

## Equal Employment Opportunity Comm.

## § 1612.2

(2) From subsection (d)(1), because release of investigative records to an individual who is the subject of an investigation could interfere with pending or prospective law enforcement proceedings, constitute an unwarranted invasion of the personal privacy of third parties, reveal the identity of confidential sources, or reveal sensitive investigative techniques and procedures.

(3) From subsection (d)(2), because amendment or correction of investigative records could interfere with pending or prospective law enforcement proceedings, or could impose an impossible administrative and investigative burden by requiring the OIG to continuously retrograde its investigations attempting to resolve questions of accuracy, relevance, timeliness and completeness.

(4) From subsection (e)(1), because it is often impossible to determine relevance or necessity of information in the early stages of an investigation. The value of such information is a question of judgment and timing; what appears relevant and necessary when collected may ultimately be evaluated and viewed as irrelevant and unnecessary to investigation. In addition, the OIG may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the OIG could retain this information because it may aid in establishing patterns of unlawful activity and provide leads for other law enforcement agencies. Further, in obtaining evidence during an investigation, information may be provided to the OIG which relates to matters incidental to the main purpose of the investigation but which may be pertinent to the investigative jurisdiction of another agency. Such information cannot readily be identified.

[67 FR 72374, Dec. 5, 2002]

### PART 1612—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

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AUTHORITY: 5 U.S.C. 552b, sec. 713, 78 Stat. 265; 42 U.S.C. 2000e-12.

SOURCE: 42 FR 13830, Mar. 14, 1977, unless otherwise noted.

#### § 1612.1 Purpose and scope.

This part contains the regulations of the Equal Employment Opportunity Commission (hereinafter, the Commission) implementing the Government in the Sunshine Act of 1976, 5 U.S.C. 552b, which entitles the public to the fullest practicable information regarding the decision-making processes of the Commission. The provisions of this part set forth the basic responsibilities of the Commission with regard to the Commission's compliance with the requirements of the Sunshine Act and offers guidance to members of the public who wish to exercise any of the rights established by the Act.

#### § 1612.2 Definitions.

The following definitions apply for purposes of this part:

(a) The term *agency* means the Equal Employment Opportunity Commission and any subdivision thereof authorized to act on its behalf.

(b) The term *meeting* means the deliberations of at least three of the members of the agency, which is a quorum of Commissioners, where such deliberations determine or result in the joint conduct or disposition of official agency business (including conference calls), but does not include:

(1) Individual members' consideration of official agency business circulated to the members in writing for disposition by notation or other separate, sequential consideration of Commission business by Commissioners,

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(2) Deliberations to decide whether a meeting or portion(s) of a meeting or series of meetings should be open or closed.

(3) Deliberations to decide whether to withhold from disclosure information pertaining to a meeting or portions of a meeting or a series of meetings, or

(4) Deliberations pertaining to any change in any meeting or to changes in the public announcement of such meeting.

(c) The term *member* means each Commissioner of the agency.

(d) The term *entire membership* means the number of members holding office at the time of the meeting in question.

(e) The term *person* means any individual, partnership, corporation, association, or public or private organization.

(f) The term *public observation* means attendance at any meeting open to the public but does not include participation, or attempted participation, in such meeting in any manner.

### § 1612.3 Open meeting policy.

(a) All meetings of the Commission shall be conducted in accordance with the provisions of this part.

(b) Except as otherwise provided in § 1612.4, every portion of every meeting shall be open to public observation. Public observation does not include participation or disruptive conduct by observers. Any attempted participation or disruptive conduct by observers shall be cause for removal of persons so engaged at the discretion of the presiding member of the agency.

(c) When holding open meetings, the Commission shall provide ample space, sufficient visibility, and adequate acoustics for persons in attendance at the meeting.

(d) Observers may take still photographs and use portable sound recorders which do not require electrical outlets. Persons may take pictures only at the beginning of a meeting and may not use flash equipment. Permission to use non-battery operated sound recorders and visual recorders must be sought reasonably in advance of a meeting. Such request must be made in writing to the Commission through the Office of the Executive Secretariat. The Commission may permit such activities to

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be conducted under specified limitations which insure proper decorum and minimum interference with the meeting. In all cases, audio or visual recording shall not disrupt or otherwise impede the meeting.

### § 1612.4 Exemptions to open meeting policy.

Except in a case where the agency finds that the public interest requires otherwise, the provisions of § 1612.3 shall not apply to any meeting or portion of a meeting or portion of a meeting where the agency determines that an open meeting or the disclosure of information from such meeting or portions of a meeting is likely to:

(a) Disclose matters that are (1) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (2) in fact properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practices of the agency;

(c) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (2) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (1) interfere with enforcement proceedings, (2) deprive a persons of a