

## § 71.7

excess of \$250, then the agency may require payment in advance. (If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee.) Where the estimated fee exceeds \$250 and a component has so notified the requester, the component will be deemed not to have received the request for access to records until the requester has paid the anticipated fee, in full or in part. A notice to a requester pursuant to this paragraph shall offer him the opportunity to confer with Department personnel with the object of reformulating his request to meet his needs at a lower cost.

(d) *Form of payment.* Requesters must pay fees by cash, check or money order payable to either the Treasury of the United States, or the U.S. Department of Labor. However, the Department shall not require advance payment in any case where the fee is under \$250, except that where a requester has previously failed to pay a fee charged under this part, the requester must pay the component or the Department the full amount owed and make an advance deposit of the full amount of any estimated fee before a component shall be required to process a new or pending request for access from that requester.

### § 71.7 Appeals from denials of access.

(a) *Appeals to the Solicitor of Labor.* When a component denies in whole or in part a request for access to records, the requester may appeal the denial to the Solicitor of Labor within 90 days of his receipt of the notice denying his request. An appeal to the Solicitor of Labor shall be made in writing, addressed to the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC. 20210-0002. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Appeal." An appeal not so addressed and marked shall be forwarded to the Office of the Solicitor as soon as it is identified as an appeal under the Privacy Act. An appeal that is improperly addressed shall be deemed not to have been received by the Department until the Office of the Solicitor receives the appeal.

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(b) *Form of action on appeal.* The disposition of an appeal shall be in writing. A written decision affirming in whole or in part the denial of a request for access shall include a brief statement of the reason or reasons for the affirmation, including each Privacy Act and FOIA exemption relied upon and its relation to each record withheld, and a statement that judicial review of the denial is available in the U.S. District Court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the requested records are located, or the District of Columbia. If the denial of a request for access is reversed on appeal, the requester shall be so notified and the request shall be processed promptly in accordance with the decision on appeal.

(c) *Delegation of Authority by the Solicitor of Labor.* The Solicitor of Labor is authorized to delegate his authority to decide appeals from any and all denials of access to other senior attorneys within the Office of the Solicitor.

### § 71.8 Preservation of records.

Each component shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to title 44 of the U.S. Code and record schedules approved by the National Archives and Records Administration, and otherwise in accordance with retention requirements as published in the agency's system of records. Under no circumstances shall records be destroyed while they are the subject of a pending request for access, appeal, or lawsuit under the Act.

### § 71.9 Request for correction or amendment of records.

(a) *How made.* An individual may submit a request for correction or amendment of a record pertaining to him. The request must be in writing and must be addressed to the component that maintains the record. (Appendix A of this part lists the components of the Department and their addresses.) The request must identify the particular record in question, state the correction

or amendment sought, and set forth the justification for the change. Both the envelope and the request itself must be clearly marked: "Privacy Act Amendment Request."

(b) *Initial determination.* Within 30 working days of receiving a request for correction or amendment, a component shall notify the requester whether his request will be granted or denied, in whole or in part. If the component grants the request in whole or in part, it shall send the requester a copy of the amended record, in releasable form, as proof of the change. If the component denies the request in whole or in part, it shall notify the requester in writing of the denial. The notice of denial shall state the reason or reasons for the denial and advise the requester of his right to appeal.

(c) *Appeals.* When a request for correction or amendment is denied in whole or in part, the requester may appeal the denial to the Solicitor of Labor within 90 days of his receipt of the notice denying his request. An appeal to the Solicitor of Labor shall be made in writing, shall set forth the specific item of information sought to be corrected or amended, and shall include any documentation said to justify the change. An appeal shall be addressed to the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002. Both the envelope and the letter of appeal itself must be clearly marked: "Privacy Act Amendment Appeal."

(d) *Determination on appeal.* The Solicitor of Labor shall decide all appeals from denials of requests to correct or amend records. All such appeals shall be decided within 30 working days of receipt of the appeal, unless there is good cause shown to extend this period. The appellant shall be notified if the period for decision has been extended.

(1) If the denial of a request is affirmed on appeal, the requester shall be so notified in writing and advised of:

(i) The reason or reasons the denial has been affirmed,

(ii) The requester's right to file a Statement of Disagreement, as provided in paragraph (f) of this section, and

(iii) The requester's right to obtain judicial review of the denial in the U.S. District Court for the judicial district in which the requester resides or has its principal place of business, the judicial district in which the record is located, or the District of Columbia.

(2) If the denial is reversed on appeal, the requester shall be so notified and the request for correction or amendment shall be promptly remanded to the component that denied the request for processing in accordance with the decision on appeal.

(e) *Delegation of Authority by the Solicitor of Labor.* The Solicitor of Labor is authorized to delegate his or her authority to decide any and all appeals from denials of requests to correct or amend records to other senior attorneys within the Office of the Solicitor.

(f) *Statements of disagreement.* A requester whose request or appeal under this section has been denied shall have the right to file a Statement of Disagreement with the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210-0002, within 30 days of receiving notice of denial. Statements of Disagreement may not exceed one typed page per fact disputed. Statements exceeding this limit shall be returned to the requester for condensation. Upon receipt of a Statement of Disagreement under this section, the agency shall promptly have the statement included in the record and shall have the disputed record marked so as to indicate that a Statement of Disagreement has been filed.

(g) *Notices of correction or amendment or disagreement.* Within 30 working days of the correction or amendment of a record, the component that maintains the record shall advise all components or agencies to which it previously disclosed the record that the record has been amended. Whenever an individual has filed a Statement of Disagreement, a component shall append a copy of the Statement to the disputed record whenever the record is disclosed. The component may also append to the disputed record a written statement giving the component's reasons for denying the request to correct or amend the record.