

#### § 1611.4

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Placement Records), OPM/GOVT-6 (Personnel Research and Test Validation Records), OPM/GOVT-9 (Files on Position Classification Appeals, Job Grading Appeals and Retained Grade or Pay Appeals), OPM/GOVT-10 (Employee Medical File System Records) and DOL/ESA-13 (Office of Workers' Compensation Programs, Federal Employees' Compensation File), to the Director of Personnel Management Services, EEOC, 131 M Street, NE., Washington, DC 20507;

(2) For systems OGE/GOVT-1 (Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records), OGE/GOVT-2 (Confidential Statements of Employment and Financial Interests) and MSPB/GOVT-1 (Appeal and Case Records), to the Legal Counsel, EEOC, 131 M Street, NE., Washington, DC 20507;

(3) For system OPM/GOVT-7 (Applicant Race, Sex, National Origin, and Disability Status Records), to the Director of the Office of Equal Employment Opportunity, EEOC, 1801 L Street, NW., Washington, DC 20507;

(4) For systems GSA/GOVT-3 (Travel Charge Card Program) and GSA/GOVT-4 (Contracted Travel Services Program) to the Director of Financial and Resource Management Services, EEOC, 131 M Street, NE., Washington, DC 20507.

(c) Any person whose request for access under paragraph (a) of this section is denied, may appeal that denial in accordance with § 1611.5(c).

[42 FR 7949, Feb. 8, 1977, as amended at 56 FR 29581, June 28, 1991; 74 FR 3430, Jan. 21, 2009]

#### **§ 1611.4 Times, places, and requirements for identification of individuals making requests.**

(a) If a person submitting a request for access under § 1611.3 has asked that the Commission authorize a personal inspection of records pertaining to that person, and the appropriate Commission official has granted that request the requester shall present himself or herself at the time and place specified in the Commission's response or arrange another, mutually convenient time with the appropriate Commission official.

(b) Prior to inspection of the records, the requester shall present sufficient

personal identification (e.g., driver's license, employee identification card, social security card, credit cards). If the requester is unable to provide such identification, the requester shall complete and sign in the presence of a Commission official a signed statement asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to \$5,000.

(c) Any person who has requested access under § 1611.3 to records through personal inspection, and who wishes to be accompanied by another person or persons during this inspection, shall submit a written statement authorizing disclosure of the record in such person's or person's presence.

(d) If an individual submitting a request by mail under § 1611.3 wishes to have copies furnished by mail, he or she must include with the request a signed and notarized statement asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to \$5,000.

(e) A request filed by the parent of any minor or the legal guardian of any incompetent person shall: state the relationship of the requester to the individual to whom the record pertains; present sufficient identification; and, if not evident from information already available to the Commission, present appropriate proof of the relationship or guardianship.

(f) A person making a request pursuant to a power of attorney must possess a specific power of attorney to make that request.

(g) No verification of identity will be required where the records sought are publicly available under the Freedom of Information Act.

#### **§ 1611.5 Disclosure of requested information to individuals.**

(a) Upon receipt of request for notification as to whether the Commission maintains a record about an individual

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and/or request for access to such record:

(1) The appropriate Commission official shall acknowledge such request in writing within 10 working days of receipt of the request. Wherever practicable, the acknowledgement should contain the notification and/or determination required in paragraph (a) (2) of this section.

(2) The appropriate Commission official shall provide, within 30 working days of receipt of the request, written notification to the requester as to the existence of the records and/or a determination as to whether or not access will be granted. In some cases, such as where records have to be recalled from the Federal Records Center, notification and/or a determination of access may be delayed. In the event of such a delay, the Commission official shall inform the requester of this fact, the reasons for the delay, and an estimate of the date on which notification and/or a determination will be forthcoming.

(3) If access to a record is granted, the determination shall indicate when and where the record will be available for personal inspection. If a copy of the record has been requested, the Commission official shall mail that copy or retain it at the Commission to present to the individual, upon receipt of a check or money order in an amount computed pursuant to §1611.11.

(4) When access to a record is to be granted, the appropriate Commission official will normally provide access within 30 working days of receipt of the request unless, for good cause shown, he or she is unable to do so, in which case the requester shall be informed within 30 working days of receipt of the request as to those reasons and when it is anticipated that access will be granted.

(5) The Commission shall not deny any request under §1611.3 concerning the existence of records about the requester in any system of records it maintains, or any request for access to such records, unless that system is exempted from the requirements of 5 U.S.C. 552a in §§1611.13, 1611.14, or 1611.15.

(6) If the Commission receives a request pursuant to §1611.3 for access to records in a system of records it main-

tains which is so exempt, the appropriate Commission official shall deny the request.

(b) Upon request, the appropriate Commission official shall make available an accounting of disclosures pursuant to 5 U.S.C. 552a(c)(3), unless that system is exempted from the requirements of 5 U.S.C. 552a in §§1611.13, 1611.14, or 1611.15.

(c) If a request for access to records is denied pursuant to paragraph (a) or (b) of this section, the determination shall specify the reasons for the denial and advise the individual how to appeal the denial. If the request pertains to a system of records for which the Commission has published a system notice, any appeal must be submitted in writing to the Legal Counsel, EEOC, 131 M Street, NE., Washington, DC 20507. If the request pertains to a government-wide system of records any appeal should be in writing, identified as a Privacy Act appeal and submitted as follows:

(1) For systems established by OPM and for which OPM has published a system notice, to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, OPM, 1900 E Street, NW., Washington, DC 20415. The OPM Privacy Act regulations, 5 CFR 297.207, shall govern such appeals.

(2) For systems established by OGE and for which OGE has published a system notice, to the Privacy Act Officer, Office of Government Ethics, 1201 New York Avenue, NW., Suite 500, Washington, DC 20005-3917. The OGE Privacy Act regulations, 5 CFR part 2606, shall govern such appeals.

(3) For the system established by MSPB and for which MSPB has published a system notice, to the Deputy Executive Director for Management, U.S. Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, DC 20419. The MSPB Privacy Act regulations, 5 CFR part 1205, shall govern such appeals.

(4) For systems established by GSA and for which GSA has published a system notice, to GSA Privacy Act Officer, General Services Administration (ATRAI), Washington, DC 20405. The GSA Privacy Act regulations, 41 CFR 105-64.301-5, shall govern such appeals.

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(5) For the system established by DOL and for which DOL has published a system notice, to the Solicitor of Labor, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The DOL Privacy Act regulations, 29 CFR 70a.9, shall govern such appeals.

(d) In the event that access to a record is denied on appeal by the Legal Counsel or the Legal Counsel's designee, the requestor shall be advised of his or her right to bring a civil action in Federal district court for review of the denial in accordance with 5 U.S.C. 552a(g).

(e) Nothing in 5 U.S.C. 552a or this part allows an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

[42 FR 7949, Feb. 8, 1977, as amended at 56 FR 29581, June 28, 1991; ; 74 FR 3430, Jan. 21, 2009; 74 FR 6831, Feb. 11, 2009]

### § 1611.6 Special procedures: Medical records.

In the event the Commission receives a request pursuant to § 1611.3 for access to medical records (including psychological records) whose disclosure of which the appropriate Commission official determines could be harmful to the individual to whom they relate, he or she may refuse to disclose the records directly to the requester but shall transmit them to a physician designated by that individual.

### § 1611.7 Request for correction or amendment to record.

(a) Any person who wishes to request correction or amendment of any record pertaining to him or her which is contained in a system of records maintained by the Commission, shall submit that request in writing in accordance with the instructions set forth in the system notice for that system of records. If the request is submitted by mail, the envelope should be clearly labeled "Personal Information Amendment." The request shall include:

(1) The name of the individual making the request;

(2) The name of the system of records as set forth in the system notice to which the request relates;

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(3) A description of the nature (e.g., modification, addition or deletion) and substance of the correction or amendment requested; and

(4) Any other information specified in the system notice.

(b) Any person submitting a request pursuant to paragraph (a) of this section shall include sufficient information in support of that request to allow the Commission to apply the standards set forth in 5 U.S.C. 552a (e).

(c) All requests to amend pertaining to personnel records described in § 1611.3(b) shall conform to the requirements of paragraphs (a) and (b) of this section and may be directed to the appropriate officials as indicated in § 1611.3(b). Such requests may also be directed to the system manager specified in the OPM's systems notices.

(d) Any person whose request under paragraph (a) of this section is denied may appeal that denial in accordance with § 1611.9(a).

[42 FR 7949, Feb. 8, 1977, as amended at 56 FR 29581, June 28, 1991]

### § 1611.8 Agency review of request for correction or amendment to record.

(a) When the Commission receives a request for amendment or correction under § 1611.7(a), the appropriate Commission official shall acknowledge that request in writing within 10 working days of receipt. He or she shall promptly either:

(1) Determine to grant all or any portion of a request for correction or amendment; and:

(i) Advise the individual of that determination;

(ii) Make the requested correction or amendment; and

(iii) Inform any person or agency outside the Commission to whom the record has been disclosed, and where an accounting of that disclosure is maintained in accordance with 5 U.S.C. 552a(c), of the occurrence and substance of the correction or amendments, or;

(2) Inform the requester of the refusal to amend the record in accordance with the request; the reason for the refusal; and the procedures whereby the requester can appeal the refusal to the Legal Counsel of the Commission.