

**§ 1612.10****§ 1612.10 Recordkeeping requirements.**

(a) In the case of any meeting or portion(s) thereof to be closed to public observation under the provisions of this part, the following records shall be maintained by the Executive Secretary of the agency:

(1) The certification of the Legal Counsel pursuant to §1612.9 of this part;

(2) A statement from the presiding officer of the meeting or portion(s) thereof setting forth the time and place of the meeting, and the persons present;

(3) A complete electronic recording adequate to record fully the proceedings of each meeting closed to the public observation, except that in a meeting closed pursuant to paragraph (h) or (j) of §1612.4, the agency may maintain minutes in lieu of a recording. Such minutes shall fully, and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any item shall be identified in the minutes.

(b) If the agency has determined that the meeting or portion(s) thereof may properly be closed to the public, the electronic recording or minutes shall not be made available to the public until such future time, if any, as it is determined by the Commission upon request, that the reasons for closing the meeting no longer pertain; Provided, however, that any separable portion of a recording or minutes will be made promptly available to the public if that portion does not contain information properly withheld under §1612.4.

(c) The agency shall maintain a copy of the electronic recording or minutes for a period of two years after the meeting, or until one year after the conclusion of the proceeding to which the meeting relates, whichever occurs later.

[42 FR 13830, Mar. 14, 1977, as amended at 47 FR 46276, Oct. 18, 1982]

**§ 1612.11 Public access to records.**

All requests for information shall be submitted in writing to the Chairman of the agency. Requests to inspect or copy the electronic recordings or minutes of agency meetings or portions thereof will be considered under the provisions of §1612.4 of this part.

**§ 1612.12 Fees.**

(a) Records provided to the public under this part shall be furnished at the expense of the party requesting copies of the recording or minutes, upon payment of the actual cost of duplication.

(b) All required fees shall be paid in full prior to issuance of requested copies of records. Fees are payable to the "Treasurer of the United States."

**§ 1612.13 Meetings closed by regulation.**

(a) This paragraph constitutes the Commission's regulation promulgated pursuant to paragraph (d)(4) of the Government in the Sunshine Act and may be invoked by the agency to close meetings or portions thereof where the subject matter of such meeting or portion of a meeting is likely to involve:

(1) Matters pertaining to the issuance of subpoenas;

(2) Subpoena modification and revocation requests, and

(3) The Agency's participation in civil actions or proceedings pertaining thereto.

(b) When closing a meeting or portion thereof under the Commission's regulation set forth in paragraph (a) of this section, a majority of the Commission membership shall vote at or before the beginning of such meeting or portion thereof to do so. The vote to close a meeting by regulation shall be recorded and made publicly available.

(c) The Commission's determination to promulgate the regulation in paragraph (a) of this section is based upon a review of the agenda of Commission meetings for the two years prior to the promulgation of these regulations.

(1) Since the Commission's practice of conducting weekly meetings began in 1975, proposed litigation against title VII respondents has been a regular agenda item. The tenth exemption of the Government in the Sunshine

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Act, 5 U.S.C. 552b(c)(10), exempts the discussion of these matters from the open meeting requirements of the Act.

(2) Thus, the Commission has determined that a majority of its meetings or portions thereof may properly be closed to the public under the tenth exemption of the Sunshine Act, and that paragraph (d)(4) of the Sunshine Act is properly relied upon in promulgating the Commission's regulation in paragraph (a) of this section.

### § 1612.14 Judicial review.

Any person may bring an action in a United States District Court to challenge or enforce the provisions of this part. Such action may be brought prior to or within sixty (60) calendar days after the meeting in question, except that if proper public announcement of the meeting is not made, the action may be instituted at any time within sixty (60) days after such announcement is made. An action may be brought where the agency meeting was held or in the District of Columbia.

## PART 1614—FEDERAL SECTOR EQUAL EMPLOYMENT OPPORTUNITY

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AUTHORITY: 29 U.S.C. 206(d), 633a, 791 and 794a; 42 U.S.C. 2000e-16; E.O. 10577, 3 CFR, 1954-1958 Comp., p.218; E.O. 11222, 3 CFR, 1964-1965 Comp., p.306; E.O. 11478, 3 CFR, 1969 Comp., p.133; E.O. 12106, 3 CFR, 1978 Comp., p.263; Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p.321.

SOURCE: 57 FR 12646, Apr. 10, 1992, unless otherwise noted.

### Subpart A—Agency Program To Promote Equal Employment Opportunity

#### § 1614.101 General policy.

(a) It is the policy of the Government of the United States to provide equal