

## § 2411.12

the Authority, the Panel or the General Counsel, as appropriate. Whenever any subpoena, the purpose for which is to adduce testimony or require the production of records as described above, shall have been served on any member or other officer or employee of the Authority, the Panel or the General Counsel, such person will, unless otherwise expressly directed by the Authority, the Panel or the General Counsel, as appropriate, and as provided by law, move pursuant to the applicable procedure to have such subpoena invalidated on the ground that the evidence sought is privileged against disclosure by this rule.

### § 2411.12 Annual report.

On or before March 1 of each calendar year, the Executive Director of the Authority shall submit a report of the activities of the Authority, the General Counsel and the Panel with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress. The report shall include for such calendar year all information required by 5 U.S.C. 552(d) and such other information as indicates the efforts of the Authority, the General Counsel and the Panel to administer fully the provisions of the Freedom of Information Act, as amended.

## PART 2412—PRIVACY

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### 2412.16 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 45 FR 3491, Jan. 17, 1980, unless otherwise noted.

#### § 2412.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority and the Federal Service Impasses Panel implementing the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The regulations apply to all records maintained by the Authority, the General Counsel and the Panel that are contained in a system of records, as defined herein, and that contain information about an individual. The regulations in this part set forth procedures that: (a) Authorize an individual's access to records maintained about the individual; (b) limit the access of other persons to those records; and (c) permit an individual to request the amendment or correction of records about the individual.

#### § 2412.2 Definitions.

For the purposes of this part—

(a) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) *Maintain* includes maintain, collect, use or disseminate.

(c) *Record* means any item, collection or grouping of information about an individual that is maintained by the Authority, the General Counsel and the Panel including, but not limited to, the individual's education, financial transactions, medical history and criminal or employment history and that contains the individual's name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) *System of records* means a group of any records under the control of the Authority, the General Counsel and the Panel from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual.

(e) *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.

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### § 2412.3 Notice and publication.

The Authority, the General Counsel, and the Panel will publish in the FEDERAL REGISTER such notices describing systems of records as are required by law.

[51 FR 33837, Sept. 23, 1986]

### § 2412.4 Existence of records requests.

(a) An individual who desires to know if a system of records maintained by the Authority, the General Counsel and the Panel contains a record pertaining to the individual must submit a written inquiry as follows:

(1) If the system of records is located in a regional office of the Authority, it should be made to the appropriate Regional Director; and

(2) If the system of records is located in the office of the Authority, the General Counsel or the Panel in Washington, DC, it should be made to the Director of Administration of the Authority, Washington, DC.

(b) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request. If the request is submitted by mail or otherwise submitted in an envelope or other cover, it should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the appropriate Regional Director or the Director of Administration of the Authority, as appropriate.

(c) The inquiry must include the name and address of the individual and reasonably describe the system of records in question by the individual. Descriptions of the systems of records maintained by the Authority, the General Counsel and the Panel have been published in the FEDERAL REGISTER.

(d) The appropriate Regional Director or the Director of Administration of the Authority, as appropriate, will advise the individual in writing within ten (10) working days from receipt of the request whether the system of records named by the individual contains a record pertaining to the individual.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

### § 2412.5 Individual access requests.

(a) Any individual who desires to inspect or receive copies of any record pertaining to the individual which is contained in a system of records maintained by the Authority, the General Counsel and the Panel must submit a written request reasonably identifying the records sought to be inspected or copied as follows:

(1) If the system of records is located in a regional office of the Authority, it should be made to the appropriate Regional Director; and

(2) If the system of records is located in the offices of the Authority, the General Counsel or the Panel in Washington, DC, it should be made to the Deputy Director of Administration of the Authority, Washington, DC.

(b) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request. If the request is submitted by mail or otherwise submitted in an envelope or other cover, it should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the appropriate Regional Director or the Director of Administration of the Authority, as appropriate.

(c) An individual seeking access to a record may, if desired, be accompanied by another person during review of the records. If the requester does desire to be accompanied by another person during the inspection, the requester must sign a statement, to be furnished to the Authority, the General Counsel or the Panel representative, as appropriate, at the time of the inspection, authorizing such other person to accompany the requester.

(d) Satisfactory identification (i.e., employee identification number, current address, and verification of signature) must be provided to the Authority, the General Counsel or the Panel representative, as appropriate, prior to review of the record.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

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### § 2412.6 Initial decision on access requests.

(a) Within ten (10) working days of the receipt of a request pursuant to § 2412.5, the appropriate Regional Director or the Director of Administration of the Authority, as appropriate, shall make an initial decision whether the requested records exist and whether they will be made available to the person requesting them. That initial decision shall immediately be communicated, in writing or other appropriate form, to the person who has made the request.

(b) Where the initial decision is to provide access to the requested records, the above writing or other appropriate communication shall:

(1) Briefly describe the records to be made available;

(2) State whether any records maintained, in the system of records in question, about the individual making the request are not being made available;

(3) State that the requested records will be available during ordinary office hours at the appropriate regional office or offices of the Authority, the General Counsel or the Panel, as appropriate; and

(4) State whether any further verification of the identity of the requesting individual is necessary.

(c) Where the initial decision is not to provide access to requested records, the appropriate Regional Director or the Director of Administration of the Authority, as appropriate, shall by writing or other appropriate communication explain the reason for that decision. The appropriate Regional Director or the Director of Administration of the Authority, as appropriate, shall only refuse to provide an individual access where:

(1) There is inadequate verification of identity under § 2412.5(d);

(2) In fact no such records are maintained; or

(3) The requested records have been compiled in a reasonable anticipation of civil or criminal action or proceedings.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

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### § 2412.7 Special procedures; medical records.

(a) If medical records are requested for inspection which, in the opinion of the appropriate Regional Director or the Director of Administration of the Authority, as appropriate, may be harmful to the requester if personally inspected by such person, such records will be furnished only to a licensed physician designated to receive such records by the requester. Prior to such disclosure, the requester must furnish a signed written authorization to make such disclosure and the physician must furnish a written request for the physician's receipt of such records to the appropriate Regional Director or the Director of Administration of the Authority, as appropriate.

(b) If such authorization is not executed within the presence of an Authority, General Counsel or Panel representative, the authorization must be accompanied by a notarized statement verifying the identification of the requester.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

### § 2412.8 Limitations on disclosures.

(a) Requests for records about an individual made by person other than that individual shall also be directed as follows:

(1) If the system of records is located in a regional office of the Authority, it should be made to the appropriate Regional Director; and

(2) If the system of records is located in the offices of the Authority, the General Counsel or the Panel in Washington, DC, it should be made to the Director of Administration of the Authority, Washington, DC.

(b) Such records shall only be made available to persons other than that individual in the following circumstances:

(1) To any person with the prior written consent of the individual about whom the records are maintained;

(2) To officers and employees of the Authority, the General Counsel and the Panel who need the records in the performance of their official duties;

(3) For a routine use compatible with the purpose for which it was collected;

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(4) To any person to whom disclosure is required by the Freedom of Information Act, as amended, 5 U.S.C. 552;

(5) To the Bureau of the Census for uses pursuant to title 13 of the United States Code;

(6) In a form not individually identifiable to a recipient who has provided the Authority, the General Counsel and the Panel with adequate assurance that the record will be used solely as a statistical research or reporting record;

(7) To the National Archives of the United States or other appropriate entity as a record which has historical or other value warranting its preservation;

(8) To another agency or to an instrumentality of any governmental jurisdiction within or under control of the United States for a civil or criminal law enforcement activity that is authorized by law if the head of the agency or instrumentality has made a written request for the record to the Authority, the General Counsel or the Panel;

(9) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, provided that notification of such a disclosure shall be immediately mailed to the last known address of the individual;

(10) To either House of Congress or to any committee thereof with appropriate jurisdiction;

(11) To the Comptroller General in the performance of the official duties of the General Accounting Office; or

(12) Pursuant to the order of a court of competent jurisdiction.

(c) The request shall be in writing and should be clearly and prominently identified as a Privacy Act request and, if submitted by mail or otherwise submitted in an envelope or other cover, should bear the legend "Privacy Act Request" on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received until the time it is actually received by the appropriate Regional Director or the Director of Administration of the Authority, as appropriate.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

### § 2412.9 Accounting of disclosures.

(a) All Regional Directors of the Authority and the Director of Administration of the Authority shall maintain a record ("accounting") of every instance in which records about an individual are made available, pursuant to this part, to any person other than:

(1) Officers or employees of the Authority, the General Counsel or the Panel in the performance of their duties; or

(2) Any person pursuant to the Freedom of Information Act, as amended, 5 U.S.C. 552.

(b) The accounting which shall be retained for at least five (5) years or the life of the record, whichever is longer, shall contain the following information:

(1) A brief description of records disclosed;

(2) The date, nature and, where known, the purpose of the disclosure; and

(3) The name and address of the person or agency to whom the disclosure is made.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

### § 2412.10 Requests for correction or amendment of records.

(a) After inspection of any records, if the individual disagrees with any information in the record, the individual may request that the records maintained about the individual be corrected or otherwise amended. Such request shall specify the particular portions of the record to be amended or corrected, the desired amendment or correction, and the reasons therefor.

(b) Such request shall be in writing and directed as follows:

(1) If the system of records is located in a regional office of the Authority, it should be made to the appropriate Regional Director; and

(2) If the system of records is located in the offices of the Authority, the General Counsel or the Panel in Washington, DC, it should be made to the Deputy Director of Administration of the Authority, Washington, DC.

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### § 2412.11 Initial decision on correction or amendment.

(a) Within ten (10) working days from the date of receipt of a request for correction or amendment, the appropriate Regional Director or the Director of Administration of the Authority, as appropriate, will acknowledge receipt of the request and, under normal circumstances, not later than thirty (30) days from receipt of the request, will give the requesting individual notice, by mail or other appropriate means, of the decision regarding the request.

(b) Such notice of decision shall include:

(1) A statement whether the request has been granted or denied, in whole or in part;

(2) A quotation or description of any amendment or correction made to any records; and

(3) Where a request is denied in whole or in part, an explanation of the reason for that denial and of the requesting individual's right to appeal the decision to the Chairman of the Authority pursuant to § 2412.13.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

### § 2412.12 Amendment or correction of previously disclosed records.

Whenever a record is amended or corrected pursuant to § 2412.11 or a written statement filed pursuant to § 2412.13, the appropriate Regional Director or the Director of Administration of the Authority, as appropriate, shall give notice of that correction, amendment or written statement to all persons to whom the records or copies thereof have been disclosed, as recorded in the accounting kept pursuant to § 2412.9.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

### § 2412.13 Agency review of refusal to provide access to, or amendment or correction of, records.

(a) Any individual whose request for access to, or amendment or correction of, records of the Authority, the General Counsel or the Panel has been denied in whole or in part by an initial decision may, within thirty (30) days of the receipt of notice of the initial decision, appeal that decision by filing a

written request for review of that decision with the Chairman of the Authority in Washington, DC.

(b) The appeal shall describe:

(1) The request initially made by the individual for access to, or the amendment or correction of, records;

(2) The initial decision thereupon of the appropriate Regional Director or the Director of Administration; and

(3) The reasons why that initial decision should be modified by the Chairman of the Authority.

(c) Not later than thirty (30) working days from receipt of a request for review (unless such period is extended by the Chairman of the Authority for good cause shown), the Chairman of the Authority shall make a decision, and give notice thereof to the appealing individual, whether to modify the initial decision of the Regional Director or the Deputy Director of Administration, in any way. If the Chairman of the Authority upholds the Regional Director's or Deputy Director of Administration's initial decision not to provide access to requested records or not to amend or correct the records as requested, the Chairman of the Authority shall notify the appealing individual of the individual's right:

(1) To judicial review of the Chairman of the Authority's decision pursuant to 5 U.S.C. 552a(g)(1); and

(2) To file with the Authority a written statement of disagreement setting forth the reasons why the record should have been amended or corrected as requested. That written statement of disagreement shall be made a part of the record and shall accompany that record in any use or disclosure of the record.

[45 FR 3491, Jan. 17, 1980, as amended at 51 FR 33837, Sept. 23, 1986]

### § 2412.14 Fees.

(a) As provided in this part, the Authority, the General Counsel or the Panel will provide a copy of the records to the individual to whom they pertain. There will be a charge of ten cents per copy of each page.

(b) Any charges may be waived or reduced whenever it is in the public interest to do so.

**§ 2412.15 Penalties.**

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Authority, the General Counsel or the Panel under false pretenses shall be subject to criminal prosecution under 5 U.S.C. 552a(i)(3) which provides that such person shall be guilty of a misdemeanor and fined not more than \$5,000.

**§ 2412.16 Exemptions.**

(a) *OIG files compiled for the purpose of a criminal investigation and for related purposes.* Pursuant to 5 U.S.C. 552a(j)(2), the FLRA hereby exempts the system of records entitled "FLRA/OIG-1, Office of Inspector General Investigative Files," insofar as it consists of information compiled for the purposes of a criminal investigation or for other purposes within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a, except for subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), (11) and (i).

(b) *OIG files compiled for other law enforcement purposes.* Pursuant to 5 U.S.C. 552a(k)(2), the FLRA hereby exempts the system of records entitled, "FLRA/OIG-1, Office of Inspector General Investigative Files," insofar as it consists of information compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2), from the application of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f).

[56 FR 33189, July 19, 1991]

**PART 2413—OPEN MEETINGS**

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AUTHORITY: 5 U.S.C. 552b.

SOURCE: 45 FR 3494, Jan. 17, 1980, unless otherwise noted.

**§ 2413.1 Purpose and scope.**

This part contains the regulations of the Federal Labor Relations Authority implementing the Government in the Sunshine Act, 5 U.S.C. 552b.

**§ 2413.2 Public observation of meetings.**

Every portion of every meeting of the Authority shall be open to public observation, except as provided in § 2413.4, and Authority members shall not jointly conduct or dispose of agency business other than in accordance with the provisions of this part.

**§ 2413.3 Definition of meeting.**

For purposes of this part, *meeting* shall mean the deliberations of at least two (2) members of the Authority where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting should be closed to public observation in accordance with the provisions of this part.

**§ 2413.4 Closing of meetings; reasons therefor.**

(a) Except where the Authority determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpoena, the Authority's participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Authority of particular cases of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing, or any court proceedings collateral or ancillary thereto.

(b) Meetings, or portions thereof, may also be closed by the Authority, except where it determines that the public interest requires otherwise, when the deliberations concern matters or information falling within the reasons for closing meetings specified in 5 U.S.C. 552b(c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statute); (c)(4) (privileged or confidential