

Corporation for National and Community Service

§ 2509.10

§ 2508.18 What are the penalties for obtaining a record under false pretenses?

The Privacy Act provides, in pertinent part that:

(a) Any person who knowingly and willfully requests to obtain any record concerning an individual from the Corporation under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000 (5 U.S.C. 552a(I)(3)).

(b) A person who falsely or fraudulently attempts to obtain records under the Privacy Act also may be subject to prosecution under such other criminal statutes as 18 U.S.C. 494, 495 and 1001.

§ 2508.19 What Privacy Act exemptions or control of systems of records are exempt from disclosure?

(a) Certain systems of records that are maintained by the Corporation are exempted from provisions of the Privacy Act in accordance with exemptions (j) and (k) of 5 U.S.C. 552a.

(1) Exemption of Inspector General system of records. Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of the Inspector General that contains the Investigative Files shall be exempted from the provisions of 5 U.S.C. 552a, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6)(7), (9), (10), and (11), and (I), and 45 CFR 2508.11, 2508.12, 2508.13, 2508.14, 2508.15, 2508.16, and 2508.17, insofar as the system contains information pertaining to criminal law enforcement investigations.

(2) Pursuant to, and limited by 5 U.S.C. 552a(k)(2), the system of records maintained by the Office of the Inspector General that contains the Investigative Files shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f), and 45 CFR 2508.11, 2508.12, 2508.13, 2508.14, 2508.15, 2508.16, and 2508.17, insofar as the system contains investigatory materials compiled for law enforcement purposes.

(b) Exemptions to the General Counsel system of records. Pursuant to, and limited by 5 U.S.C. 552a(d)(5), the system of records maintained by the Office of the General Counsel that contains the Legal Office Litigation/Correspondence Files shall be exempted

from the provisions of 5 U.S.C. 552a(d)(5), and 45 CFR 2508.4, insofar as the system contains information compiled in reasonable anticipation of a civil action or proceeding.

§ 2508.20 What are the restrictions regarding the release of mailing lists?

An individual's name and address may not be sold or rented by the Corporation unless such action is specifically authorized by law. This section does not require the withholding of names and addresses otherwise permitted to be made public.

PART 2509—ADMINISTRATIVE PRACTICE AND PROCEDURES

Subpart A—Guidance Documents

Sec.

2509.10 What does this subpart cover?

2509.12 What should I do if a guidance document is covered by this subpart?

2509.14 What is the purpose of the review and clearance procedure?

2509.16 How will CNCS make guidance documents available to the public?

2509.18 What procedures apply to guidance documents identified as “significant”?

2509.20 What is a “significant” guidance document?

2509.22 When will guidance be published for public notice-and-comment?

2509.24 How may the public submit a petition to CNCS for the withdrawal or modification of a guidance document?

2509.26 What is the effect of rescinded guidance documents?

2509.28 How will significant guidance be issued when there are exigent circumstances?

2509.30 No judicial review or enforceable rights.

Subpart B [Reserved]

AUTHORITY: 42 U.S.C. 12651c(c); E.O. 13891, 84 FR 55235.

SOURCE: 85 FR 44475, July 23, 2020, unless otherwise noted.

Subpart A—Guidance Documents

§ 2509.10 What does this subpart cover?

(a) This subpart sets forth the Corporation for National and Community Service's (CNCS's) procedures for issuing guidance documents. It applies to all CNCS employees and contractors

§ 2509.12

involved in issuing CNCS guidance documents on or after April 28, 2020.

(b) For the purposes of this subpart, “guidance document” means any statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statute, regulatory, or technical issue, or an interpretation of a statute or regulation, but does not include:

(1) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rule-making requirements under 5 U.S.C. 553(a);

(2) Rules of agency organization, procedure, or practice;

(3) Decisions of agency adjudications under 5 U.S.C. 554 or similar statutory provisions;

(4) Internal executive branch legal advice or legal advisory opinions addressed to executive branch officials;

(5) Agency statements of specific applicability, including advisory or legal opinions directed to particular parties about circumstance-specific questions, notices regarding particular locations or facilities, and correspondence with individual persons or entities, except documents directed to a particular party and designed to guide the conduct of the broader regulated public;

(6) Legal briefs, other court filings, or positions taken in litigation or enforcement actions;

(7) Agency statements that do not set forth for the first time a new regulatory policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation, including speeches and individual presentations, editorials, media interviews, press materials, or congressional testimony;

(8) Grant solicitations and awards;

(9) Contract solicitations and awards; or

(10) Purely internal agency policies or guidance directed solely to CNCS employees or contractors or to other Federal agencies that are not intended to have substantial future effect on the behavior of regulated parties.

45 CFR Ch. XXV (10–1–24 Edition)

§ 2509.12 What should I do if a guidance document is covered by this subpart?

(a) All CNCS guidance documents require review and clearance in accordance with this subpart.

(b) Guidance proposed by CNCS must be reviewed by the Office of General Counsel (OGC) and cleared by the General Counsel or his/her designee.

(c) Additional reviews by other CNCS officials are also conducted as described in CNCS Policy 100—Preparing Policies and Procedures and Policy 103—Clearing Controlled Correspondence and Other Documents with the Board, Chief Executive Officer, and Chief of Staff, or subsequent updates or revisions to those policies.

§ 2509.14 What is the purpose of the review and clearance procedure?

CNCS’s guidance issuance process shall ensure that each proposed guidance document satisfies the following requirements:

(a) The guidance document complies with all relevant statutes and regulations (including any statutory deadlines for Agency action);

(b) The guidance document identifies or includes:

(1) The term “guidance” or its functional equivalent;

(2) The issuing CNCS responsible office name;

(3) A unique identifier, including, at a minimum, the date of issuance and title of the document and its regulatory identification number (RIN), if applicable;

(4) The activity or entities to which the guidance applies;

(5) Citations to applicable statutes and regulations;

(6) A statement noting whether the guidance is intended to revise or replace any previously issued guidance and, if so, sufficient information to identify the previously issued guidance; and

(7) A short summary of the subject matter covered in the guidance document at the top of the document;

(c) The guidance document avoids using mandatory language, such as “shall,” “must,” “required,” or “requirement,” unless the language is describing an established statutory or