

## Department of Veterans Affairs

## § 1.552

through 1.526, appeal such denial. Such appeal, stating the circumstances of the denial, should be addressed, as appropriate, to the field facility, administration, or staff office head.

(b) A denial action not reversed by a field facility, administration, or staff office head on appeal, will be referred through normal channels to the General Counsel.

(c) The final agency decision in such appeals will be made by the General Counsel or the Deputy General Counsel.

[32 FR 10850, July 25, 1967, as amended at 55 FR 21546, May 25, 1990]

### RELEASE OF INFORMATION FROM DEPARTMENT OF VETERANS AFFAIRS RECORDS OTHER THAN CLAIMANT RECORDS

NOTE: Sections 1.550 through 1.559 concern the availability and release of information from files, records, reports, and other papers and documents in Department of Veterans Affairs custody other than those pertaining to claims under any of the laws administered by the Department of Veterans Affairs. As to the release of information from Department of Veterans Affairs claimant records, see §§1.500 through 1.527. Section 1.550 series implement the provisions of 5 U.S.C. 552.

[40 FR 12656, Mar. 20, 1975]

AUTHORITY: Sections 1.550 to 1.559 issued under 72 Stat. 1114; 38 U.S.C. 501.

#### § 1.550 General.

The Department of Veterans Affairs policy is one of disclosure of information from agency records to the extent permitted by law. This includes the release of information which the Department of Veterans Affairs is authorized to withhold under 5 U.S.C. 552(b) (see §1.554) if it is determined: (a) By the Secretary of Veterans Affairs or the Deputy Secretary that disclosure of such information will serve a useful purpose or (b) by an administration, staff office, or field facility head or designee under §1.556(a) that disclosure will not adversely affect the proper conduct of official business or constitute an invasion of personal privacy.

[40 FR 12656, Mar. 20, 1975]

#### § 1.551 [Reserved]

#### § 1.552 Public access to information that affects the public when not published in the Federal Register as constructive notice.

(a) Those statements of policy and interpretations adopted by the Department of Veterans Affairs but not published in the FEDERAL REGISTER, and administrative manuals and staff instructions that affect any member of the public, unless promptly published and copies offered for sale, will be kept currently indexed by the office of primary program responsibility or the Manager, Administrative Services, as determined by the Secretary or designee. Such index or indexes or supplements thereto will be promptly published, quarterly or more frequently, and distributed (by sale or otherwise) unless the Department of Veterans Affairs determines by order published in the FEDERAL REGISTER that publication would be unnecessary and impracticable, in which case the Department of Veterans Affairs will nonetheless provide copies of such index or indexes or supplements thereto on request at a cost not to exceed the direct cost of duplication. Both the index and the materials indexed as required by this paragraph will be made available to the public, for inspection and copying. Public reading facilities for this purpose will be maintained in Department of Veterans Affairs Central Office and Department of Veterans Affairs field facilities, open to the public during the normal duty hours of the office in which located. Orders made in the adjudication of individual claims under laws administered by the Department of Veterans Affairs are confidential and privileged by statute (38 U.S.C. 5701) and so are exempt from this requirement.

(b) When publishing or making available to the public any opinion, order, statement of policy, interpretation, staff manual or instruction to staff, identifying details will be deleted, and the deletion justified in writing, to the extent required to prevent a clearly unwarranted invasion of personal privacy.

(c) No final order, opinion, statement of policy, interpretation, staff manual or instruction which is issued, adopted,

## § 1.553

or promulgated after July 4, 1967, that affects any member of the public may be relied upon, used, or cited as precedent against any private party unless it has been indexed and either made available or published as provided in this section or unless that private party shall have actual and timely notice of the terms thereof.

[32 FR 10850, July 25, 1967, as amended at 40 FR 12657, Mar. 20, 1975; 72 FR 65462, Nov. 21, 2007]

### **§ 1.553 Public access to other reasonably described records.**

(a) Except for requests for records which are processed under §§1.551 and 1.552 of this part, unless otherwise provided for in title 38, Code of Federal Regulations, all requests for records shall be processed under paragraph (b) of this section, as well as under any other VA law or regulation governing access to or confidentiality of records or information. Records or information customarily furnished to the public in the regular course of the performance of official duties may be furnished to the public without reference to paragraph (b) of this section. To the extent permitted by other laws and regulations, VA will also consider making available records which it is permitted to withhold under the FOIA if it determines that such disclosure could be in the public interest.

(b) Reasonably described records in VA custody, or copies thereof, other than records made available to the public under provisions of §§1.551 and 1.552 of this part, or unless otherwise provided for in title 38, Code of Federal Regulations, requested in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, will be made promptly available, except as provided in §1.554 of this part, to any person upon request. Such request must be in writing, over the signature of the requester and must contain a reasonable description of the record desired so that it may be located with relative ease. The request should be made to the office concerned (having jurisdiction of the record desired) or, if not known, to the Director or Veterans Service Center Manager in the nearest VA regional office; the Director, or Chief, Medical Administra-

## 38 CFR Ch. I (7-1-11 Edition)

tion Service, or other responsible official of VA medical facility where most recently treated; or to the Department of Veterans Affairs Central Office, 810 Vermont Avenue NW., Washington, DC 20420. Personal contacts should normally be made during the regular duty hours of the office concerned, which are 8 a.m. to 4:30 p.m. Monday through Friday for VA Central Office and most field facilities.

(Authority: 5 U.S.C. 552(a)(3))

[53 FR 10377, Mar. 31, 1988, as amended at 71 FR 28586, May 17, 2006]

### **§ 1.553a Time limits for Department of Veterans Affairs response to requests for records.**

(a) When a request for records made under §1.551, §1.552 or §1.553 is received it will be promptly referred for action to the proper employee designated in accordance with §1.556 to take initial action on granting or denying requests to inspect or obtain information from or copies of the records described.

(b) Any such request will then be promptly evaluated and a determination made within 10 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of the request whether the Department of Veterans Affairs will comply with the request. Upon determination to comply or deny the request the person making the request will be notified immediately of the determination and the reasons therefor, and of the right of the person to appeal to the Secretary of Veterans Affairs any adverse determination. Records to be furnished will be supplied promptly.

(c) Upon receipt of such an appeal from an adverse determination it will be evaluated and a further determination made within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of the appeal. If on appeal the denial is in whole or in part upheld the Department of Veterans Affairs will notify the requester of the provisions for judicial review of this determination. (See §§1.557 and 1.558.)

(d) In unusual circumstances, specifically as follows, the time limits in paragraphs (b) and (c) of this section may be extended by written notice to the requester setting forth the reasons