

part of the performance of his official duties or because of his official status without the prior approval of the Special Counsel or the Special Counsel's duly authorized designee.

## PART 1830—PRIVACY

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AUTHORITY: 5 U.S.C. 552a(f), 1212(e).

SOURCE: 72 FR 56617, Oct. 4, 2007, unless otherwise noted.

### § 1830.1 General provisions.

This part contains rules and procedures followed by the Office of Special Counsel (OSC) in processing requests for records under the Privacy Act (PA), at 5 U.S.C. 552a. Further information about access to OSC records generally is available on the agency's web site (<http://www.osc.gov/foia.htm>).

### § 1830.2 Requirements for making Privacy Act requests.

(a) *How made and addressed.* A request for OSC records under the Privacy Act should be made by writing to the agency. The request should be sent by regular mail addressed to: Privacy Act Officer, U.S. Office of Special Counsel, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. Such requests may also be faxed to the Privacy Act Officer at the number provided on the FOIA/PA page of OSC's web site (see 1830.1). For the quickest handling, both the request letter and envelope or any fax cover sheet should be clearly marked "Privacy Act Request." A Privacy Act request may also be delivered in person at OSC's headquarters office in Washington, DC. Whether sent by mail or by fax, or delivered in person, a Privacy Act request will not be considered to have been received by OSC until it reaches the Privacy Act Officer.

(b) *Description of records sought.* Requesters must describe the records

sought in enough detail for them to be located with a reasonable amount of effort. Whenever possible, requests should describe any particular record sought, such as the date, title or name, author, recipient, and subject matter.

(c) *Proof of identity.* Requests received by mail, fax, or personal delivery should contain sufficient information to enable OSC to determine that the requester and the subject of the record are one and the same. To assist in this process, an individual should submit his or her name and home address, business title and address, and any other known identifying information such as an agency file number or identification number, a description of the circumstances under which the records were compiled, and any other information deemed necessary by OSC to properly process the request. An individual delivering a request in person may be required to present proof of identity, preferably a government-issued document bearing the individual's photograph.

(d) *Freedom of Information Act processing.* OSC also processes all Privacy Act requests for access to records under the Freedom of Information Act, 5 U.S.C. 552, following the rules contained in part 1820 of this chapter, which gives requesters the benefit of both statutes.

### § 1830.3 Medical records.

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary by OSC, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

### § 1830.4 Requirements for requesting amendment of records.

(a) *How made and addressed.* Individuals may request amendment of records pertaining to them that are subject to amendment under the Privacy Act and this part. The request should be sent by regular mail addressed to: Privacy Act Officer, U.S.

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Office of Special Counsel, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. Such requests may also be faxed to the Privacy Act Officer at the number provided on the FOIA/PA page of OSC's web site (see 1830.1). For the quickest handling, both the request letter and envelope or any fax cover sheet should be clearly marked "Privacy Act Amendment Request." Whether sent by mail or by fax, a Privacy Act amendment request will not be considered to have been received by OSC until it reaches the Privacy Act Officer. A Privacy Act amendment request may also be delivered by person at OSC's headquarters office in Washington, DC.

(b) *Description of amendment sought.* Requests for amendment should include identification of records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requesters must describe the amendment sought in enough detail for the request to be evaluated.

(c) *Proof of identity.* Rules and procedures set forth in 1830.2(c) apply to requests made under this section.

(d) *Acknowledgement and response.* Requests for amendment shall be acknowledged by OSC not later than 10 days (excluding Saturdays, Sundays, and legal holidays) after receipt by the Privacy Act Officer and a determination on the request shall be made promptly.

### § 1830.5 Appeals.

(a) *Appeals of adverse determinations.* A requester may appeal a denial of a Privacy Act request for access to or amendment of records to the Legal Counsel and Policy Division, U.S. Office of Special Counsel, 1730 M Street, N.W. (Suite 218), Washington, DC 20036-4505. The appeal must be in writing, and sent by regular mail or by fax. The appeal must be received by the Legal Counsel and Policy Division within 45 days of the date of the letter denying the request. For the quickest possible handling, the appeal letter and envelope or any fax cover sheet should be clearly marked "Privacy Act Appeal." An appeal will not be considered to have been received by OSC until it reaches the Legal Counsel and Policy

Division. The appeal letter may include as much or as little related information as the requester wishes, as long as it clearly identifies the OSC determination (including the assigned request number, if known) being appealed. An appeal ordinarily will not be acted on if the request becomes a matter of litigation.

(b) *Responses to appeals.* The agency decision on an appeal will be made in writing. A final determination will be issued within 30 days (excluding Saturdays, Sundays, and legal holidays), unless, for good cause shown, OSC extends the 30-day period.

### § 1830.6 Exemptions.

OSC will claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations in prohibited personnel practice, unlawful political activity, whistleblower disclosure, Uniformed Services Employment and Reemployment Rights Act, and other matters under OSC's jurisdiction, and to protect identities of confidential sources of information, including in background investigations of OSC employees, contractors, and other individuals conducted by or for OSC. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. OSC also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request. OSC may also refuse access to any information compiled in reasonable anticipation of a civil action or proceeding.

### § 1830.7 Fees.

Requests for copies of records shall be subject to duplication fees set forth in part 1820 of this chapter.

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### § 1830.8 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

## PART 1840—SUBPOENAS

AUTHORITY: 5 U.S.C. 1212(e).

### § 1840.1 Service of subpoenas by mail.

In addition to all other methods of authorized service, an Office of Special Counsel subpoena may be served by mailing a copy to the person at his or her residence or place of business by certified or registered mail.

[54 FR 47345, Nov. 14, 1989]

## PART 1850—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE OFFICE OF SPECIAL COUNSEL

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AUTHORITY: 29 U.S.C. 794.

SOURCE: 53 FR 25881, 25885, July 8, 1988, unless otherwise noted. Redesignated at 54 FR 47345, Nov. 14, 1989.

### § 1850.101 Purpose.

The purpose of this regulation is to effectuate section 119 of the Rehabili-

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tation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

### § 1850.102 Application.

This regulation (§§ 1850.101–1850.170) applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

### § 1850.103 Definitions.

For purposes of this regulation, the term—

*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

*Complete complaint* means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling