

Office of the Secretary of Labor

§ 71.2

(1) *Agency* has the meaning set forth in 5 U.S.C. 552(f).

(2) *Component* means each separate agency, bureau, office, board, division, commission, service, or administration of the Department of Labor, as well as each agency which possesses records covered by a DOL government-wide system of records.

(3) *Individual Data Subject* means the individual by whose name or identifier the subject record is retrieved.

(4) *Record* means any item, collection, or grouping of information about an individual which is maintained by any component within a system of records and which contains the individual's name, identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph.

(5) *Requester* means an individual who makes either a request for access, a request for correction or amendment, or a request for an accounting.

(6) *Routine use* has the meaning set forth in 5 U.S.C. 552a(7).

(7) *Statistical record* has the meaning set forth in 5 U.S.C. 552a(6).

(8) *System of records* means a group of any records under the control of the Department or any component from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to that individual.

(9) *Under the control of* means those official records for which the agency is officially responsible and either has in its possession or exercises dominion over. This excludes those records which, although in the physical possession of agency employees and used by them in performing official functions, are not, in fact, agency records. Uncirculated personal notes, papers and records which are retained or discarded at the author's discretion and over which the agency exercises no dominion or control (e.g., personal telephone list) are not *agency records* for purposes of this part.

(10) *He, his, and him* include "she", "hers" and "her".

§ 71.2 Requests for access to records.

(a) *Procedure for making requests for access to records.* An individual, or legal

representative acting on his behalf, may request access to a record about himself by appearing in person or by writing to the component that maintains the record. (See appendix A to this part which lists the components of the Department of Labor and their addresses.) A requester in need of guidance in defining his request may write to the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002. A request should be addressed to the component that maintains the requested record. Both the envelope and the request itself should be marked: "Privacy Act Request."

(b) *Description of records sought.* A request for access to records must describe the records sought in sufficient detail to enable Department personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the record sought, the date of the record or the period in which the record was compiled, and the name or identifying number of the system of records in which the requester believes the record is kept.

(c) *Agreement to pay fees.* The filing of a request for access to a record under this subpart shall be deemed to constitute an agreement to pay all applicable fees charged under § 71.6 up to \$25.00. The component responsible for responding to the request shall confirm this agreement in its letter of acknowledgment to the requester. When filing a request, a requester may specify a willingness to pay a greater amount, if applicable.

(d) *Verification of identity.* Any individual who submits a request for access to records must verify his identity in one of the following ways:

(1) Any requester making a request in writing must state in his request his full name, and current address. In addition, a requester must provide with his request an example of his signature, which shall be notarized, or signed as an unsworn declaration under penalty of perjury, pursuant to 28 U.S.C. 1746. In order to facilitate the identification of the requested records, a requester

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may also include in his request his Social Security number.

(2) Any requester submitting a request in person may provide to the component a form of official photographic identification, such as a passport, an identification badge or a driver's license which contains the photograph of the requester. If a requester is unable to produce a form of photographic identification, he may provide to the component two or more acceptable forms of identification bearing his name and address. In all cases, sufficient identification must be presented to confirm that the requester is the individual data subject.

(e) *Verification of guardianship.* The parent, guardian, or representative of a minor or the guardian or representative of a person judicially determined to be incompetent who submits a request for access to the records of the minor or incompetent must establish:

(1) His identity, as required in paragraph (d) of this section,

(2) That the requester is the parent, guardian, or representative of the subject of the record, which may be proved by providing a copy of the subject's birth certificate showing parentage or by providing a court order establishing the guardianship, and

(3) That he seeks to act on behalf of the subject of the record.

(f) The disclosure officer may waive the requirements set forth in paragraphs (d) and (e) of this section when he deems such action to be appropriate, and may substitute in lieu thereof, other reasonable means of identification.

§71.3 Responses by components to requests for access to records.

(a) *In general.* Except as otherwise provided in this section, the component that:

(1) First receives a request for access to a record, and

(2) Has possession of the requested record is the component ordinarily responsible for responding to the request.

(b) *Authority to grant or deny requests.* The head of a component, or his designee (*i.e.* disclosure officer), is authorized to make an initial grant or denial of any request for access to a record in the possession of that component.

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(c) *Processing of requests for access not properly addressed.* A request for access that is not properly addressed as specified in §71.2 shall be forwarded to the Assistant Secretary for Administration and Management, who shall forward the request to the appropriate component or components for processing. A request not addressed to the appropriate component will be deemed not to have been received by the Department until the Assistant Secretary for Administration and Management has forwarded the request to the appropriate component which has the record and that component has received the request. When the component receives an improperly addressed request, it shall notify the requester of the date on which it received the request. Accordingly, a request for access shall be deemed received on the date that it is received in the appropriate component.

(d) *Date for determining responsive records.* In determining the extent to which records are responsive to a request for access, a component ordinarily will include only those records within the component's possession and control as of the date of its receipt of the request.

(e) *First party requests.* A request for access by the individual data subject for his or her own records shall be processed both under the Freedom of Information Act (FOIA) and the Privacy Act (PA).

§71.4 Form and content of component responses.

(a) *Form of notice granting request for access.* A request by the individual data subject for access to his or her own records shall not be denied unless both a Privacy Act exemption and a Freedom of Information Act exemption apply to the requested records. A component shall make a determination within 30 days to grant or deny a request for access in whole or in part. If the request is granted in whole, the component shall so notify the requester in writing. The notice shall describe the manner in which access to the record will be granted and shall inform the requester of any fees to be charged in accordance with §71.6.

(b) *Form of notice denying request for access.* A component denying a request