

Commission on Civil Rights

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the complaint is based, including but not limited to specification of (a) names and titles of officials or other persons involved in acts forming the basis for the complaint; (b) accurate designations of place locations involved; (c) dates of events described in the complaint.

[34 FR 7577, May 10, 1969, as amended at 44 FR 75152, Dec. 19, 1979]

§ 704.3 Other requests and communications.

Requests for information should be addressed to Press and Communications Division and requests for Commission literature should be directed to Publications Management Division, U.S. Commission on Civil Rights, Washington, DC 20425. Communications with respect to Commission proceedings should be made pursuant to § 702.17 of this chapter. All other communications should be directed to Office of Staff Director, U.S. Commission on Civil Rights, Washington, DC 20425.

[44 FR 75152, Dec. 19, 1979]

§ 704.4 Restrictions on disclosure of information.

(a) By the provisions of section 102(g) of the Act, no evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission, and any person who releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than \$1,000 or imprisoned for not more than 1 year.

(b) Unless a matter of public record, all information or documents obtained or prepared by any Member, officer, or employee of the Commission, including members of State Advisory Committees, in the course of his official duties, or by virtue of his official status, shall not be disclosed or used by such person for any purpose except in the performance of his official duties.

(c) Any Member, officer, or employee of the Commission including members of State Advisory Committees, who is served with a subpoena, order, or other demand requiring the disclosure of such information or the production of

such documents shall appear in response to such subpoena, order, or other demand and, unless otherwise directed by the Commission, shall respectfully decline to disclose the information or produce the documents called for, basing his refusal upon this section. Any such person who is served with such a subpoena, order, or other demand shall promptly advise the Commission of the service of such subpoena, order, or other demand, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

[32 FR 9684, July 4, 1967]

PART 705—MATERIALS AVAILABLE PURSUANT TO 5 U.S.C. 552a

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AUTHORITY: Secs. 101–106, 71 Stat. 634–636 as amended (42 U.S.C. 1975–1975c); 5 U.S.C. 552a.

SOURCE: 40 FR 45727, Oct. 2, 1975, unless otherwise noted. Redesignated at 44 FR 75152, Dec. 19, 1979.

§ 705.1 Purpose and scope.

(a) The purpose of this part is to set forth rules to inform the public regarding information maintained by the Commission on Civil Rights about identifiable individuals and to inform those individuals how they may gain

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access to and correct or amend information about themselves.

(b) The rules in this part carry out the requirements of the Privacy Act of 1974 (Pub. L. 93-579) and in particular 5 U.S.C. 552a as added by that Act.

(c) The rules in this part apply only to records disclosed or requested under the Privacy Act of 1974, and not to requests for information made pursuant to the Freedom of Information Act, 5 U.S.C. 552.

§ 705.2 Definitions.

For the purpose of this regulation:

(a) The terms *Commission* and *agency* mean the U.S. Commission on Civil Rights;

(b) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) The term *maintain* includes maintain, collect, use, or disseminate;

(d) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual;

(e) The term *system record* means a group of any records under the control of the Commission from which information may be retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to that individual;

(f) The term *statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided in section 8 of title 13; and

(g) The term *routine use* means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(h) For purposes of these Rules, a *confidential source* means a source who furnished information to the Govern-

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ment under an express promise that the identity of the source would remain confidential, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

§ 705.3 Procedures for requests pertaining to individual records in a system of records.

(a) An individual seeking notification of whether a system of records contains a record pertaining to him or her or an individual seeking access to information or records pertaining to him or her which is available under the Privacy Act of 1974, shall present his or her request in person or in writing to the Solicitor of the Commission.

(b) In addition to meeting the requirements set forth in § 705.4(c) or (d), any person who requests information under these regulations shall provide a reasonably specific description of the information sought so that it may be located without undue search or inquiry. If possible, that description should include the nature of the records sought, the approximate dates covered by the record, and, if known by the requester, the system in which the record is thought to be included. Requested information that is not identified by a reasonably specific description is not an identifiable record, and the request for that information cannot be treated as a formal request.

(c) If the description is insufficient, the agency will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought.

[40 FR 45727, Oct. 2, 1975, as amended by 42 FR 12046, Mar 2, 1977. Redesignated at 44 FR 75152, Dec. 19, 1979]

§ 705.4 Times, places, and requirements for identification of individuals making requests and identification of records requested.

(a) The Solicitor is the designated Privacy Act Officer for the Commission.

(b) An individual making a request to the Solicitor in person may do so at the Commission's headquarters office,

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1121 Vermont Avenue, NW., Washington, DC 20425, on any business day during business hours. Persons may also appear for purposes of identification only, at any of the regional offices of the Commission on any business day during business hours. Regional offices are located as follows:

Region I: U.S. Commission on Civil Rights, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671 (8:45 a.m.-5:30 p.m.)

Region II: U.S. Commission on Civil Rights, 26 Federal Plaza, Room 1639, New York, NY 10007, (212) 264-0543 (9:00 a.m.-5:30 p.m.)

Region III: U.S. Commission on Civil Rights, 2120 L Street, N.W., Room 510, Washington, DC 20037, (202) 254-6670 (8:45 a.m.-5:30 p.m.)

Region IV: U.S. Commission on Civil Rights, Citizens Trust Bank Building, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303, (404) 221-4344 (9:00 a.m.-5:30 p.m.)

Region V: U.S. Commission on Civil Rights, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7371 (8:45 a.m.-5:30 p.m.)

Region VI: U.S. Commission on Civil Rights, Heritage Plaza, 418 South Main, First Floor, San Antonio, Texas 78204, (512) 225-4810 (8:45 a.m.-5:30 p.m.)

Region VII: U.S. Commission on Civil Rights, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374-5253 (8:00 a.m.-5:30 p.m.)

Region IX: U.S. Commission on Civil Rights, 312 North Spring Street, Room 1015, Los Angeles, California 90012, (213) 688-5705 (8:45 a.m.-5:00 p.m.)

Region X: U.S. Commission on Civil Rights, Federal Building, 915 Second Avenue, Room 2852, Seattle, Washington 98174, (206) 442-1246 (8:00 a.m.-5:00 p.m.)

(c) An individual seeking access to records in person may establish his or her identity by the presentation of one document bearing a photograph (such as a driver's license, passport, or identification card or badge) or by the presentation of two items of identification which do not bear a photograph, but do bear both a name and address (such as a credit card). When identification is made without photographic identification the Commission will request a signature comparison to the signature appearing on the items offered for identification, whenever possible and practical.

(d) An individual seeking access to records by mail shall establish his or

her identity by a signature, address, date of birth, and one other identification, such as a copy of a driver's license, passport, identification card or badge, credit card or other document. The words "Privacy Act Request" should be placed in capital letters on the face of the envelope in order to facilitate requests by mail.

(e) An individual seeking access in person or by mail who cannot provide the required documentation of identification may provide a notarized statement, swearing or affirming to his or her identity and to the fact that he or she understands that there are criminal penalties for the making of false statements.

(f) The parent or guardian of a minor or a person judicially determined to be incompetent, in addition to establishing the identity of the minor or incompetent person he or she represents as required by paragraphs (a) through (c) of this section, shall establish his or her own parentage or guardianship by furnishing a copy of a birth certificate showing parentage or court order establishing guardianship.

(g) An individual seeking to review information about himself or herself may be accompanied by another person of his or her own choosing. In all such cases, the individual seeking access shall be required to furnish a written statement authorizing the discussion of his or her record in the presence of the accompanying person.

[40 FR 45727, Oct. 2, 1975, as amended at 42 FR 12046, Mar 2, 1977. Redesignated and amended at 44 FR 75152, Dec. 19, 1979]

§ 705.5 Disclosure of requested information to individuals.

The Solicitor, or one or more assistants designated by him or her, upon receiving a request for notification of the existence of a record, or for access to a record shall (a) determine whether such record exists; (b) determine whether access is available under the Privacy Act; (c) notify the requesting person of those determinations within 10 (ten) working days (excluding Saturdays, Sundays, and legal public holidays); and (d) provide access to information pertaining to that person which has been determined to be available.

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§ 705.6 Request for correction or amendment to record.

(a) Any individual who has reviewed a record pertaining to him or her that was furnished to him or her under this part may request the agency to correct or amend all or part of that record.

(b) Each individual requesting a correction or amendment shall send the request to the Solicitor.

(c) Each request for a correction or amendment of a record shall contain the following information:

(1) The name of the individual requesting the correction or amendment.

(2) The name of the system of records in which the record sought to be amended is maintained.

(3) The location of the record system from which the record was obtained.

(4) A copy of the record sought to be amended or a description of that record.

(5) A statement of the material in the record that should be corrected or amended.

(6) A statement of the specific wording of the correction or amendment sought.

(7) A statement of the basis for the requested correction or amendment including any material that the individual can furnish to substantiate the reasons for the amendment sought.

§ 705.7 Agency review of request for correction or amendment of the record.

Within ten (10) working days (excluding Saturdays, Sundays and legal public holidays) of the receipt of the request for the correction or amendment of a record, the Solicitor shall acknowledge receipt of the request and inform the individual that his or her request has been received and inform the individual whether further information is required before the correction or amendment can be considered. Further, the Solicitor shall promptly, and, under normal circumstances, not later than thirty (30) working days after receipt of the request, make the requested correction or amendment or notify the individual of his or her refusal to do so, including in the notification the reasons for the refusal, and the procedures established by the Commission by which the individual may

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initiate a review of that refusal. In the event of correction or amendment, an individual shall be provided with one copy of each record or portion thereof corrected or amended pursuant to his or her request without charge as evidence of the correction or amendment. The Commission shall also provide to all prior recipients of such a record, the corrected or amended information to the extent that it is relevant to the information previously furnished to a recipient pursuant to the Privacy Act.

[40 FR 45727, Oct. 2, 1975, as amended at 42 FR 12046, Mar. 2, 1977. Redesignated at 44 FR 75152, Dec. 19, 1979]

§ 705.8 Appeal of an initial adverse agency determination.

(a) Any individual whose request for access or for a correction or amendment which has been denied, in whole or in part, by the Solicitor may appeal that decision to the Staff Director of the Commission, 1121 Vermont Avenue, NW., Room 800, Washington, DC 20425, or to a designee of the Staff Director.

(b) The appeal shall be in writing and shall:

(1) Name the individual making the appeal;

(2) Identify the record sought to be amended or corrected;

(3) Name the record system in which that record is contained;

(4) Contain a short statement describing the amendment or correction sought; and

(5) State the name of the person who initially denied the correction or amendment.

(c) Not later than thirty (30) working days (excluding Saturdays, Sundays, and legal public holidays) after the date on which the agency received the appeal, the Staff Director shall complete his or her review of the appeal and make a final decision thereon, unless, for good cause shown, the Staff Director extends the appeal period beyond the initial thirty (30) day appeal period. In the event of such an extension the Staff Director shall promptly notify the individual making the appeal that the period for a final decision has been extended.

(d) After review of an appeal request, the Staff Director will send a written

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notice to the requester containing the following information:

(1) The decision, and if the denial is upheld, the reasons for the decision;

(2) The right of the requester to institute a civil action in a Federal District Court for judicial review of the decision, if the appeal is denied; and

(3) The right of the requester to file with the Commission a concise statement setting forth the reasons for his or her disagreement with the Commission's decision denying the request. The Commission shall make this statement available to any person to whom the record is later disclosed, together with a brief statement, if the Commission considers it appropriate, of the agency's reasons for denying the requested correction or amendment. These statements shall also be provided to all prior recipients of the record to the extent that it is relevant to the information previously furnished to a recipient pursuant to the Privacy Act.

[40 FR 45727, Oct. 2, 1975, as amended at 42 FR 12047, Mar. 2, 1977. Redesignated at 44 FR 75152, Dec. 19, 1979]

§ 705.9 Disclosure of records to a person other than the individual to whom the record pertains.

(a) Any individual who desires to have his or her record disclosed to or mailed to a third person may authorize that person to act as his or her agent for that specific purpose. The authorization shall be in writing, signed by the individual, and notarized. The agent shall also submit proof of his or her own identity as provided in § 705.4.

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court to be incompetent, due to physical or mental incapacity, may act on behalf of that individual in any matter covered by this part. A parent or guardian who desires to act on behalf of such an individual shall present suitable evidence of parentage or guardianship, by birth certificate, copy of a court order or similar documents, and proof of the individual's identity as provided in § 705.4.

(c) An individual to whom a record is to be disclosed, in person, pursuant to this part may have a person of his or

her own choosing accompany the individual when the record is disclosed.

§ 705.10 Fees.

If an individual requests copies of his or her records the charge shall be three (3) cents per page, *Provided, however*, That the Commission shall not charge for copies furnished to an individual as a necessary part of the process of disclosing the record to an individual. Fees may be waived or reduced in accordance with § 704.1(e) of the Commission's regulations (45 CFR part 704) because of indigency, where the cost is nominal, when it is in the public interest not to charge, or when waiver would not constitute an unreasonable expense to the Commission.

§ 705.11 Penalties.

Any person who makes a false statement in connection with any request for a record, or in any request for an amendment to a record under this part, is subject to the penalties prescribed in 18 U.S.C. 494 and 495.

§ 705.12 Special procedures: Information furnished by other agencies.

When records or information sought from the Commission include information furnished by other Federal agencies, the Solicitor shall consult with the appropriate agency prior to making a decision to disclose or to refuse to disclose the record, but the decision whether or not to disclose the record shall be made by the Solicitor.

§ 705.13 Exemptions.

(a) Under the provision of 5 U.S.C. 552a(k), it has been determined by the agency that the following exemptions are necessary and proper and may be asserted by the agency:

(1) *Exemption (k)(2) of the Act.* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act: *Provided, however*, That if any individual is denied any right, privilege, or benefit that he or she would otherwise be eligible for, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identify of a

source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(2) *Exemption (k)(4) of the Act.* Statistical personnel records that are used only to generate aggregate data or for other evaluative or analytical purposes and which are not used to make decisions on the rights, benefits, or entitlements of individuals.

(3) *Exemption (k)(5) of the Act.* Investigatory material maintained solely for the purposes of determining an individual's qualifications, eligibility, or suitability for employment in the Federal civilian service, Federal contracts, or access to classified information, but only to the extent that disclosure of such material would reveal the identity of the source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(4) Testing or examination material used solely to determine individual qualifications for promotion or appointment in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(b) Following are Commission systems of records which are partially exempt under 5 U.S.C. 552a(k)(2), (4), (5), and (6) and the reasons for such exemptions:

(1) *Appeals, Grievances and Complaints (staff)—Commission Project, CRC-001.* Exempt partially under 5 U.S.C. 552a(k)(2)—The reasons for possibly asserting the exemptions are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

(2) *Complaints, CRC-003—Exempt partially under 5 U.S.C. 552a(k)(2).* The rea-

sons for possibly asserting the exemptions are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

(3) *Commission projects, CRC-004—Partially exempt under 5 U.S.C. 552a(k)(a).* The reasons for asserting the exemptions are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

(4) *Other Employee Programs: EEO, Troubled Employee, and Upward Mobility, CRC-006—Partially exempt under 5 U.S.C. 552a(k)(4), (5), and (6).* The reasons for asserting the exemptions are to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, primarily, to facilitate proper selection or continuance of the best applicants or persons for a given position.

(5) *State Advisory Committees Projects, CRC-009—Partially exempt under 5 U.S.C. 552a(k)(2).* The reasons for possibly asserting the exemptions are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

§ 705.95 Accounting of the disclosures of records.

(a) All disclosures of records covered by this part 705, except for the exemptions listed in § 705.95(b), shall be accounted for by keeping a written

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record of the particular record disclosed, the name and address of the person or agency to whom or to which disclosed, and the date, nature and purpose of the disclosure.

(b) No accounting is required for disclosures of records to those officials and employees of the Commission who have a need for the record in the performance of their duties, or if disclosure would be required under the Freedom of Information Act. 5 U.S.C. 552.

(c) The accounting shall be maintained for 5 years or until the record is destroyed or transferred to the National Archives and Record Service for storage, in which event, the accounting pertaining to those records, unless maintained separately, shall be transferred with the records themselves.

(d) The accounting of disclosures may be recorded in any system the Commission determines is sufficient for this purpose, however, the Commission must be able to construct from its system a listing of all disclosures. The system of accounting of disclosures is not a system of records under the definition in §705.2(e) and no accounting need be maintained for disclosure of the accounting of disclosures.

(e) Upon request of an individual to whom a record pertains, the accounting of the disclosures of that record shall be made available to the requester, provided that he/she has complied with §705.3(a) and with §705.4(c) or (d).

[42 FR 12047, Mar. 2, 1977]

PART 706—EMPLOYEE RESPONSIBILITIES AND CONDUCT

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AUTHORITY: Secs. 101-106, 71 Stat. 634-636, as amended (42 U.S.C. 1975-1975e) Pub. L. 95-521, as amended, 5 CFR 735.

SOURCE: 44 FR 75152, Dec. 19, 1979, unless otherwise noted.

Subpart A—General Provisions

§ 706.1 Adoption of regulations.

Pursuant to 5 CFR 735.104(f) and 735.502, the U.S. Commission on Civil Rights (hereinafter referred to as the Commission) hereby adopts, with appropriate modifications, relevant sections of Part 735 of Title 5 of the Code of Federal Regulations as renumbered and set forth below.

§ 706.2 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government's business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord