

Federal Communications Commission

§0.557

be no acknowledgement if the request can be reviewed, processed, and the individual notified of compliance or denial within the 10 day period.

(c) The responsible system manager, or in the case of official personnel records of active FCC employees, the Associate Managing Director—Personnel Management, shall (normally within 30 days) take one of the following actions regarding a request to amend:

(1) If the system manager agrees that an amendment to the record is warranted, the system manager shall:

(i) So advise the individual in writing;

(ii) Correct the record in compliance with the individual's request; and

(iii) If an accounting of disclosures has been made, advise all previous recipients of the fact that the record has been corrected and of the substance of the correction.

(2) If the system manager, after an initial review, does not agree that all or any portion of the record merits amendment, the system manager shall:

(i) Notify the individual in writing of such refusal to amend and the reasons therefore;

(ii) Advise the individual that further administrative review of the initial decision by the full Commission may be sought pursuant to the procedures set forth in §0.557. (In cases where the request to amend involves official personnel records, review is available exclusively from the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, DC 20415; and

(iii) Inform the individual of the procedures for requesting Commission review pursuant to §0.557.

(d) In reviewing a record in response to a request to amend, the system manager shall assess the accuracy, relevance, timeliness, or completeness of the record in light of each data element placed into controversy and the use of the record in making decisions that could possibly affect the individual. Moreover, the system manager shall adjudge the merits of any request to delete information based on whether or not the information in controversy is both relevant and necessary to ac-

complish a statutory purpose required of the Commission by law or executive order of the President.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

§ 0.557 Administrative review of an initial decision not to amend a record.

(a) Individuals have 30 days from the date of the determination not to amend a record consistent with their request to seek further administrative review by the full Commission. Such a request shall be in writing and should be addressed to either the system manager who made the initial adverse decision, or, in the case of official personnel records of active FCC employees, to the Assistant Director for Work Force Information, Compliance and Investigations Group, Office of Personnel Management, Washington, DC 20415. Any request for administrative review must:

(1) Clearly identify the questions presented for review (e.g., whether the record information in question is, in fact, accurate; whether information subject to a request to delete is relevant and necessary to the purpose for which it is maintained);

(2) Specify with particularity why the decision reached by the system manager is erroneous or inequitable; and

(3) Clearly state how the record should be amended or corrected.

(b) The Commission shall conduct an independent review of the record in controversy using the standards of review set out in §0.556(d). It may seek such additional information as is necessary to make its determination. Final administrative review shall be completed not later than 30 days (excluding Saturdays, Sundays and legal public holidays) from the date on which the individual requests such review unless the Chairman determines that a fair and equitable review cannot be made within the 30 day period. In such event, the individual will be informed in writing of the reasons for the delay and the approximate date on

§0.558

which the review is expected to be completed.

(c) If upon review of the record in controversy the Commission agrees with the individual that the requested amendment is warranted, the Commission will proceed in accordance with §0.556(c)(1) (i) through (iii).

(d) If after the review, the Commission also refuses to amend the record as requested, it shall:

(1) Notify the individual in writing of its refusal and the reasons therefore;

(2) Advise the individual that a concise statement of the reasons for disagreeing with the decision of the Commission may be filed;

(3) Inform the individual:

(i) That such a statement should be signed and addressed to the system manager having custody of the record in question;

(ii) That the statement will be made available to any one to whom the record is subsequently disclosed together with, at the Commission's discretion, a summary of its reasons for refusing to amend the record; and

(iii) That prior recipients of the record will be provided a copy of the statement of dispute to the extent that an accounting of such disclosures is maintained; and

(4) Advise the individual that judicial review of the Commission's decision not to amend the record in any district court of the United States is available.

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 45 FR 39850, June 12, 1980; 49 FR 13369, Apr. 4, 1984]

§0.558 Advice and assistance.

Individuals who have questions regarding the procedures contained in this subpart for gaining access to a particular system of records or for contesting the contents of a record, either administratively or judicially, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Office of General Counsel, 445 12th Street, SW., Washington, DC 20554.

Individuals who request clarification of the Notice described in §0.552 or who

47 CFR Ch. I (10-1-05 Edition)

have questions concerning the characterization of specific systems of records as set forth therein, should write or call the Privacy Liaison Officer at the following address:

Federal Communications Commission, Performance Evaluation and Records Management, Office of the Managing Director, 445 12th Street, SW., Washington, DC 20554

(Secs. 4(i) and 303(n), Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(n); 47 CFR 0.231(d))

[40 FR 44512, Sept. 26, 1975, as amended at 49 FR 13369, Apr. 4, 1984; 65 FR 58466, Sept. 29, 2000]

§0.559 Disclosure of disputed information to persons other than the individual to whom it pertains.

If the Commission determines not to amend a record consistent with an individual's request, and if the individual files a statement of disagreement pursuant to §0.557(d)(2), the Commission shall clearly annotate the record so that the disputed portion becomes apparent to anyone who may subsequently have access to, use or disclose the record. A copy of the individual's statement of disagreement shall accompany any subsequent disclosure of the record. In addition, the Commission may include a brief summary of its reasons for not amending the record when disclosing the record. Such statements become part of the individual's record for granting access, but are not subject to the amendment procedures of §0.556.

§0.560 Penalty for false representation of identity.

Any individual who knowingly and willfully requests or obtains under false pretenses any record concerning an individual from any system of records maintained by the Commission shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000.

§0.561 Exemptions.

The following systems of records are totally or partially exempt from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from §§0.554 through 0.557 of this subpart: