

§ 9409.15

facilitate their use as evidence. To obtain certification a request for certified copies shall be made to the Commission at least 45 days before the date the copies will be needed. The request should be sent to the General Counsel, U.S. Election Assistance Commission, 1335 East-West Highway, Suite 4300, Silver Spring, MD 20910.

(f) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

[73 FR 54271, Sept. 18, 2008, as amended at 75 FR 49814, Aug. 16, 2010; 83 FR 53802, Oct. 25, 2018]

§ 9409.15 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by the Commission or as ordered by a Federal court after the Commission has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Former Commission employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current Commission employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action in addition to any penalties assessed under paragraph (a) of this section.

PART 9410—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

9410.1 Purpose and scope.

9410.2 Definitions.

9410.3 Procedures for requests pertaining to individual records in a record system.

9410.4 Times, places, and requirements for identification of individuals making requests.

9410.5 Disclosure of requested information to individuals.

9410.6 Request for correction or amendment to record.

9410.7 Commission review of request for correction or amendment of record.

9410.8 Appeal of initial adverse determination on amendment or correction.

9410.9 Disclosure of record to person other than the individual to whom it pertains.

11 CFR Ch. II (1–1–25 Edition)

9410.10 Fees.

9410.11 Penalties.

AUTHORITY: 5 U.S.C. 552a.

SOURCE: 73 FR 54257, Sept. 18, 2008, unless otherwise noted.

§ 9410.1 Purpose and scope.

(a) This part sets forth rules that inform the public as to what information is maintained by the U.S. Election Assistance Commission about identifiable individuals and that inform those identifiable individuals how they may gain access to and correct or amend information about them.

(b) The regulations in this part carry out the requirements of the Privacy Act of 1974 (Pub. L. 93–579) and in particular 5 U.S.C. 552a as added by that Act.

(c) The regulations in this part apply only to records disclosed or requested under the Privacy Act of 1974 and not to requests for information made under 5 U.S.C. 552, the Freedom of Information Act, or requests for reports and statements filed with the Election Assistance Commission which are public records and available for inspection and copying.

§ 9410.2 Definitions.

As used in this part, the term—

Commission means the U.S. Election Assistance Commission, established by the Help America Vote Act of 2002, 42 U.S.C. 15301 *et seq.*

Commissioner means an individual appointed to the Commission by the President and confirmed by the Senate under section 203 of the Help America Vote Act of 2002, 42 U.S.C. 15323.

Individual means a citizen of the United States or an alien lawfully admitted for permanent residence.

Maintain includes maintain, collect, use, or disseminate.

Record means any item, collection, or grouping of information about an individual that is maintained by the Commission including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name or the identifying number, symbol, or other identifying information particularly assigned to the individual, such as finger or voice print or a photograph.

Election Assistance Commission

§ 9410.4

Systems of records means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying information particularly assigned to the individual.

§ 9410.3 Procedures for requests pertaining to individual records in a record system.

(a) Any individual may request the Commission to inform him or her whether a particular record system named by the individual contains a record pertaining to him or her. The request may be made in person or in writing at the location of the record system and to the person specified in the notice describing that record system.

(b) An individual, who believes that the Commission maintains records pertaining to him or her but cannot determine which record system contains those records, may request assistance by mail or in person from the Executive Director, U.S. Election Assistance Commission, 1335 East-West Highway, Suite 4300, Silver Spring, MD 20910 during the hours of 9 a.m. to 5:30 p.m.

(c) Requests under paragraphs (a) or (b) of this section shall be acknowledged by the Commission within 15 working days from the date of receipt of the request. If the Commission is unable to locate the information requested under paragraphs (a) or (b) of this section, it shall so notify the individual within 15 working days after receipt of the request. The notification may request additional information to assist the Commission in locating the record, or it may advise the individual that no record or document exists about that individual.

[73 FR 54257, Sept. 18, 2008, as amended at 75 FR 49814, Aug. 16, 2010; 83 FR 53082, Oct. 25, 2018]

§ 9410.4 Times, places, and requirements for identification of individuals making requests.

(a) After being informed by the Commission that a record system contains a record pertaining to him or her, an individual may request that the Commission disclose that record in the manner described in this section. Each

request for the disclosure of a record or a copy of a record it shall be made in person or by written correspondence to the U.S. Election Assistance Commission, 1335 East-West Highway, Suite 4300, Silver Spring, MD 20910 and to the person identified in the notice describing the systems of records. Requests can also be made by specifically authorized agents or by parents or guardians of individuals.

(b) Each individual requesting the disclosure of a record or copy of a record shall furnish the following information with his or her request:

(1) The name of the record system containing the record;

(2) Proof as described in paragraph (c) of this section that he or she is the individual to whom the requested record relates; and

(3) Any other information required by the notice describing the record system.

(c) Proof of identity as required by paragraph (b)(2) of this section shall be provided as described in paragraphs (c)(1) and (c)(2) of this section. Requests made by an agent, parent, or guardian shall be in accordance with the procedures described in § 9410.9.

(1) Requests made in writing shall include a statement affirming the individual's identity, signed by the individual and either notarized or witnessed by two persons (including witnesses' addresses). If the individual appears before a notary, he or she shall submit adequate proof of identification in the form of a driver's license, birth certificate, passport, or other identification acceptable to the notary. If the statement is witnessed, it shall include a sentence above the witnesses' signatures that they personally know the individual or that the individual has submitted proof of his or her identification to their satisfaction. In cases involving records of extreme sensitivity, the Commission may determine that the identification is not adequate and may request the individual to submit additional proof of identification.

(2) If the request is made in person, the requester shall submit proof of identification similar to that described

§ 9410.5

in paragraph (c)(1) of this section, acceptable to the Commission.

[73 FR 54257, Sept. 18, 2008, as amended at 75 FR 49814, Aug. 16, 2010; 83 FR 53802, Oct. 25, 2018]

§ 9410.5 Disclosure of requested information to individuals.

(a) Upon submission of proof of identification as required by § 9410.4, the Commission shall allow the individual to see and/or obtain a copy of the requested record or shall send a copy of the record to the individual by registered mail. If the individual requests to see the record, the Commission may make the record available either at the location where the record is maintained or at a place more suitable to the requestor, if possible. The record shall be made available as soon as possible, but in no event later than 15 working days after proof of identification. The individual may have a person or persons of his or her own choosing accompany him or her when the record is disclosed.

(b) The Commission must furnish each record requested by an individual under this part in a form intelligible to that individual.

(c) If the Commission denies access to a record to an individual, he or she shall be advised of the reason for the denial and advised of the right to judicial review.

(d) Upon request, an individual will be provided access to the accounting of disclosures from his or her record under the same procedures as provided above and in § 9410.4.

§ 9410.6 Request for correction or amendment to record.

(a) Any individual who has reviewed a record pertaining to him or her that was furnished under this part may request that the Commission correct or amend all or any part of that record.

(b) Each individual requesting a correction or amendment shall send or provide in person the written request to the Commission through the person who furnished the record.

(c) Each request for a correction or amendment of a record shall contain the following information:

(1) The name of the individual requesting the correction or amendment;

11 CFR Ch. II (1–1–25 Edition)

(2) The name of the system of records in which the record sought to be amended is maintained;

(3) The location of the system of records from which the individual record was obtained;

(4) A copy of the record sought to be amended or corrected or a sufficiently detailed description of that record;

(5) A statement of the material in the record that the individual desires to correct or amend; and

(6) A statement of the basis for the requested correction or amendment including any material that the individual can furnish to substantiate the reasons for the correction or amendment sought.

§ 9410.7 Commission review of request for correction or amendment of record.

(a) The Commission shall, not later than 10 working days after the receipt of the request for a correction or amendment of a record under § 9410.6, acknowledge receipt of the request and inform the individual whether additional information is required before the correction or amendment can be considered.

(b) If no additional information is required, within 10 working days from receipt of the request, the Commission shall either make the requested correction or amendment or notify the individual of its refusal to do so, including in the notification the reasons for the refusal and the appeal procedures provided in § 9410.8.

(c) The Commission shall make each requested correction or amendment to a record if that correction or amendment will negate inaccurate, irrelevant, untimely, or incomplete information in the record.

(d) The Commission shall inform prior recipients of a record of any amendment or correction or notation of dispute of the individual's record if an accounting of the disclosure was made. The individual may request a list of prior recipients if an accounting of the disclosure was made.

Election Assistance Commission

§ 9410.10

§ 9410.8 Appeal of initial adverse determination on amendment or correction.

(a) Any individual whose request for a correction or amendment has been denied in whole or in part may appeal that decision to the Commissioners no later than 180 days after the adverse decision is rendered.

(b) The appeal shall be in writing and shall contain the following information:

(1) The name of the individual making the appeal;

(2) Identification of the record sought to be amended;

(3) The record system in which that record is contained;

(4) A short statement describing the amendment sought; and

(5) The name and location of the Commission official who initially denied the correction or amendment.

(c) Not later than 30 working days after the date on which the Commission receives the appeal, the Commissioners shall complete their review of the appeal and make a final decision thereon. However, for good cause shown, the Commissioners may extend that 30-day period. If the Commissioners extend the period, the individual requesting the review shall be promptly notified of the extension and the anticipated date of a decision.

(d) After review of an appeal, the Commission shall send a written notice to the requestor containing the following information:

(1) The decision and, if the denial is upheld, the reasons for the decision;

(2) The right of the requestor to institute a civil action in a Federal District Court for judicial review of the decision; and

(3) The right of the requestor to file with the Commission a concise statement setting forth the reasons for his or her disagreement with the Commission's denial of the correction or amendment. The Commission shall make this statement available to any person to whom the record is later disclosed, together with a brief statement, if appropriate, of the Commission's reasons for denying the requested correction or amendment. The Commission shall also send a copy of the statement to prior recipients of the individ-

ual's record if an accounting of the disclosures was made.

§ 9410.9 Disclosure of record to person other than the individual to whom it pertains.

(a) Any individual who desires to have a record covered by this part disclosed to or mailed to another person may designate such person and authorize the person to act as his or her agent for that specific purpose. The authorization shall be in writing, signed by the individual, and notarized or witnessed as provided in § 9410.4(c).

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court of competent jurisdiction to be incompetent due to physical or mental incapacity or age may act on behalf of that individual in any matter covered by this part. A parent or guardian who desires to act on behalf of such an individual shall present suitable evidence of parentage or guardianship, by birth certificate, certified copy of a court order, or similar documents, and proof of the individual's identity in a form that complies with § 9410.4(c).

(c) An individual to whom a record is to be disclosed in person under this part may have a person or persons of his or her own choosing accompany him or her when the record is disclosed.

§ 9410.10 Fees.

(a) The Commission shall not charge an individual for the cost of making a search for a record or the cost of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission shall not charge the individual for the cost of making that copy. When the Commission makes a copy of a record in response to a request from an individual, the Commission may charge the individual for the reasonable cost of making the copy.

(b) If an individual requests that the Commission furnish a copy of the record, the Commission shall charge the individual for the cost of making the copy. The fee that the Commission has established for making a copy is fifteen (15) cents per page.

§ 9410.11

§ 9410.11 Penalties.

Any person who makes a false statement in connection with any request for a record or an amendment or correction thereto under this part is subject to the penalties prescribed in 18 U.S.C. 494 and 495 and 5 U.S.C. 552a (i)(3).

PART 9411—STANDARDS OF CONDUCT

AUTHORITY: 5 CFR parts 2634 through 2638; 5 CFR part 2641; 5 CFR parts 734 and 735.

SOURCE: 73 FR 54275, Sept. 18, 2008, unless otherwise noted.

§ 9411.1 Cross-reference to executive branch-wide regulations.

(a) Employees of the U.S. Election Assistance Commission are subject to the following standards of conduct and ethical requirements:

(1) Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture as provided in 5 CFR part 2634;

(2) Standards of Ethical Conduct for Employees of the Executive Branch as provided in 5 CFR part 2635;

(3) Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees as provided in 5 CFR part 2636;

(4) Regulations Concerning Post-Employment Conflict of Interest as provided in 5 CFR part 2637;

(5) Interpretation, Exemptions and Waiver Guidance Concerning 18 U.S.C. 208 (Acts Affecting a Personal Financial Interest) as provided in 5 CFR part 2638;

(6) Post-Employment Conflict of Interest Restrictions as provided in 5 CFR part 2641;

(7) Political Activities of Federal Employees as provided in 5 CFR part 734; and

(8) Employee Responsibilities and Conduct as provided in 5 CFR part 735.

(b) For purposes of this part, employee shall have the definition given to it by each standard of conduct or ethical requirement in paragraph (a) of this section.

11 CFR Ch. II (1–1–25 Edition)

PART 9420—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE U.S. ELECTION ASSISTANCE COMMISSION

Sec.

9420.1 Purpose and scope.

9420.2 Definitions.

9420.3 General prohibitions against discrimination.

9420.4 Program accessibility: Discrimination prohibited.

9420.5 Program accessibility: Existing facilities.

9420.6 Program accessibility: New construction and alterations.

9420.7 Communications.

9420.8 Compliance procedures.

AUTHORITY: 29 U.S.C. 794.

SOURCE: 73 FR 54275, Sept. 18, 2008, unless otherwise noted.

§ 9420.1 Purpose and scope.

This part sets forth the non-discrimination policy of the U.S. Election Assistance Commission to prohibit discrimination on the basis of handicap in programs or activities conducted by the Commission.

§ 9420.2 Definitions.

As used in this part, the term—

Auxillary aids means services, including attendant services, or devices that enable handicapped persons, including those with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Commission. For example, auxiliary aids useful for disabled persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for disabled persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDDs), interpreters, notetakers, written materials, and other similar services and devices.

Commission means the U.S. Election Assistance Commission, established by the Help America Vote Act of 2002, 42 U.S.C. 15301 *et seq.*