

the Executive Director, Joint Board for the Enrollment of Actuaries, 2401 E Street NW., suite 1537, Washington, DC on workdays between the hours of 9 a.m. and 5 p.m.;

(iii) Have clearly marked on the appeal and on the envelope, "Privacy Act Amendment Appeal";

(iv) Reasonably describe the records requested to be amended; and

(v) Specify the date of the initial request to amend records, and the date of the letter giving notification that the request was denied. (See 5 U.S.C. 552a (d) and (f)).

(3) *Date of Receipt.* Appeals shall be promptly stamped with the date of their receipt by the Office of the Executive Director and such stamped date will be deemed to be the date of receipt for all purposes of this section. The receipt of the appeal shall be acknowledged within 10 days from the date of receipt (unless the determination on appeal is dispatched in 10 days, in which case, no acknowledgment is required) by the Joint Board and the requester is advised of the date of receipt established by the foregoing and when a response is due in accordance with this paragraph. (See 5 U.S.C. 552a (d) and (f)).

(4) *Review of administrative appeals from denial of requests to amend records.* The Joint Board shall complete the review and notify the requester of the final agency decision within 30 days (exclusive of Saturdays, Sundays and legal public holidays) after the date of receipt of such appeal, unless it extends the time for good cause shown. If such final agency decision is to refuse to amend the record, in whole or in part, the requester shall also be advised of his right; (i) to file a concise "Statement of Disagreement" setting forth the reasons for his disagreement with the decision which shall be filed within 35 days of the date of the notification of the final agency decision and (ii) to seek judicial review of the final agency decision under 5 U.S.C. 552a(g)(1)(A). (See 5 U.S.C. 552a (d), (f) and (g)(1)).

(5) *Notation on record and distribution of statements of disagreement.* (i) The Executive Director is responsible, in any disclosure containing information about which an individual has filed a

"Statement of Disagreement," occurring after the filing of the statement under paragraph (e)(4) of this section, for clearly noting any portion of the record which is disputed and providing copies of the statement and, if deemed appropriate, a concise statement of the Joint Board's reasons for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed. (See 5 U.S.C. 552a(d)(4)).

(ii) In addition, when a "Statement of Disagreement" is filed regarding information previously disclosed to a person or other agency and when, for such disclosure, an accounting was made pursuant to 5 U.S.C. 552(c)(1), then the Executive Director shall provide such person or other agency with the following:

(A) Copy of the "Statement of Disagreement";

(B) Copy of the portion of the previously disclosed in dispute clearly noted as disputed and;

(C) If deemed appropriate, a concise statement of the Joint Board's reasons for not making requested amendments.

(f) *Records not subject to correction.* The following records are not subject to correction or amendment by individuals:

(1) Transcripts or written statements made under oath;

(2) Transcripts of Grand Jury proceedings, judicial or quasi-judicial proceedings which form the official record of those proceedings;

(3) Pre-sentence reports comprising the property of the courts but maintained in agency files;

(4) Records pertaining to the determination, the collection and the payment of federal taxes; and

(5) Records duly exempted from correction by notice published in the FEDERAL REGISTER.

[41 FR 1493, Jan. 8, 1976, as amended at 45 FR 84994, Dec. 24, 1980]

§ 903.6 Fees.

Charges for copies of records made pursuant to part 903 of this chapter will be at the rate of \$0.10 per copy. For records not susceptible to photocopying, e.g., over-size materials, photographs, etc., the amount charged will be the actual cost of copying. Only

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one copy of each record requested will be provided. No charge will be made unless the charge as computed above would exceed \$3 for each request or related series of requests. If a fee in excess of \$25 is required, the requester will be notified that the fee must be tendered before the records will be copied.

§ 903.7 Guardianship.

The guardian of a person judicially determined to be incompetent shall, in addition to establishing the identity of the person he represents, establish his own guardianship by furnishing a copy of a court order establishing the guardianship and may thereafter act on behalf of such individual. (See 5 U.S.C. 552a(h)).

§ 903.8 Exemptions.

(a) *Names of systems:* JBEA-2, Enrolled Actuary Disciplinary Records; and JBEA-4, Enrolled Actuary Enrollment Records.

(b) *Provisions from which exempted:* These systems contain records described in section (k)(2) of the Privacy Act of 1974, 5 U.S.C. 552a(k)(2). Exemptions are claimed for such records only where appropriate from the following provisions: sections (c)(3); (d); (e)(1); (e)(4)(G), (e)(4)(H), and (e)(4)(I); and (f) of 5 U.S.C. 552a.

(c) *Reasons for claimed exemptions:* (1) The Privacy Act of 1974 creates several methods by which individuals may learn of and obtain records containing information on such individuals and consisting of investigatory material compiled for law enforcement purposes. These methods are as follows: Subsection (c)(3) allows individuals to discover if other agencies are investigating such individuals; subsections (d)(1), (e)(4)(H) and (f)(2), (3) and (5) establish the ability of individuals to gain access to investigatory material compiled on such individuals; subsections (d)(2), (3) and (4), (e)(4)(H) and (f)(4) presuppose access and enable individuals to contest the contents of investigatory material compiled on these individuals; and subsections (e)(4)(G) and (f)(1) allow individuals to determine whether or not they are under investigation. Because these subsections are variations upon the individual's

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ability to ascertain whether his civil or criminal misconduct has been discovered, these subsections have been grouped together for purposes of this notice.

(2)(i) The Joint Board believes that imposition of the requirements of subsection (c)(3), which requires that accountings of disclosures be made available to individuals, would impair the ability of the Joint Board and other investigative entities to conduct investigations of alleged or suspected violations of the regulations governing the performance of actuarial services with respect to plans to which the Employee Retirement Income Security Act (ERISA) applies, and of civil or criminal laws. Making the accountings of disclosures available to individuals enables such individuals to identify entities investigating them and thereby to determine the nature of the violations of which they are suspected. With such knowledge, individuals would be able to alter their illegal activities, destroy or alter evidence of such activities and seriously impair the successful completion of investigations. For these reasons, the Joint Board claims exemption from the requirements of subsection (c)(3) of the Act.

(ii) With respect to subsections (d)(1), (e)(4)(H), and (f)(2), (3) and (5), the Joint Board believes that access to investigatory material would prevent the successful completion of investigations. Individuals who gain access to investigatory material involving them discover the nature and extent of the violations of regulations, and of civil and criminal laws, of which they are suspected. By gaining access, such individuals also learn the facts developed during investigations. Knowledge of these matters enables these individuals to destroy or alter evidence which would otherwise have been used against them. In addition, knowledge of the facts and suspected violations gives individuals, who are committing ongoing violations, or who are about to commit violations of regulations, or of civil or criminal laws, the opportunity to temporarily postpone the commission of the violations or to effectively