

(2) If possible, DON activities shall incorporate the statement of disagreement into the record. If that is not possible, annotate the record to reflect that the statement was filed and maintain the statement so that it can be readily obtained when the disputed information is used or disclosed.

(3) Furnish copies of the statement of disagreement to all individuals listed on the disclosure accounting form (except those no longer retaining the record), as well as to all other known holders of copies of the record.

(4) Whenever the disputed information is disclosed for any purpose, ensure that the statement of disagreement is also disclosed.

(k) *Statement of reasons.* (1) If the individual files a statement of disagreement, the DON activity may file a statement of reasons containing a concise summary of the activity's reasons for denying the amendment request.

(2) The statement of reasons shall contain only those reasons given to the individual by the appellate official and shall not contain any comments on the individual's statement of disagreement.

(3) At the discretion of the DON activity, the statement of reasons may be disclosed to those individuals, activities, and agencies that receive the statement of disagreement.

§ 701.109 Privacy Act (PA) appeals.

(a) *How to file an appeal.* Individuals wishing to appeal a denial of notification, access, or amendment of records shall follow these guidelines:

(1) The appeal must be received by the cognizant review authority (*i.e.*, ASN (M&RA), OJAG, OGC, or OPM) within 60 calendar days of the date of the response.

(2) The appeal must be in writing and requesters should provide a copy of the denial letter and a statement of their reasons for seeking review.

(b) *Time of receipt.* The time limits for responding to an appeal commence when the appeal reaches the office of the review authority having jurisdiction over the record. Misdirected appeals should be referred expeditiously to the proper review authority and the requester notified.

(c) *Review authorities.* ASN (M&RA), JAG, and GC are authorized to adjudicate appeals made to SECNAV. JAG and GC are further authorized to delegate this authority to a designated Assistant JAG or Deputy Assistant JAG and the Principal Deputy General Counsel or Deputy General Counsel, respectively, under such terms and conditions as they deem appropriate.

(1) If the record is from a civilian Official Personnel Folder or is contained on any other OPM forms, send the appeal to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415. Records in all systems of records maintained in accordance with the OPM Government-wide systems notices are only in the temporary custody of the DON.

(2) If the record pertains to the employment of a present or former Navy or Marine Corps civilian employee, such as Navy or Marine Corps civilian personnel records or an employee's grievance or appeal file, send it to the General Counsel of the Navy, 1000 Navy Pentagon, Washington, DC 20350-1000.

(3) If the record pertains to a present or former military member's fitness reports or performance evaluations, send it to the Assistant Secretary of the Navy (Manpower and Reserve Affairs), 1000 Navy Pentagon, Washington, DC 20350-1000.

(4) All other records dealing with present or former military members should be sent to the Office of the Judge Advocate General, 1322 Patterson Avenue SE., Suite 3000, Washington Navy Yard, DC 20374-5066.

(d) *Appeal procedures.* (1) If the appeal is granted, the review authority shall advise the individual that his/her appeal has been granted and provide access to the record being sought.

(2) If the appeal is denied totally or in part, the appellate authority shall advise the reason(s) for denying the appeal, citing the appropriate subsections of 5 U.S.C. 552a or this subpart and subpart G of this part; the date of the appeal determination; the name, title, and signature of the appellate authority; and a statement informing the requester of his/her right to seek judicial relief in the Federal District Court.

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(e) *Final action, time limits and documentation.* (1) The written appeal notification granting or denying access is the final naval activity action on the initial request for access.

(2) All appeals shall be processed within 30 working days of receipt, unless the appellate authority finds that an adequate review cannot be completed within that period. If additional time is needed, notify the applicant in writing, explaining the reason for the delay and when the appeal will be completed.

(f) *Denial of appeal by activity's failure to act.* An individual may consider his/her appeal denied if the appellate authority fails to:

(1) Take final action on the appeal within 30 working days of receipt when no extension of time notice was given; or

(2) Take final action within the period established by the notice to the appellate authority of the need for an extension of time to complete action on the appeal.

§ 701.110 Conditions of disclosure.

The PA identifies 12 conditions of disclosure whereby records contained in a system of records may be disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains. These instances are identified as:

(a) *Official need to know.* Records pertaining to an individual may be disclosed without the consent of the individual to any DOD official who has need for the record in the performance of his/her assigned duties. Rank, position, or title alone does not authorize access to PPI about others. An official need must exist before disclosure can be made. For the purposes of disclosure, DOD is considered a single agency.

NOTE: No disclosure accounting required.

(b) *FOIA.* Records must be disclosed if their release is required by FOIA. 5 U.S.C. 552 and SECNAVINST 5720.42F require that records be made available to the public unless exempted from disclosure by one of the nine FOIA exemptions found in the Act. It follows, therefore, that if a record is not ex-

empt from disclosure, it must be released. Note: No disclosure accounting required.

(c) *Routine use.* Each DON PA system of records notice identifies what records may be disclosed outside DOD without consent of the individual to whom the record pertains.

NOTE: Disclosure accounting is required.

(1) A routine use shall be compatible with and related to the purpose for which the record was compiled; identify the persons or organizations to whom the record may be released; identify specifically the uses to which the information may be put by the receiving agency; and, have been published previously in the FEDERAL REGISTER.

(2) A routine use shall be established for each user of the information outside the DOD who needs the information for an official purpose.

(3) A routine use may be established, discontinued, or amended without the consent of the individuals involved. However, new or changed routine uses must be published in the FEDERAL REGISTER for at least 30 days before actually disclosing the records.

(4) In addition to specific routine uses, the DOD has identified certain "Blanket Routine Uses" that apply to all systems, unless the systems notice states that they do not. (See § 701.112 regarding Blanket Routine Uses.)

(d) *Bureau of Census.* Records may be disclosed to the Bureau of Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13.

NOTE: Disclosure accounting is required.

(e) *Statistical research and reporting.* Records may be disclosed for statistical research and reporting without the consent of the individual to whom they pertain. Before such disclosures, the recipient must provide advance written assurance that the records will be used as statistical research or reporting records; only to transferred in a form that is not individually identifiable; and will not be used, in whole or in part, to make any determination about rights, benefits, or entitlements of specific individuals.

NOTE: Disclosure accounting is required.

(f) *National Archives and Records Administration (NARA).* Records may be