

Merit Systems Protection Board

§ 1204.11

AUTHORITY: 5 U.S.C. 552 and 1204, Pub. L. 99-570, Pub. L. 104-231, and E.O. 12600.

SOURCE: 64 FR 51039, Sept. 21, 1999, unless otherwise noted.

Subpart A—Purpose and Scope

§ 1204.1 Purpose.

This part implements the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, by stating the procedures to follow when requesting information from the Board, and by stating the fees that will be charged for that information.

§ 1204.2 Scope.

(a) For the purpose of this part, the term *record* and any other term used in reference to information includes any information that would be a Board record subject to the requirements of 5 U.S.C. 552 when maintained by the Board in any format including an electronic format. All written requests for information that are not processed under part 1205 of this chapter will be processed under this part. The Board may continue, without complying with this part, to furnish the public with the information it has furnished in the regular course of performing its official duties, unless furnishing the information would violate the Privacy Act of 1974, 5 U.S.C. 552a, or another law.

(b) When the subject of the record, or the subject's representative, requests a record from a Privacy Act system of records, as that term is defined by 5 U.S.C. 552a(a)(5), and the Board retrieves the record by the subject's name or other personal identifier, the Board will handle the request under the procedures and fees shown in part 1205 of this chapter. When a third party requests access to those records, without the written consent of the subject of the record, the Board will handle the request under this part.

(c) When a party to an appeal requests a copy of a tape recording, video tape, or transcript (if one has been prepared) of a hearing that the Board or a judge held under part 1201 or part 1209 of this chapter, the Board will handle the request under § 1201.53 of this chapter. When someone other than a party to the appeal makes this request, the

Board will handle the request under this part.

(d) In accordance with 5 U.S.C. 552(a)(2), the Board's final opinions and orders (including concurring and dissenting opinions), those statements of policy and interpretations adopted by the Board and that are not published in the FEDERAL REGISTER, administrative staff manuals and instructions to staff that affect a member of the public, and agency records processed and disclosed in response to a FOIA request that the Board determines have been or are likely to become the subject of additional requests for basically the same records and a general index of those records, are available for public review and copying in the Board's Headquarters' Library, 1615 M Street, NW., Washington, DC 20419-0001, and on the Board's World Wide Web site at <http://www.mspb.gov>.

[64 FR 51039, Sept. 21, 1999, as amended at 65 FR 48885, Aug. 10, 2000]

Subpart B—Procedures for Obtaining Records Under the Freedom of Information Act

§ 1204.11 Request for access to Board records.

(a) *Sending a request.* A person may request a Board record under this part by writing to the office that has the record. If the requester believes that the records are located in a regional or field office, the request must be sent to that office. A list of the addresses of the Board's regional and field offices are in appendix II of part 1201 of this chapter and on the Board's World Wide Web site at <http://www.mspb.gov>. Other requests must be sent to the Clerk of the Board, 1615 M Street, NW., Washington, DC 20419-0001. Requests sent under this part must be clearly marked "Freedom of Information Act Request" on both the envelope and the request.

(b) *Description.* A request must describe the records wanted in enough detail for Board employees to locate the records with no more than a reasonable effort. Wherever possible, a request must include specific information about each record, such as the date, title or name, author, recipient, and