

to verify his or her identity, he or she must submit, along with the request for information or access, a statement attesting to his or her identity. Where access is being sought, the statement shall include a representation that the requested records pertain to the individual and a statement that the individual is aware that knowingly and willfully requesting or obtaining records pertaining to an individual from the Commission under false pretenses is a criminal offense. This statement shall be a sworn statement, or in lieu of a sworn statement, an individual may submit an unsworn statement to the same effect if it is signed by him or her as true under penalty of perjury, dated, and in substantially the following form:

(i) If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."

Executed on (date) \_\_\_\_\_

(Signature)

(ii) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct."

Executed on (date) \_\_\_\_\_

(Signature)

(5) *Additional procedures for verifying identity.* When it appears appropriate, there may be made such other arrangements for the verification of identity as are reasonable under the circumstances and appear to be effective to prevent unauthorized disclosure of, or access to, individual records.

(b) *Acknowledgement of requests for information pertaining to individual records in a record system or for access to individual records.* (1) Except where an immediate acknowledgement is given for requests made in person, the receipt of a request for information pertaining to individual records in a record system will be acknowledged within 10 days after the receipt of such request. Requests will be processed as promptly as possible and a response to such requests will be given within 30 days (excluding Saturdays, Sundays, and legal holidays) unless, within the 30 day pe-

riod and for cause shown, the individual making the request is notified in writing that a longer period is necessary.

(2) When an individual appears in person at the Office of Freedom of Information and Privacy Act Operations, SEC, 100 F Street, NE., Washington, DC 20549, or at one of its Regional Offices to request access to records pertaining to him, and such individual provides the required information and verification of identity, the Commission's staff, if practicable, will indicate at that time whether it is likely that the individual will be given access to the records and, if so, when and under what circumstances such access will be given. In the case of requests received by mail, whenever practicable, acknowledgement of the receipt of the request will be given within 10 days after receipt (excluding Saturdays, Sundays, and legal holidays). The acknowledgement will indicate, if practicable, whether or not access likely will be granted and, if so, when and under what circumstances.

[40 FR 44068, Sept. 24, 1975, as amended at 41 FR 44698, Oct. 12, 1976; 47 FR 26819, June 22, 1982; 52 FR 2677, Jan. 26, 1987; 54 FR 40862, Oct. 4, 1989; 54 FR 50307, Dec. 5, 1989; 59 FR 5945, Feb. 9, 1994; 59 FR 12543, Mar. 17, 1994; 65 FR 55185, 55186, Sept. 13, 2000; 73 FR 32225, June 5, 2008]

#### § 200.304 Disclosure of requested records.

(a) *Initial review.* Requests by individuals for access to records pertaining to them will be referred to the Commission's Privacy Act Officer who initially will determine whether access will be granted, *Provided, however,* That a Director of a staff Division of the Commission or Office head, other than the General Counsel, whose zone of responsibility relates to the record requested (see 17 CFR 200.13 *et seq.*), may make a determination that access is not lawfully required to be granted and should not be granted, in which case he, and not the Privacy Act Officer, shall make the required notification to the individual making the request.

(b) *Grant of request for access.* (1) If it is determined that a request for access to records pertaining to an individual will be granted, the individual will be

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advised by mail that access will be given at the designated Office of the Commission or a copy of the requested record will be provided by mail if the individual shall so indicate. Where the individual requests that copies of the record be mailed to him or requests copies of a record upon reviewing it at a Commission Office, the individual shall pay the cost of making the requested copies, as set forth in §200.310 of this subpart.

(2) In granting access to an individual to a record pertaining to him, such steps shall be taken by the Commission's staff as are necessary to prevent the unauthorized disclosure at the same time of information pertaining to individuals other than the person making the request or of other information that does not pertain to the individual.

(c) *Denial of request for access.* If it is determined that access will not be granted, the individual making the request will be notified of that fact and given the reasons why access is being denied. The individual also will be advised (1) of his right to seek review by the General Counsel of the initial decision to deny access, in accordance with the procedures set forth in §200.308 of this subpart; and (2) of his right ultimately to obtain judicial review pursuant to 5 U.S.C. 552a(g)(1)(A) of a final denial of access by the General Counsel.

(d) *Time for acting on requests for access.* Access to a record pertaining to an individual normally will be granted or denied within 30 days (excluding Saturdays, Sundays and legal holidays) after the receipt of the request for access unless the individual making the request is notified in writing within the 30 day period that, for good cause shown, a longer time is required. In such cases, the individual making the request shall be informed in writing of the difficulties encountered and an indication shall be given as to when it is anticipated that access may be granted or denied.

(e) *Authorization to allow designated person to review and discuss records pertaining to another individual.* An individual who is granted access to records pertaining to him, and who appears at a Commission Office to review the records, may be accompanied by an-

other person of his choosing. Where the records as to which access has been granted are not required to be disclosed under provisions of the Freedom of Information Act 5 U.S.C. 552, as amended, the individual requesting the records, before being granted access, shall execute a written statement, signed by him and the person accompanying him, which specifically authorizes the latter individual to review and discuss the records. If such authorization has not been given as described, the person who has accompanied the individual making the request will be excluded from any review or discussion of the records.

(f) *Exclusion for certain records.* Nothing contained in these rules shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

[40 FR 44068, Sept. 24, 1975, as amended at 49 FR 13866, Apr. 9, 1984; 76 FR 71874, Nov. 21, 2011]

### § 200.305 Special procedure: Medical records.

(a) *Statement of physician or mental health professional.* When an individual requests access to records pertaining to him that include medical and/or psychological information, the Commission, if it deems it necessary under the particular circumstances, may require the individual to submit with the request a signed statement by his physician or a mental health professional indicating that, in their opinion, disclosure of the requested records or information directly to the individual will not have an adverse effect on the individual.

(b) *Designation of physician or mental health professional to receive records.* If the Commission believes, in good faith, that disclosure of medical and/or psychological information directly to an individual could have an adverse effect on that individual, the individual may be asked to designate in writing a physician or mental health professional to whom he would like the records to be disclosed, and disclosure that otherwise would be made to the individual will instead be made to the designated physician or mental health professional.