

to the Federal Records Act, 44 U.S.C. 2901, are not part of a system of records; provided, that such personal papers are not used by the employee or the Agency to determine any rights, benefits, or privileges of individuals.

We and *our* mean the Social Security Administration.

### Subpart B—The Privacy Act

#### § 401.30 Privacy Act and other responsibilities.

(a) *Policy.* Our policy is to protect the privacy of individuals to the fullest extent possible while nonetheless permitting the exchange of records required to fulfill our administrative and program responsibilities, and responsibilities for disclosing records which the general public is entitled to have under the Freedom of Information Act, 5 U.S.C. 552, and 20 CFR part 402.

(b) *Maintenance of records.* We will maintain no record unless:

(1) It is relevant and necessary to accomplish an SSA function which is required to be accomplished by statute or Executive Order;

(2) We obtain the information in the record, as much as it is practicable, from the subject individual if we may use the record to determine an individual's rights, benefits or privileges under Federal programs;

(3) We inform the individual providing the record to us of the authority for our asking him or her to provide the record (including whether providing the record is mandatory or voluntary, the principal purpose for maintaining the record, the routine uses for the record, and what effect his or her refusal to provide the record may have on him or her). Further, the individual agrees to provide the record, if the individual is not required by statute or Executive Order to do so.

(c) *First Amendment rights.* We will keep no record which describes how an individual exercises rights guaranteed by the First Amendment unless we are expressly authorized:

(1) By statute,

(2) By the subject individual, or

(3) Unless pertinent to and within the scope of an authorized law enforcement activity.

(d) *Privacy Officer.* The Privacy Officer is an advisor to the Agency on all privacy policy and disclosure matters. The Privacy Officer coordinates the development and implementation of Agency privacy policies and related legal requirements to ensure Privacy Act compliance, and monitors the coordination, collection, maintenance, use and disclosure of personal information. The Privacy Officer also ensures the integration of privacy principles into information technology systems architecture and technical designs, and generally provides to Agency officials policy guidance and directives in carrying out the privacy and disclosure policy.

(e) *Senior Agency Official for Privacy.* The Senior Agency Official for Privacy assumes overall responsibility and accountability for ensuring the agency's implementation of information privacy protections as well as agency compliance with federal laws, regulations, and policies relating to the privacy of information, such as the Privacy Act. The compliance efforts also include reviewing information privacy procedures to ensure that they are comprehensive and up-to-date and, where additional or revised procedures may be called for, working with the relevant agency offices in the consideration, adoption, and implementation of such procedures. The official also ensures that agency employees and contractors receive appropriate training and education programs regarding the information privacy laws, regulations, policies and procedures governing the agency's handling of personal information. In addition to the compliance role, the official has a central policy-making role in the agency's development and evaluation of legislative, regulatory and other policy proposals which might implicate information privacy issues, including those relating to the collection, use, sharing, and disclosure of personal information.

(f) *Privacy Impact Assessment.* In our comprehensive Privacy Impact Assessment (PIA) review process, we incorporate the tenets of privacy law, SSA privacy regulations, and privacy policy directly into the development of certain Information Technology projects. Our review examines the risks and

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ramifications of collecting, maintaining and disseminating information in identifiable form in an electronic information system and identifies and evaluates protections and alternate processes to reduce the risk of unauthorized disclosures. As we accomplish the PIA review, we ask systems personnel and program personnel to resolve questions on data needs and data protection prior to the development of the electronic system.

[62 FR 4143, Jan. 29, 1997, as amended at 72 FR 20939, Apr. 27, 2007]

### § 401.35 Your right to request records.

The Privacy Act gives you the right to direct access to most records about yourself that are in our systems of records. Exceptions to this Privacy Act right include—

(a) Special procedures for access to certain medical records (see 5 U.S.C. 552a(f)(3) and § 401.55);

(b) Unavailability of certain criminal law enforcement records (see 5 U.S.C. 552a(k), and § 401.85); and

(c) Unavailability of records compiled in reasonable anticipation of a court action or formal administrative proceeding.

NOTE TO § 401.35: The Freedom of Information Act (see 20 CFR part 402) allows you to request information from SSA whether or not it is in a system of records.

### § 401.40 How to get your own records.

(a) *Your right to notification and access.* Subject to the provisions governing medical records in § 401.55, you may ask for notification of or access to any record about yourself that is in an SSA system of records. If you are a minor, you may get information about yourself under the same rules as for an adult. Under the Privacy Act, if you are the parent or guardian of a minor, or the legal guardian of someone who has been declared legally incompetent, and you are acting on his or her behalf, you may ask for information about that individual. You may be accompanied by another individual of your choice when you request access to a record in person, *provided* that you affirmatively authorize the presence of such other individual during any discussion of a record to which you are requesting access.

(b) *Identifying the records.* At the time of your request, you must specify which systems of records you wish to have searched and the records to which you wish to have access. You may also request copies of all or any such records. Also, we may ask you to provide sufficient particulars to enable us to distinguish between records on individuals with the same name. The necessary particulars are set forth in the notices of systems of records which are published in the FEDERAL REGISTER.

(c) *Requesting notification or access.* To request notification of or access to a record, you may visit your local social security office or write to the manager of the SSA system of records. The name and address of the manager of the system is part of the notice of systems of records. Every local social security office keeps a copy of the FEDERAL REGISTER containing that notice. That office can also help you get access to your record. You do not need to use any special form to ask for a record about you in our files, but your request must give enough identifying information about the record you want to enable us to find your particular record. This identifying information should include the system of records in which the record is located and the name and social security number (or other identifier) under which the record is filed. We do not honor requests for all records, all information, or similar blanket requests. Before granting notification of or access to a record, we may, if you are making your request in person, require you to put your request in writing if you have not already done so.

### § 401.45 Verifying your identity.

(a) *When required.* Unless you are making a request for notification of or access to a record in person, and you are personally known to the SSA representative, you must verify your identity in accordance with paragraph (b) of this section if:

(1) You make a request for notification of a record and we determine that the mere notice of the existence of the record would be a clearly unwarranted invasion of privacy if disclosed to someone other than the subject individual; or,