

## PART 15—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

AUTHORITY: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note).

### § 15.1 Uniform relocation assistance and real property acquisition.

Regulations and procedures for complying with the Uniform Relocation Assistance Act of 1970 (Pub. L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100-17, 101 Stat. 264-255, 42 U.S.C. 4601 note) are set forth in 49 CFR part 24.

[52 FR 48021, Dec. 17, 1987]

## PART 19—NATIONAL SECURITY INFORMATION PROCEDURES

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AUTHORITY: Executive Order 12356.

SOURCE: 46 FR 48927, Oct. 5, 1981, unless otherwise noted.

### Subpart A—Who Is Responsible for Oversight of National Security Information Procedures?

#### § 19.1 Responsibility for oversight.

The Office of Inspector General is responsible for conducting an oversight program that will ensure effective implementation of Executive Order (EO)

12356. Specifically the Assistant Inspector General for Investigation will ensure that the oversight program provides for:

(a) Issuing departmental directives ensuring that classified information is processed, used, reproduced, stored, destroyed, and transmitted only under conditions that provide adequate protection and prevent unauthorized persons from gaining access.

(b) Directing Department-wide security training and educational programs in personnel security and document security.

(c) Recommending administrative action to correct violations of any provisions of these regulations, including notification by warning letters, formal reprimand, and, to the extent permitted by law, suspension without pay and removal.

(d) Receiving questions, suggestions, and complaints regarding all elements of this program.

(e) Designating the Office of Inspector General as having sole responsibility for changes to the program and for assuring that the program is consistent with EO 12356.

(f) Designating the Department's official contact for declassification requests submitted under provisions of EO 12356, the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act of 1974 (5 U.S.C. 552a).

[46 FR 48927, Oct. 5, 1981, as amended at 50 FR 28102, July 10, 1985]

### Subpart B—What Procedures Are Used for Handling National Security Information?

#### § 19.11 Safeguarding information.

(a) All classified data that is marked "Top Secret," "Secret," and "Confidential" under the terms of EO 12356 will be delivered immediately upon receipt to the Assistant Inspector General for Investigation or designees.

(b) The Assistant Inspector General for Investigation or designees informs departmental recipients of classified data of current designees and alternate offices to which the data referred to in paragraph (a) of this section is to be delivered.

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(c) Access to classified material is restricted to those individuals with an authorized security clearance and a need to know.

[46 FR 48927, Oct. 5, 1981, as amended at 50 FR 28102, July 10, 1985]

### § 19.12 Reproduction controls.

(a) Reproduction of classified material within the Department of Education must be in compliance with Executive Order 12356, Section 4-1.

(b) If copies of data are reproduced, the same controls imposed on the original document will apply to the reproductions.

(c) The Assistant Inspector General for Investigation or designees will maintain:

(1) Records showing the number and distribution of copies; and

(2) A log stored with the original documents.

[46 FR 48927, Oct. 5, 1981, as amended at 50 FR 28102, July 10, 1985]

### § 19.13 Storage.

(a) All classified documents must be stored in security containers approved by the General Services Administration and located in the Office of Inspector General's security office or other approved area.

(b) If access to the security container is controlled by a combination lock:

(1) The combination must be changed as required by the June 25, 1982 Information Security Oversight Office's (ISOO) Directive No. 1, Section 2001.43.

(2) Only the Assistant Inspector General for Investigation or designees who hold proper security clearances shall know the combination; and

(3) The combination must be afforded the same classification as the material stored within the security container.

[46 FR 48927, Oct. 5, 1981, as amended at 50 FR 28102, July 10, 1985]

### § 19.14 Mandatory review for declassification.

(a) *Requests.* Request for mandatory review of national security information must be in writing and addressed to the Assistant Inspector General for Investigation, Office of Inspector General, U.S. Department of Education,

L'Enfant Plaza Station, P.O. Box 23458, Washington, DC 20026.

(b) *Mandatory review.* Information is subject to mandatory review by the originating agency if:

(1) The request is made by a U.S. citizen or permanent resident alien, a Federal agency, or a State or local government; and

(2) The request describes the document or material containing the information with sufficient specificity to enable the Department to locate it with a reasonable amount of effort.

(c) *Exemptions from mandatory review.* Information originated by a President, the White House staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President, is exempted from mandatory review for declassification.

(d) *Processing requirements.* The Department of Education does not have original classification authority. Any classified information or materials in its custody are classified by another agency. The Department refers copies of the request and the requested documents to the originating agency for processing, and may, after consultation with the originating agency, inform the requester of the referral.

(e) *Fees.* The Department may charge fees for search and review time required to process the request and for reproduction costs. These fees are charged in accordance with 31 U.S.C. 483a.

[50 FR 28102, July 10, 1985]

### § 19.15 Employee education.

(a) The employee education program concerning document security must be provided to every Department of Education employee who has or may require access to classified material in the performance of his or her duties and who possesses the appropriate security clearance.

(b) Each employee having an access clearance is briefed by the Assistant Inspector General for Investigation or designees concerning personal responsibilities for classified material under EO 12356 and appropriate ISOO directives.

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(c) Each employee who receives a briefing shall sign a statement to certify that the briefing was accomplished.

[46 FR 48927, Oct. 5, 1981, as amended at 50 FR 28102, July 10, 1985]

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AUTHORITY: 5 U.S.C. 504, unless otherwise noted.

SOURCE: 58 FR 47192, Sept. 7, 1993, unless otherwise noted.

**Subpart A—General**

**§21.1 Equal Access to Justice Act.**

(a) The Equal Access to Justice Act (the Act) provides for the award of fees and other expenses to applicants that—

- (1) Are prevailing parties in adversary adjudications before the Department of Education; and
- (2) Meet all other conditions of eligibility contained in this part.

(b) An eligible applicant, as described in paragraph (a) of this section, is entitled to receive an award unless—

(1) The adjudicative officer, the Civil Rights Reviewing Authority (CRRA), or the Secretary on review, determines that—

- (i) The Department's position was substantially justified; or
- (ii) Special circumstances make an award unjust; or

(2) The adversary adjudication is under judicial review, in which case the applicant may receive an award only as described in §21.11.

(c) The determination under paragraph (b)(1)(i) of this section is based on the administrative record, as a whole, made during the adversary adjudication for which fees and other expenses are sought.

(Authority: 5 U.S.C. 504(a)(1) and (c)(1))

**§21.2 Time period when the Act applies.**

The Act applies to any adversary adjudication covered under this part pending or commenced before the Department on or after August 5, 1985.

(Authority: 5 U.S.C. 504(note))

**§21.3 Definitions.**

The following definitions apply to this part:

*Act* means the Equal Access to Justice Act.

*Adjudicative officer* means the Administrative Law Judge, hearing examiner,