

§ 2606.302

(3) The exact portion of the record(s) the data subject seeks to have amended should be indicated clearly. If possible, proposed alternative language should be set forth, or, at a minimum, the reasons why the data subject believes his record is not accurate, relevant, timely, or complete should be set forth with enough particularity to permit OGE or the other agency concerned not only to understand the data subject's basis for the request, but also to make an appropriate amendment to the record.

(d) *Burden of proof.* The data subject has the burden of proof when seeking the amendment of a record. The data subject must furnish sufficient facts to persuade the appropriate system manager of the inaccuracy, irrelevance, untimeliness, or incompleteness of the record.

(e) *Identification requirement.* When the data subject's identity has been previously verified pursuant to § 2606.203, further verification of identity is not required as long as the communication does not suggest a need for verification. If the data subject's identity has not been previously verified, the appropriate system manager may require identification validation as described in § 2606.203.

§ 2606.302 OGE or other agency action on requests.

(a) *Time limit for acknowledging a request for amendment.* To the extent possible, OGE or the other agency concerned will acknowledge receipt of a request to amend a record or records within 10 working days.

(b) *Initial determination on an amendment request.* The decision of OGE or the other agency in response to a request for amendment of a record in a system of records may grant in whole, or deny any part of the request to amend the record(s).

(1) If OGE or the other agency concerned grants the request, the appropriate system manager will amend the record(s) and provide a copy of the amended record(s) to the data subject. Where an accounting of disclosure has been maintained, the system manager shall advise all previous recipients of the record that an amendment has been made and give the substance of the amendment. Where practicable, the

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system manager shall send a copy of the amended record to previous recipients.

(2) If OGE or the other agency concerned denies the request in whole or in part, the reasons for the denial will be stated in the response letter. In addition, the response letter will state:

(i) The name and address of the official with whom an appeal of the denial may be lodged; and

(ii) A description of any other procedures which may be required of the data subject in order to process the appeal.

§ 2606.303 Request for review of an initial refusal to amend a record.

(a)(1) A data subject may submit a written appeal of the initial decision by OGE or an agency denying a request to amend a record in an OGE system of records.

(i) For records which are filed directly with OGE, the appeal must be submitted to the Director, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917.

(ii) For records which are filed directly with an agency (including the Federal Election Commission) other than OGE, the appeal must be submitted to the Privacy Act amendments appeals official as specified in the agency's own Privacy Act regulations, or to the respective head of the agency concerned if it does not have Privacy Act regulations.

(2) The words "Privacy Act Appeal" should be included on the envelope and at the top of the letter of the appeal.

(b) The request for review should contain a brief description of the record(s) involved or copies of the correspondence from OGE or the agency in which the request to amend was denied, and the reasons why the data subject believes that the disputed information should be amended.

§ 2606.304 Response to a request for review of an initial refusal to amend; disagreement statements.

(a) The OGE Director or agency reviewing official should make a final determination in writing not later than 30 days from the date the appeal was

received. The 30-day period may be extended for good cause. Notice of the extension and the reasons therefor will be sent to the data subject within the 30-day period.

(b) If the OGE Director or agency reviewing official determines that the record(s) should be amended in accordance with the data subject's request, the OGE Director or agency reviewing official will take the necessary steps to advise the data subject, and to direct the appropriate system manager:

(1) To amend the record(s), and

(2) To notify previous recipients of the record(s) for which there is an accounting of disclosure that the record(s) have been amended.

(c) If the appeal decision does not grant in full the request for amendment, the decision letter will notify the data subject that he may:

(1) Obtain judicial review of the decision in accordance with the terms of the Privacy Act at 5 U.S.C. 552a(g); and

(2) File a statement setting forth his reasons for disagreeing with the decision.

(d)(1) A data subject's disagreement statement must be concise. The appropriate system manager has the authority to determine the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues.

(2) In any disclosure of information about which an individual has filed a statement of disagreement, the appropriate system manager will clearly note any disputed portion(s) of the record(s) and will provide a copy of the statement to persons or other agencies to whom the disputed record or records has been disclosed and for whom an accounting of disclosure has been maintained. A concise statement of the reasons for not making the amendments requested may also be provided.

PART 2608—TESTIMONY BY OGE EMPLOYEES RELATING TO OFFICIAL INFORMATION AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

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AUTHORITY: 5 U.S.C. App. (Sec. 401, Ethics in Government Act of 1978); 31 U.S.C. 9701; 44 U.S.C. 3101-3107, 3301-3303a, 3308-3314.

SOURCE: 67 FR 35710, May 21, 2002, unless otherwise noted.

Subpart A—General Provisions

§ 2608.101 Scope and purpose.

(a) This part sets forth policies and procedures you must follow when you submit a demand or request to an employee of the Office of Government Ethics (OGE) to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The Office of Government Ethics intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving OGE in controversial issues not related to our functions;

(3) Maintain OGE's impartiality among private litigants where OGE is not a named party; and