

## § 806b.13

or unless authorized under one of the 12 exceptions to the Privacy Act (see § 806b.47).

### Subpart D—Giving Access to Privacy Act Records

#### § 806b.13 Making a Request for Access.

Persons or their designated representatives may ask for a copy of their records in a system of records. Requesters need not state why they want access to their records. Verify the identity of the requester to avoid unauthorized disclosures. How you verify identity will depend on the sensitivity of the requested records. Persons may use a notary or an unsworn declaration in the following format: “I declare under penalty of perjury (if outside the United States, add “under the laws of the United States of America”) that the foregoing is true and correct. Executed on (date). (Signature).”

#### § 806b.14 Processing a Request for Access.

Consider a request from an individual for his or her own records in a system of records under both the Freedom of Information Act and the Privacy Act regardless of the Act cited. The requester does not need to cite either Act if the records they want are contained in a system of records. Process the request under whichever Act gives the most information. When necessary, tell the requester which Act you used and why.

(a) Requesters should describe the records they want. They do not have to name a system of records number, but they should at least name a type of record or functional area. For requests that ask for “all records about me,” ask for more information and tell the person how to review the Air Force systems of records published in the FEDERAL REGISTER or at <http://www.defenseink.mil/privacy/notices/usaf>.

(b) Requesters should not use government equipment, supplies, stationery, postage, telephones, or official mail channels for making Privacy Act requests. System managers will process such requests and tell requesters that using government resources to make Privacy Act requests is not authorized.

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(c) Tell the requester if a record exists and how to review the record. If possible, respond to requests within 10 workdays of receipt. If you cannot answer the request in 10 workdays, send a letter explaining why and give an approximate completion date no more than 20 workdays after the first office received the request.

(d) Show or give a copy of the record to the requester within 30 workdays of receiving the request unless the system is exempt and the Air Force lists the exemption in appendix D to this part; or it is published in this section; or published as a final rule in the FEDERAL REGISTER. Give information in a form the requester can understand. If the system is exempt under the Privacy Act, provide any parts releasable under the Freedom of Information Act, with appeal rights (See subpart F of this part), citing appropriate exemptions from the Privacy Act and the Freedom of Information Act, if applicable.

(e) If the requester wants another person present during the record review, the system manager may ask for written consent to authorize discussing the record with another person present.

#### § 806b.15 Fees.

Give the first 100 pages free, and charge only reproduction costs for the remainder. Copies cost \$.15 per page; microfiche costs \$.25 per fiche. Charge fees for all pages for subsequent requests for the same records. Do not charge fees:

(a) When the requester can get the record without charge under another publication (for example, medical records).

(b) For search.

(c) For reproducing a document for the convenience of the Air Force.

(d) For reproducing a record so the requester can review it.

Fee waivers. Waive fees automatically if the direct cost of reproduction is less than \$15, unless the individual is seeking an obvious extension or duplication of a previous request for which he or she was granted a waiver. Decisions to waive or reduce fees that exceed \$15 are made on a case-by-case basis.

**§ 806b.16 Denying or limiting access.**

System managers process access denials within 5 workdays after you receive a request for access. When you may not release a record, send a copy of the request, the record, and why you recommend denying access (include the applicable exemption) to the denial authority through the legal office and the Privacy Act office. Judge Advocate offices will include a written legal opinion. The Privacy Act officer reviews the file, and makes a recommendation to the denial authority. The denial authority sends the requester a letter with the decision. If the denial authority grants access, release the record. If the denial authority refuses access, tell the requester why and explain pertinent appeal rights (*see* subpart F of this part). Before you deny a request for access to a record, make sure that:

- (a) The system has an exemption rule published in the FEDERAL REGISTER as a final rule.
- (b) The exemption covers each document. (All parts of a system are not automatically exempt.)
- (c) Nonexempt parts are segregated.

**§ 806b.17 Special provision for certain medical records.**

If a physician believes that disclosing requested medical records could harm the person's mental or physical health, you should:

- (a) Ask the requester to get a letter from a physician to whom you can send the records. Include a letter explaining to the physician that giving the records directly to the individual could be harmful.
- (b) Offer the services of a military physician other than one who provided treatment if naming the physician poses a hardship on the individual.
- (c) The Privacy Act requires that we ultimately insure that the subject receives the records.

**§ 806b.18 Third party information in a Privacy Act System of Record.**

Ordinarily a person is entitled to their entire record under the Privacy Act. However, the law is not uniform regarding whether a subject is entitled to information that is not "about" him or her (for example, the home address of a third party contained in the sub-

ject's records). Consult your servicing Staff Judge Advocate before disclosing third party information. Generally, if the requester will be denied a right, privilege or benefit, the requester must be given access to relevant portions of the file.

**§ 806b.19 Information compiled in anticipation of civil action.**

Withhold records compiled in connection with a civil action or other proceeding including any action where the Air Force expects judicial or administrative adjudicatory proceedings. This exemption does not cover criminal actions. Do not release attorney work products prepared before, during, or after the action or proceeding.

**§ 806b.20 Denial authorities.**

These officials or a designee may deny access or amendment of records as authorized by the Privacy Act. Send a letter to Air Force Chief Information Officer/P with the position titles of designees. Authorities are:

- (a) Deputy Chief of Staffs and chiefs of comparable offices or higher level at Secretary of the Air Force or Headquarters United States Air Force or designees.
- (b) Major Command, Field Operating Agency, or direct reporting unit commanders or designees.
- (c) Director, Personnel Force Management, 1040 Air Force Pentagon, Washington, DC 20330-1040 (for civilian personnel records).
- (d) Commander, Air Force Office of Special Investigations, Washington, DC 20332-6001 (for Air Force Office of Special Investigations records).
- (e) Unified Commanders or designees.

**Subpart E—Amending the Record****§ 806b.21 Amendment reasons.**

Individuals may ask to have their records amended to make them accurate, timely, relevant, or complete. System managers will routinely correct a record if the requester can show that it is factually wrong (*e.g.*, date of birth is wrong).