

§ 71.10

§ 71.10 Certain records not subject to correction.

Certain records are not subject to correction or amendment. These include, but are not limited to:

(a) Transcripts of testimony given under oath or written statements made under oath;

(b) Transcripts or decisions of grand jury, administrative, judicial, or quasi-judicial proceedings which constitute the official record of such proceedings;

(c) Records duly exempted from correction pursuant to 5 U.S.C. 552a(j) or 552a(k) by rulemaking promulgated under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)

§ 71.11 Emergency disclosures.

If the record of an individual has been disclosed to any person under compelling circumstances affecting the health or safety of any person, as described in 5 U.S.C. 552a(b)(8), the individual to whom the record pertains shall be notified of the disclosure at his last known address within 10 working days. The notice of such disclosure shall be in writing and shall state the nature of the information disclosed, the person or agency to whom it was disclosed, the date of disclosure, and the compelling circumstances justifying the disclosure. The officer who made or authorized the disclosure shall be responsible for providing such notification.

§ 71.12 Use and collection of social security numbers.

(a) Each component unit that requests an individual to disclose his social security account number shall provide the individual, in writing, with the following information:

(1) The statute, regulation, Executive Order or other authority under which the number is solicited;

(2) Whether the disclosure is mandatory or voluntary; and

(3) The consequences, if any, to the individual should he or she refuse or fail to disclose the number.

(b) Neither the Department nor any of its component units shall, in the absence of specific federal statutory authority, deny to an individual any right, benefit or privilege provided by law solely because of such individual's

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refusal to disclose his social security account number.

(c) The head of each component unit shall ensure that employees authorized to collect social security account numbers or tax identifying numbers, are aware of the statutory or other basis for collecting such information, of the uses to which such numbers may be put, and of the consequences, if any, that might follow if a person refuses to disclose the requested number.

§ 71.13 Employee standards of conduct.

(a) Each component shall inform its employees of the provisions of the Privacy Act, including the Act's civil liability and criminal penalty provisions. Each component also shall notify its employees that they have a duty to:

(1) Protect the security of records,

(2) Ensure the accuracy, relevance, timeliness, and completeness of records,

(3) Avoid the unauthorized disclosure, either verbal or written, of records, and

(4) Ensure that the component maintains no system of records without public notice.

(b) Except to the extent that the Privacy Act permits such activities, an employee of the Department of Labor shall:

(1) Not collect information of a personal nature from individuals unless the employee is authorized to collect such information to perform a function or discharge a responsibility of the Department;

(2) Collect from individuals only that information which is necessary to the performance of the functions or to the discharge of the responsibilities of the Department;

(3) Collect information about an individual directly from that individual, whenever practicable;

(4) Inform each individual from whom information is collected of:

(i) The legal authority that authorizes the Department to collect such information,

(ii) The principal purposes for which the Department intends to use the information,

(iii) The routine uses the Department may make of the information, and

(iv) The practical and legal effects upon the individual of not furnishing the information;

(5) Maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as to ensure fairness to the individual in the determination;

(6) Maintain no record describing how any individual exercises rights guaranteed by the First Amendment to the United States Constitution, unless:

(i) The individual has volunteered such information for his own benefit,

(ii) A statute expressly authorizes the Department to collect, maintain, use, or disseminate the information, or

(iii) The individual's beliefs, activities, or membership are pertinent to and within the scope of an authorized law enforcement activity;

(7) Notify the head of the component of the existence or development of any system of records that has not been disclosed to the public;

(8) Disclose no record to anyone, for any use, unless authorized by the Act;

(9) Maintain and use records with care to prevent the inadvertent disclosure of a record to anyone; and

(10) Notify the head of the component of any record that contains information that the Act or the foregoing provisions of this paragraph do not permit the Department to maintain.

§ 71.14 Use of nonpublic information.

(a) *Prohibition.* (1) An employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendations, or by knowing unauthorized disclosure. *See* 5 CFR 2635.703.

(2) Nonpublic information is information that an employee gains by reason of Federal employment that he knows or reasonably should know has not been made available to the general public. Nonpublic information includes information contained in a Privacy Act system of records which an individual knew or should have known:

(i) Is normally exempt from disclosure under Exemptions 6 or 7(C) of the Freedom of Information Act, or is oth-

erwise protected from disclosure by statute, Executive Order or regulation;

(ii) Has not actually been disseminated to the general public and is not authorized to be made available to the public upon request.

(b) *Sanctions.* Any DOL employee who willfully discloses any information or records from any file that contains individually-identifiable information to any person or agency not entitled to receive it, and the disclosure of which is prohibited by the Privacy Act or by rules or regulations established thereunder, and who, knowing the disclosure of the specific material is so prohibited, will be subject to disciplinary action, as appropriate.

(c) *Public Disclosures by Third Parties of DOL Privacy Act Records.* When Labor Department records subject to the Privacy Act are disclosed to third parties, and as a condition of the disclosure of such records, the person or entity to whom the records are furnished is expressly prohibited from further disseminating the information, any further dissemination of the information so furnished to such person or entity may be subject to the penalties set forth in 18 U.S.C. 641.

§ 71.15 Training.

All DOL systems managers, disclosure officers, and employees with responsibilities under the Privacy Act shall periodically attend training offered by the Department on the Privacy Act.

Subpart B—Exemption of Records Systems Under the Privacy Act

§ 71.50 General exemptions pursuant to subsection (j) of the Privacy Act.

(a) The following systems of records are eligible for exemption under 5 U.S.C. 552a(j)(2) because they are maintained by a component of the agency or subcomponent which performs as its principal function the enforcement of criminal laws, and they contain investigatory material compiled for criminal law enforcement purposes. Accordingly, these systems of records are exempt from the following subsections of 552a of title 5 U.S. Code: (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H), and (I), (e)(5) and (8), (f) and (g).