

**§ 403.105 What is the relationship between this part and 20 CFR parts 401 and 402?**

(a) *General.* Disclosure of SSA's records and information contained in those records is governed by the regulations at 20 CFR parts 401 and 402. SSA employees will not disclose records or information in any legal proceeding covered by this part except as permitted by 20 CFR parts 401 and 402.

(b) *Requests for information or records that do not include testimony.* (1) If you do not request testimony, §§ 403.120–403.140 do not apply.

(2) If 20 CFR part 401 or 402 permits disclosure to you of any requested record or information, we will make every reasonable effort to provide the disclosable information or record to you on or before the date specified in your request.

(3) If neither 20 CFR part 401 nor 402 permits disclosure of information or a record you request, we will notify you as provided in § 403.145. We will also send you any notices required by part 401 or 402.

**§ 403.110 What special definitions apply to this part?**

The following definitions apply:

(a) *Application* means a written request for testimony that conforms to the requirements of § 403.120.

(b)(1) *Employee* includes—

(i) Any person employed in any capacity by SSA, currently or in the past;

(ii) Any person appointed by, or subject to the supervision, jurisdiction, or control of SSA, the Commissioner of Social Security, or any other SSA official, currently or in the past; and

(iii) Any person who is not described elsewhere in this definition but whose disclosure of information is subject to the regulations at 20 CFR part 401, currently or in the past.

(2) For purposes of this paragraph (b), a person subject to SSA's jurisdiction or control includes any person hired as a contractor by SSA, any person performing services for SSA under an agreement (such as an officer or employee of a State agency involved in determining disability for SSA), and any consultant (including medical or

vocational experts or medical services or consultative examination providers), contractor, or subcontractor of such person. Such a person would also include any person who has served or is serving in any advisory capacity, formal or informal.

(3) For purposes of this paragraph (b), a person employed by SSA in the past is considered an employee only when the matter about which the person would testify is one in which he or she was personally involved while at SSA; where the matter concerns official information that the employee acquired while working, such as sensitive or confidential agency information; where the person purports to speak for SSA; or where significant SSA resources would be required to prepare the person to testify. Such a person would not be considered an employee when the person will rely only on expertise or general knowledge he or she acquired while working at SSA.

(c) *Commissioner* means the Commissioner of Social Security or his or her designee(s).

(d) *Legal proceeding* includes any pre-trial, trial, and post-trial stage of any existing or reasonably anticipated judicial or administrative action, hearing, investigation, or similar proceeding before a court, commission, board, agency, or other tribunal, authority or entity, foreign or domestic. *Legal proceeding* also includes any deposition or other pretrial proceeding, including a formal or informal request for testimony by an attorney or any other person.

(e) *Record* has the same meaning as “record” in 20 CFR 402.30.

(f) *Request* means any attempt to obtain the production, disclosure, or release of information, records, or the testimony of an SSA employee, including any order, subpoena, or other command issued in a legal proceeding as well as any informal or other attempt (by any method) by a party or a party's representative.

(g) *SSA* means the Social Security Administration.

(h) *Testimony* includes any sworn statement (oral or written), including (but not limited to)—