

Social Security Administration

§ 402.35

Representative of the news media means a person actively gathering information for an entity organized and operated to publish or broadcast news to the public. News media entities include television and radio broadcasters, publishers of periodicals who distribute their products to the general public or who make their products available for purchase or subscription by the general public, and entities that may disseminate news through other media (e.g., electronic dissemination of text). We will treat freelance journalists as representatives of a news media entity if they can show a likelihood of publication through such an entity. A publication contract is such a basis, and the requester's past publication record may show such a basis.

Request means asking for records, whether or not you refer specifically to the FOIA. Requests from Federal agencies and court orders for documents are not included within this definition.

Review means, when used in connection with processing records for a commercial use request, examining the records to determine what portions, if any, may be withheld, and any other processing that is necessary to prepare the records for release. It includes only the examining and processing that are done the first time we analyze whether a specific exemption applies to a particular record or portion of a record. It does not include examination done in the appeal stage with respect to an exemption that was applied at the initial request stage. However, if we initially withhold a record under one exemption, and on appeal we determine that that exemption does not apply, then examining the record in the appeal stage for the purpose of determining whether a different exemption applies is included in *review*. It does not include the process of researching or resolving general legal or policy issues regarding exemptions.

Search means looking for records or portions of records responsive to a request. It includes reading and interpreting a request, and also page-by-page and line-by-line examination to identify responsive portions of a document. However, it does not include line-by-line examination where merely duplicating the entire page would be a

less expensive and quicker way to comply with the request.

[62 FR 4154, Jan. 29, 1997, as amended at 63 FR 35132, June 29, 1998, 66 FR 2809, Jan. 12, 2001]

§ 402.35 Publication.

(a) *Methods of publication.* Materials we are required to publish pursuant to the provisions of 5 U.S.C. 552 (a)(1) and (a)(2), we publish in one of the following ways:

(1) By publication in the FEDERAL REGISTER of Social Security Administration regulations, and by their subsequent inclusion in the Code of Federal Regulations;

(2) By publication in the FEDERAL REGISTER of appropriate general notices;

(3) By other forms of publication, when incorporated by reference in the FEDERAL REGISTER with the approval of the Director of the Federal Register; and

(4) By publication in the "Social Security Rulings" of indexes of precedential social security orders and opinions issued in the adjudication of claims, statements of policy and interpretations which have been adopted but have not been published in the FEDERAL REGISTER. The "Social Security Rulings" may be purchased through the Government Printing Office (See § 402.40).

(b) *Publication of rulings.* Although not required pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we publish the following rulings in the FEDERAL REGISTER as well as by other forms of publication:

(1) We publish Social Security Rulings in the FEDERAL REGISTER under the authority of the Commissioner of Social Security. They are binding on all components of the Social Security Administration. These rulings represent precedent final opinions and orders and statements of policy and interpretations that we have adopted.

(2) We publish Social Security Acquiescence Rulings in the FEDERAL REGISTER under the authority of the Commissioner of Social Security. They are binding on all components of the Social Security Administration, except with respect to claims subject to the relitigation procedures established in

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20 CFR 404.985(c), 410.670c, and 416.1485(c). For a description of Social Security Acquiescence Rulings, see 20 CFR 404.985(b), 410.670c(b), and 416.1485(b) of this title.

(c) *Availability for inspection.* To the extent practicable and to further assist the public, we make available for inspection at the address specified in § 402.135 those materials which are published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1).

(d) *Availability by telecommunications.* To the extent practicable, we will make available by means of computer telecommunications the indices and other records that are available for inspection.

[62 FR 4154, Jan. 29, 1997, as amended at 63 FR 35132, June 29, 1998; 65 FR 16813, Mar. 30, 2000; 72 FR 36360, July 3, 2007]

§ 402.40 Publications for sale.

The following publications containing information pertaining to the program, organization, functions, and procedures of the Social Security Administration may be purchased from the Superintendent of Documents, Government Printing Office, Washington, DC 20402:

(a) Title 20, parts 400–499 of the Code of Federal Regulations.

(b) FEDERAL REGISTER issues.

(c) Compilation of the Social Security Laws.

(d) Social Security Rulings.

(e) Social Security Handbook. The information in the Handbook is not of precedent or interpretative force.

(f) Social Security Bulletin.

(g) Social Security Acquiescence Rulings.

(h) SSA Publications on CD-ROM.

[62 FR 4154, Jan. 29, 1997, as amended at 63 FR 35132, June 29, 1998]

§ 402.45 Availability of records.

(a) *What records are available.* 5 U.S.C. 552, also known as the FOIA, permits any person to see, and get a copy of, any Federal agency's records unless the material is exempt from mandatory disclosure as described in § 402.70 of this part.

(b) *FOIA.* Under the FOIA, we are also required to make available to the public the instructional manuals issued to our employees, general statements

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of policy, and other materials which are used in processing claims and which are not published in the FEDERAL REGISTER, and an index of these manuals and materials.

(c) *Record citation as precedent.* We will not use or cite any record described in paragraph (b) of this section as a precedent for an action against a person unless we have indexed the record and published it or made it available, or unless the person has timely notice of the record.

(d) *Electronic Reading Room.* We will prepare an index of records which have become or are likely to become the subject of subsequent requests. The index, and, to the extent practicable, the records will be made available on the Internet or by other computer telecommunications means.

(e) *Federal employees.* We will not disclose information when the information sought is lists of telephone numbers and/or duty stations of one or more Federal employees if the disclosure, as determined at the discretion of the official responsible for custody of the information, would place employee(s) at risk of injury or other harm. Also, we will not disclose the requested information if the information is protected from mandatory disclosure under an exemption of the Freedom of Information Act.

[62 FR 4154, Jan. 29, 1997, as amended at 63 FR 35132, June 29, 1998; 72 FR 69617, Dec. 10, 2007]

§ 402.50 Availability of administrative staff manuals.

All administrative staff manuals of the Social Security Administration and instructions to staff personnel which contain policies, procedures, or interpretations that affect the public are available for inspection and copying. A complete listing of such materials is published in the Index of Administrative Staff Manuals and Instructions. These manuals are generally not printed in a sufficient quantity to permit sale or other general distribution to the public. Selected material is maintained at district offices and field offices and may be inspected there. See §§ 402.55 and 402.60 for a listing of this material.