

## Commission of Fine Arts

## § 2106.5

(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by CFA;

(ii) A statement as to whether access will be granted only by providing a copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternate arrangements may be made with the official specified in paragraph (b)(1) of this section;

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the Secretary has determined that it would not unduly impede the requester's right of access;

(iv) The amount of fees charged, if any (see §§ 2106.4 and 2106.7); and

(v) The name, title, and telephone number of the CFR official having operational control over the record.

(A) *Access by the parent of a minor, or legal guardian.* A parent of a minor, upon presenting suitable personal identification, may access on behalf of the minor any record pertaining to the minor maintained by CFA in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, upon the presentation of documents authorizing the legal guardian to so act; and upon suitable personal identification of the guardian.

(B) *Granting access when accompanied or represented by another individual.* When an individual requesting access to his or her record in a system of records maintained by CFA wishes to be accompanied or represented by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record a signed statement authorizing that person access to the record.

(C) *Access in response to congressional inquiries.* Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(vi) *Medical records.* The records in a system of records which are medical records shall be disclosed to the individual in such a manner and following such procedures as the Secretary shall direct. When CFA, in consultation with a physician, determines that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, CFA may transmit such information to a physician named by the individual.

(vii) *Exceptions.* Nothing in this section shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding.

[40 FR 52369, Nov. 10, 1975, as amended at 41 FR 2385, Jan. 16, 1976]

### § 2106.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosures are the same as those for granting access to the records outlined in § 2106.2 of this part.

### § 2106.4 Requests for copies of records.

Rules governing requests for copies of records are the same as those for the granting of access to the records outlined in § 2106.2 of this part (see also § 2106.7 for rules regarding fees).

### § 2106.5 Requests to amend records.

(a) *Requirements for written requests.* Individuals desiring to amend a record that pertains to them in a system of records maintained by CFA must submit their request in writing in accordance with the procedures set forth herein unless the requirement is waived by the official having responsibility for the system of records. Records not subject to the Privacy Act of 1974 will not be amended in accordance with these provisions; however, individuals who believe that such records are inaccurate may bring this to the attention of the CFA.

(b) *Procedures.* (1)(i) The request to amend a record in a system of records shall be addressed to the Secretary. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the

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record is the result of the individual's having gained access to the record as set forth above, copies of previous correspondence between the requester and CFA will serve in lieu of a separate description of the record.

(ii) Individuals desiring assistance in the preparation of a request to amend a record should contact the Secretary at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or, at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete, should be set forth with such particularity as to permit CFA not only to understand the individual's basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by CFA of personal information merely to permit the verification of records, the burden of persuading CFA to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness, or incompleteness of the record.

(2) *CFA action on the request.* To the extent possible, a decision upon a request to amend a record will be made within 10 days (excluding Saturdays, Sundays, and legal Federal holidays). In the event that a decision cannot be made within this time frame, the individual making the request will be informed within the 10 days of the expected date for a decision. The decision upon a request for amendment will include the following:

(i) The decision of the Commission of Fine Arts whether to grant in full, or deny any part of the request to amend the record;

(ii) The reasons for the determination for any part of the request which is denied;

(iii) The name and address of the official with whom an appeal of the denial may be lodged;

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(iv) The name and address of the official designated to assist, as necessary, and upon the request of, the individual making the request in preparation of the appeal;

(v) A description of the review of the appeal within CFA (see §2106.6); and

(vi) A description of any other procedures which may be required of the individual in order to process an appeal.

### §2106.6 Request for review.

(a) Individuals wishing to request a review of the decision by CFA with regard to an initial request to amend a record in accordance with the provisions of §2106.5 of this part, should submit the request for review in writing and, to the extent possible, include the information specified in paragraph (a) of this section. Individuals desiring assistance in the preparation of their request for review should contact the Secretary at the address provided herein.

(b) The request for review should contain a brief description of the record involved or in lieu thereof, copies of the correspondence from CFA in which the request to amend was denied and also the reasons why the requester believes that the disputed information should be amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by §2106.5 of this part set forth by CFA in its decision denying the amendment. Appeals filed without a complete statement by the requester setting forth the reasons for the review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be understandably set forth. In order to avoid the unnecessary retention of personal information, CFA reserves the right to dispose of the material concerning the request to amend a record if no request for review in accordance with this section is received by CFA within 180 days of the mailing by CFA of its decision upon an initial request. A request for review received after the 180-day period may, at the discretion of the Secretary, be treated as an initial request to amend a record.