

Privacy and Civil Liberties Oversight Board

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AUTHORITY: 5 U.S.C. 552b.

SOURCE: 78 FR 67002, Nov. 8, 2013, unless otherwise noted.

§ 1003.1 Purpose and scope.

(a) The regulations in this part implement the provisions of the Sunshine Act.

(b) Requests for all records other than those described in § 1003.9, shall be governed by the Board's Freedom of Information Act procedures at 6 CFR part 1001.

§ 1003.2 Definitions.

The following definitions apply in this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53, or any person to whom the Board delegated authority in the matter concerned.

General Counsel means the Board's principal legal advisor, or his or her designee.

Meeting means the deliberations of three or more Board members that determine or result in the joint conduct or disposition of official Board business. A meeting does not include:

(1) Notational voting or similar consideration of business for the purpose of recording votes, whether by circulation of material to members' individually in writing or by a polling of the members individually by phone.

(2) Action by three or more members to:

(i) Open or close a meeting or to release or withhold information pursuant to section 1003.6 of this part;

(ii) Set an agenda for a proposed meeting;

(iii) Call a meeting on less than seven days' notice, as permitted by § 1003.4; or

(iv) Change the subject matter or the determination to open or to close a publicly announced meeting under § 1003.7.

(3) A session attended by three or more members for the purpose of having the Board's staff or expert consultants, another federal agency, or other persons or organizations brief or otherwise provide information to the Board concerning any matters within the purview of the Board, provided that the members do not engage in deliberations that determine or result in the joint conduct or disposition of official business on such matters.

(4) A gathering of members for the purpose of holding informal, preliminary discussions or exchanges of views which do not effectively predetermine official action.

Member means an individual duly appointed and confirmed to the Board.

Public observation means attendance by the public at a meeting of the Board, but does not include public participation.

Public participation means the presentation or discussion of information, raising of questions, or other manner of involvement in a meeting of the Board by the public in a manner that contributes to the disposition of official Board business.

Sunshine Act means the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 1003.3 Open meetings.

(a) Except as otherwise provided in this part, every portion of a Board meeting shall be open to public observation.

(b) Board meetings, or portions thereof, shall be open to public participation when an announcement to that effect is published under § 1003.4. Public participation shall be conducted in an orderly, non-disruptive manner and in accordance with any procedures the

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Chairman may establish. Public participation may be terminated for good cause as determined by the Board upon the advice of the General Counsel based on unanticipated developments.

§ 1003.4 Procedures for public announcement of meetings.

(a) Except as otherwise provided in this section, the Board shall make a public announcement at least seven days prior to a meeting. The public announcement shall include:

- (1) The time and place of the meeting;
- (2) The subject matter of the meeting;
- (3) Whether the meeting is to be open, closed, or portions of a meeting will be closed;
- (4) Whether public participation will be allowed;
- (5) The name and telephone number of the person who will respond to requests for information about the meeting;
- (b) The seven day prior notice required by paragraph (a) of this section may be reduced only if:
 - (1) A majority of all members determine by recorded vote that Board business requires that such meeting be scheduled in less than seven days; and
 - (2) The public announcement required by this section is made at the earliest practicable time.
- (c) If public notice is provided by means other than publication in the FEDERAL REGISTER, notice will be promptly submitted to the FEDERAL REGISTER for publication.

§ 1003.5 Grounds on which meetings may be closed or information withheld.

A meeting, or portion thereof, may be closed and information pertinent to such meeting withheld if the Board determines that the meeting or release of information is likely to disclose matters that are:

- (a) Specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy; and, in fact, are properly classified pursuant to such executive order. In making the determination that this exemption applies, the Board shall rely on the clas-

sification assigned to the document or assigned to the information from the federal agency from which the document was received.

(b) Related solely to the internal personnel rules and practices of the Board;

(c) Specifically exempt from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involved with accusing any person of a crime or formally censuring any person;

(f) Of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Either investigatory records compiled for law enforcement purposes or information which, if written, would be contained in such records, but only to the extent that the production of records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to either a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source or sources and, in the case of a record compiled either by a criminal law enforcement authority or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source(s);

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Contained in or relating to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) If prematurely disclosed, likely to significantly frustrate implementation