may review the record, or reproduction is done to keep the original in the Component's file).

(iii) No fees shall be charged when the record may be obtained without charge under any other Regulation, Directive, or statute.

(iv) Do not use fees to discourage requests.

(b) *No minimum fees authorized.* Use fees only to recoup direct reproduction costs associated with granting access. Minimum fees for duplication are not authorized and there is no automatic charge for processing a request.

(c) *Prohibited fees.* Do not charge or collect fees for:

(1) Search and retrieval of records;

(2) Review of records to determine releasability;

(3) Copying records for the DoD Component convenience or when the individual has not specifically requested a copy;

(4) Transportation of records and personnel; or

(5) Normal postage.

(d) *Waiver of fees.* (1) Normally, fees are waived automatically if the direct costs of a given request are less than \$30. This fee waiver provision does not apply when a waiver has been granted to the individual before, and later requests appear to be an extension or duplication of that original request. A DoD Component may, however, set aside this automatic fee waiver provision when, on the basis of good evidence, it determines the waiver of fees is not in the public interest.

(2) Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis.

(e) *Fees for members of Congress.* Do not charge members of Congress for copying records furnished even when the records are requested under the Privacy Act on behalf of a constituent (See § 310.22(i)). When replying to a constituent inquiry and the fees involved are substantial, consider suggesting to the Congressman that the constituent can obtain the information directly by

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writing to the appropriate offices and paying the costs. When practical, suggest to the Congressman that the record can be examined at no cost if the constituent wishes to visit the custodian of the record.

(f) *Reproduction fees computation.* Compute fees using the appropriate portions of the fee schedule in 32 CFR part 286.

Subpart E—Disclosure of Personal Information to Other Agencies and Third Parties

§ 310.21 Conditions of disclosure.

(a) *Disclosures to third parties.* (1) The Privacy Act only compels disclosure of records from a system of records to the individuals to whom they pertain unless the records are contained in a system for which an exemption to the access provisions of this part has been claimed.

(2) Requests by other individuals (third parties) for the records of individuals that are contained in a system of records shall be processed under 32 CFR part 286 except for requests by the parents of a minor or the legal guardian of an individual for access to the records pertaining to the minor or individual.

(b) *Disclosures among the DoD Components.* For the purposes of disclosure and disclosure accounting, the Department of Defense is considered a single agency (see § 310.22(a)).

(c) *Disclosures outside the Department of Defense.* Do not disclose personal information from a system of records outside the Department of Defense unless:

(1) The record has been requested by the individual to whom it pertains.

(2) The written consent of the individual to whom the record pertains has been obtained for release of the record to the requesting Agency, activity, or individual; or

(3) The release is authorized pursuant to one of the specific non-consensual conditions of disclosure as set forth in § 310.22.

(d) *Validation before disclosure.* Except for releases made in accordance with 32 CFR part 286, the following steps shall be taken before disclosing any records to any recipient outside the Depart-

ment of Defense, other than a Federal agency or the individual to whom it pertains:

(1) Ensure the records are accurate, timely, complete, and relevant for agency purposes;

(2) Contact the individual, if reasonably available, to verify the accuracy, timeliness, completeness, and relevancy of the information, if this cannot be determined from the record; or

(3) If the information is not current and the individual is not reasonably available, advise the recipient that the information is believed accurate as of a specific date and any other known factors bearing on its accuracy and relevancy.

§ 310.22 Non-consensual conditions of disclosure.

(a) *Disclosures within the Department of Defense.* (1) Records pertaining to an individual may be disclosed to a DoD official or employee provided:

(i) The requester has a need for the record in the performance of his or her assigned duties. The requester shall articulate in sufficient detail why the records are required so the custodian of the records may make an informed decision regarding their release;

(ii) The intended use of the record generally relates to the purpose for which the record is maintained; and

(iii) Only those records as are minimally required to accomplish the intended use are disclosed. The entire record is not released if only a part of the record will be responsive to the request.

(2) Rank, position, or title alone does not authorize access to personal information about others.

(b) *Disclosures required by the FOIA.*

(1) All records must be disclosed if their release is required by FOIA (5 U.S.C. 552), as implemented by 32 CFR part 286. The FOIA requires records be made available to the public unless withholding is authorized pursuant to one of nine exemptions or one of three law enforcement exclusions under the Act.

(i) The DoD Component must be in receipt of a FOIA request and a determination made that the records are not