

## § 1801.22

her right to file an administrative appeal.

### **§ 1801.22 Action and determination(s) by originator(s) or any interested party.**

(a) *Initial action for access.* NACIC offices tasked pursuant to a Privacy Act access request shall search all relevant record systems within their cognizance. They shall:

(1) Determine whether responsive records exist;

(2) Determine whether access must be denied in whole or part and on what legal basis under both Acts in each such case;

(3) Approve the disclosure of records for which they are the originator; and

(4) Forward to the Coordinator all records approved for release or necessary for coordination with or referral to another originator or interested party as well as the specific determinations with respect to denials (if any).

(b) *Initial action for amendment.* NACIC offices tasked pursuant to a Privacy Act amendment request shall review the official records alleged to be inaccurate and the proposed amendment submitted by the requester. If they determine that NACIC's records are not accurate, relevant, timely or complete, they shall promptly:

(1) Make the amendment as requested;

(2) Write to all other identified persons or agencies to whom the record has been disclosed (if an accounting of the disclosure was made) and inform of the amendment; and

(3) Inform the Coordinator of such decisions.

(c) *Action otherwise on amendment request.* If the NACIC office records manager declines to make the requested amendment (or declines to make the requested amendment) but agrees to augment the official records, that manager shall promptly:

(1) Set forth the reasons for refusal; and

(2) Inform the Coordinator of such decision and the reasons therefore.

(d) *Referrals and coordinations.* As applicable and within ten (10) days of receipt by the Coordinator, any NACIC records containing information originated by other NACIC offices shall be

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forwarded to those entities for action in accordance with paragraphs (a), (b), or (c) of this section and return. Records originated by other federal agencies or NACIC records containing other federal information shall be forwarded to such agencies within ten (10) days of our completion of initial action in the case for action under their regulations and direct response to the requester (for other NACIC records) or return to NACIC (for NACIC records).

(e) *Effect of certain exemptions.* This section shall not be construed to allow access to systems of records exempted by the Director, NACIC pursuant to subsections (j) and (k) of the Privacy Act or where those exemptions require that NACIC can neither confirm nor deny the existence or nonexistence of responsive records.

### **§ 1801.23 Notification of decision and right of appeal.**

Within ten (10) days of receipt of responses to all initial taskings and subsequent coordinations (if any), and dispatch of referrals (if any), NACIC will provide disclosable records to the requester. If a determination has been made not to provide access to requested records (in light of specific exemptions) or that no records are found, NACIC shall so inform the requester, identify the denying official, and advise of the right to administrative appeal.

## **Subpart D—Additional Administrative Matters**

### **§ 1801.31 Special procedures for medical and psychological records.**

(a) *In general.* When a request for access or amendment involves medical or psychological records and when the originator determines that such records are not exempt from disclosure, NACIC will, after consultation with the Director of Medical Services, CIA, determine:

(1) Which records may be sent directly to the requester and

(2) Which records should not be sent directly to the requester because of possible medical or psychological harm to the requester or another person.

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(b) *Procedure for records to be sent to physician.* In the event that NACIC determines, in accordance with paragraph (a)(2) of this section, that records should not be sent directly to the requester, NACIC will notify the requester in writing and advise that the records at issue can be made available only to a physician of the requester's designation. Upon receipt of such designation, verification of the identity of the physician, and agreement by the physician:

- (1) To review the documents with the requesting individual,
- (2) To explain the meaning of the documents, and
- (3) To offer counseling designed to temper any adverse reaction, NACIC will forward such records to the designated physician.

(c) *Procedure if physician option not available.* If within sixty (60) days of paragraph (a)(2) of this section, the requester has failed to respond or designate a physician, or the physician fails to agree to the release conditions, NACIC will hold the documents in abeyance and advise the requester that this action may be construed as a technical denial. NACIC will also advise the requester of the responsible official and of his or her rights to administrative appeal and thereafter judicial review.

### § 1801.32 Requests for expedited processing.

(a) All requests will be handled in the order received on a strictly "first-in, first-out" basis. Exceptions to this rule will only be made in circumstances that NACIC deems to be exceptional. In making this determination, NACIC shall consider and must decide in the affirmative on all of the following factors:

- (1) That there is a genuine need for the records; and
- (2) That the personal need is exceptional; and
- (3) That there are no alternative forums for the records sought; and
- (4) That it is reasonably believed that substantive records relevant to the stated needs may exist and be deemed releasable.

(b) In sum, requests shall be considered for expedited processing only when health, humanitarian, or due

process considerations involving possible deprivation of life or liberty create circumstances of exceptional urgency and extraordinary need. In accordance with established judicial precedent, requests more properly the scope of requests under the Federal Rules of Civil or Criminal Procedure (or equivalent state rules) will not be granted expedited processing under this or related (e.g., Freedom of Information Act) provisions unless expressly ordered by a federal court of competent jurisdiction.

### § 1801.33 Allocation of resources; agreed extensions of time.

(a) *In general.* NACIC components shall devote such personnel and other resources to the responsibilities imposed by the Privacy Act as may be appropriate and reasonable considering:

- (1) The totality of resources available to the component,
- (2) The business demands imposed on the component by the Director, NACIC or otherwise by law,
- (3) The information review and release demands imposed by the Congress or other governmental authority, and
- (4) The rights of all members of the public under the various information review and disclosure laws.

(b) *Discharge of Privacy Act responsibilities.* Offices shall exercise due diligence in their responsibilities under the Privacy Act and must allocate a reasonable level of resources to requests under the Act in a strictly "first-in, first-out" basis and utilizing two or more processing queues to ensure that smaller as well as larger (i.e., project) cases receive equitable attention. The Information and Privacy Coordinator is responsible for management of the NACIC-wide program defined by this part and for establishing priorities for cases consistent with established law. The Director, NACIC shall provide policy and resource direction as necessary and shall render decisions on administrative appeals.

(c) *Requests for extension of time.* While the Privacy Act does not specify time requirements, our joint treatment of requests under the FOIA means that when NACIC is unable to meet the statutory time requirements of the FOIA, NACIC may request additional