identity by providing to the responsible Department official identifying particulars which parallel the record to which notification or access is being sought. If the responsible Department official determines that the particulars provided by telephone are insufficient, the requester will be required to submit the request in writing or in person. Telephone requests will not be accepted where an individual is requesting notification of or access to sensitive records such as medical records.

(c) Granting notification of or access to a record. (1) Subject to the provisions governing medical records in §5b.6 of this part and the provisions governing exempt systems in §5b.11 of this part, a responsible Department official, who receives a request for notification of or access to a record and, if required, verification of an individual’s identity, will review the request and grant notification or access to a record, if the individual requesting access to the record is the subject individual.

(2) If the responsible Department official determines that there will be a delay in responding to a request because of the number of requests being processed, a breakdown of equipment, shortage of personnel, storage of records in other locations, etc., he will so inform the individual and indicate when notification or access will be granted.

(3) Prior to granting notification of or access to a record, the responsible Department official at his discretion may require an individual making a request in person to reduce his request to writing if the individual has not already done so at the time the request is made.

§5b.6 Special procedures for notification of or access to medical records.

(a) General. An individual in general has a right to notification of or access to his medical records, including psychological records, as well as to other records pertaining to him maintained by the Department. This section sets forth special procedures as permitted by the Act for notification of or access to medical records of minors. The special procedures set forth in paragraph (b) of this section may not be suitable for use by every component of the Department. Therefore, components may follow the paragraph (b) procedure for notification of or access to medical records, or may issue regulations establishing special procedures for such purposes. The special procedure set forth in paragraph (c) of this section relating to medical records of minors is mandatory.

(b) Medical records procedures—(1) Notification of or access to medical records. (i) Any individual may request notification of or access to a medical record pertaining to him. Unless the individual is a parent or guardian requesting notification of or access to a minor’s medical record, an individual shall make a request for a medical record in accordance with this section and the procedures in §5b.5 of this part.

(ii) An individual who requests notification of or access to a medical record shall, at the time the request is made, designate a representative in writing. The representative may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents at the representative’s discretion.

(2) Utilization of the designated representative. A subject individual will be granted direct access to a medical record if the responsible official determines that direct access is not likely to have an adverse effect on the subject individual. If the responsible Department official believes that he is not qualified to determine, or if he does determine, that direct access to the subject individual is likely to have an adverse effect on the subject individual, the record will be sent to the designated representative. The subject individual will be informed in writing that the record has been sent.

(c) Medical records of minors—(1) Requests by minors; notification of or access to medical records to minors. A minor may request notification of or access to a medical record pertaining to him in accordance with paragraph (b) of this section.

(2) Requests on a minor’s behalf; notification of or access to medical records to an individual on a minor’s behalf. (i) In order to protect the privacy of a minor,
§ 5b.7

Promulgation of policies and procedures for obtaining or modifying information contained in medical records.

(a) Any subject individual may request that his record be corrected or amended if he believes that the record is not accurate, timely, complete, or relevant or necessary to accomplish a Department function. A subject individual making a request to amend or correct his record shall address his request to the responsible Department official in writing; except that, the request need not be in writing if the subject individual makes his request in person and the responsible Department official corrects or amends the record at that time. The subject individual shall specify in each request:

1. The system of records from which the record is retrieved;
2. The particular record which he is seeking to correct or amend;
3. Whether he is seeking an addition to or a deletion or substitution of the record; and,
4. His reasons for requesting correction or amendment of the record.

(b) A request for correction or amendment of a record will be acknowledged within 10 working days of its receipt unless the request can be processed and the subject individual informed of the responsible Department official’s decision on the request within that 10 day period.

(c) If the responsible Department official agrees that the record is not accurate, timely, or complete based on a preponderance of the evidence, the record will be corrected or amended. The record will be deleted without regard to its accuracy, if the record is not relevant or necessary to accomplish the Department function for which the record was provided or is maintained. In either case, the subject individual will be informed in writing of the correction, amendment, or deletion and, if accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(d) If the responsible Department official does not agree that the record should be corrected or amended, the subject individual will be informed in writing of the refusal to correct or amend the record. He will also be informed that he may appeal the refusal to correct or amend his record to the appropriate appeal authority listed in §5b.8 of this part. The appropriate appeal authority will be identified to the subject individual by name, title, and business address.