

(k) *Requirements for waiver or reduction of fees.* (1) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) The Office shall furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that the factors described in paragraphs (k)(2)(i) through (iii) of this section are satisfied:

(i) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(ii) Disclosure of the requested information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(A) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(B) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public will be considered. The Office will presume that a representative of the news media will satisfy this consideration.

(iii) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest

of the requester, the Office will consider the following criteria:

(A) The Office shall identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters shall be given an opportunity to provide explanatory information regarding this consideration.

(B) If there is an identified commercial interest, the Office shall determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (k)(2)(i) and (ii) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. The Office ordinarily will presume that when a news media requester has satisfied factors in paragraphs (k)(2)(i) and (ii) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(3) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver shall be granted for those records.

(4) Requests for a waiver or reduction of fees should be made when the request is first submitted to the Office and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester shall be required to pay any costs incurred up to the date the fee waiver request was received.

[82 FR 9508, Feb. 7, 2017, as amended at 84 FR 3701, Feb. 13, 2019]

## PART 204—PRIVACY ACT: POLICIES AND PROCEDURES

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AUTHORITY: 17 U.S.C. 702; 5 U.S.C. 552(a).

SOURCE: 43 FR 776, Jan. 4, 1978, unless otherwise noted.

#### § 204.1 Purposes and scope.

The purposes of these regulations are:

- (a) The establishment of procedures by which an individual can determine if the Copyright Office maintains a system of records in which there is a record pertaining to the individual; and
- (b) The establishment of procedures by which an individual may gain access to a record or information maintained on that individual and have such record or information disclosed for the purpose of review, copying, correction, or amendment.

#### § 204.2 Definitions.

For purposes of this part:

- (a) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;
- (b) The term *maintain* includes maintain, collect, use, or disseminate;
- (c) The term *record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his 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 particular assigned to the individual, such as a finger or voice print or a photograph;
- (d) The term *system of records* means a group of any records under the control of any agency from which information is retrieved by the name of the individual; and
- (e) The term *routine use* means, with respect to the disclosure of a record, the use of such record for a purpose

which is compatible with the purpose for which it was collected.

#### § 204.3 General policy.

The Copyright Office serves primarily as an office of public record. Section 705 of title 17, United States Code, requires the Copyright Office to open for public inspection all records of copyright deposits, registrations, recordations, and other actions taken under title 17. Therefore, a routine use of all Copyright Office systems of records created under section 705 of title 17 is disclosure to the public. All Copyright Office systems of records created under section 705 of title 17 are also available for public copying as required by section 706(a), with the exception of copyright deposits, whose reproduction is governed by section 706(b) and the regulations issued under that section. In addition to the records mandated by section 705 of title 17, the Copyright Office maintains other systems of records which are necessary for the Office effectively to carry out its mission. These systems of records are routinely consulted and otherwise used by Copyright Office employees in the performance of their duties. The Copyright Office will not sell, rent, or otherwise make publicly available any mailing list prepared by the Office.

[47 FR 36821, Aug. 24, 1982]

#### § 204.4 Procedure for notification of the existence of records pertaining to individuals.

- (a) The Copyright Office will publish in the FEDERAL REGISTER, upon the establishment or revision of the system of records, notices of all Copyright Office systems of records subject to the Privacy Act, as provided by 5 U.S.C., section 552a(e)(4). Individuals desiring to know if a Copyright Office system of records contains a record pertaining to them should submit a written request to that effect either by mail to the Supervisory Copyright Information Specialist, U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024-0400, or in person between the hours of 8:30 a.m. and 5 p.m. on any working day except legal holidays at Room LM-401, The James Madison Memorial Building, 1st and Independence Avenue, SE, Washington, DC.

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(b) The written request should identify clearly the system of records which is the subject of inquiry, by reference, whenever possible, to the system number and title as given in the notices of systems of records in the FEDERAL REGISTER. Both the written request and the envelope carrying it should be plainly marked "Privacy Act Request." Failure to so mark the request may delay the Office's response.

(c) The Office will acknowledge all properly marked requests made by individuals wishing to gain access to view or copy their records or any information pertaining to the individual, within a reasonable time. The Office will acknowledge in writing an individual's request to amend a record pertaining to him or her within ten business days.

(d) Since all Copyright Office records created under section 705 of title 17 are open to public inspection, no identity verification is necessary for individuals who wish to know whether a system of records created under section 705 pertains to them.

[43 FR 776, Jan. 4, 1978, as amended at 47 FR 36821, Aug. 24, 1982; 50 FR 697, Aug. 14, 1985; 60 FR 34169, June 30, 1995; 64 FR 36575, July 7, 1999; 65 FR 39820, June 28, 2000; 73 FR 37839, July 2, 2008; 82 FR 9364, Feb. 6, 2017]

### § 204.5 Procedures for requesting access to records.

(a) Individuals desiring to obtain access to Copyright Office information pertaining to them in a system of records other than those created under section 705 of title 17 should make a written request, signed by themselves or their duly authorized agent, to that effect either by mail to the Supervisory Copyright Information Specialist, U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024-0400, or in person between the hours of 8:30 a.m. and 5 p.m. on any working day except legal holidays at Room LM-401, The James Madison Memorial Building, 1st and Independence Avenue SE., Washington, DC.

(b) The written request should identify clearly the system of records which is the subject of inquiry, by reference, whenever possible, to the system number and title as given in the notices of systems of records in the

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FEDERAL REGISTER. Both the written request and the envelope carrying it should be plainly marked "Privacy Act Request." Failure to so mark the request may delay the Office's response.

(c) The Office will acknowledge all properly marked requests within 20 working days of receipt; and will notify the requester within 30 working days of receipt when and where access to the record will be granted. If the individual requested a copy of the record, the copy will accompany such notification.

[43 FR 776, Jan. 4, 1978, as amended at 47 FR 36821, Aug. 24, 1982; 60 FR 34169, June 30, 1995; 64 FR 36575, July 7, 1999; 65 FR 39820, June 28, 2000; 73 FR 37839, July 2, 2008; 82 FR 9364, Feb. 6, 2017]

### § 204.6 Fees.

(a) The Copyright Office will provide, free of charge, one copy to an individual of any record pertaining to that individual contained in a Copyright Office system of records, except where the request is for a copy of a record for which a specific fee is required and identified in § 201.3 of this chapter, in which case that fee shall be charged. For additional copies of records not covered by section 708 the fee will be a minimum of \$15.00 for up to 15 pages and \$.50 per page over 15. The Office will require prepayment of fees estimated to exceed \$25.00 and will remit any excess paid or bill an additional amount according to the differences between the final fee charged and the amount prepaid. When prepayment is required, a request is not deemed "received" until prepayment has been made.

(b) The Copyright Office may waive the fee requirement whenever it determines that such waiver would be in the public interest.

[43 FR 776, Jan. 4, 1978, as amended at 47 FR 36821, Aug. 24, 1982; 56 FR 59886, Nov. 26, 1991; 63 FR 29139, May 28, 1998; 64 FR 29522, June 1, 1999]

### § 204.7 Request for correction or amendment of records.

(a) Any individual may request the correction or amendment of a record pertaining to her or him. Requests for the removal of personally identifiable information requested by the Copyright Office as part of an application

for copyright registration are governed by §201.2(e) of this chapter. Requests for the removal of extraneous personally identifiable information, such as driver's license numbers, social security numbers, banking information, and credit card information from registration records are governed by §201.2(f) of this chapter. With respect to the correction or amendment of all other information contained in a copyright registration, the set of procedures and related fees are governed by 17 U.S.C. 408(d) and §201.5 of this chapter. With respect to requests to amend any other record that an individual believes is incomplete, inaccurate, irrelevant or untimely, the request shall be in writing and delivered either by mail addressed to the U.S. Copyright Office, Supervisory Copyright Information Specialist, Copyright Information Section, Attn: Privacy Act Request, P.O. Box 70400, Washington, DC 20024-0400, or in person Monday through Friday between the hours of 8:30 a.m. and 5 p.m., eastern time, except legal holidays, at Room LM-401, Library of Congress, U.S. Copyright Office, 101 Independence Avenue SE., Washington, DC 20559-6000. The request shall explain why the individual believes the record to be incomplete, inaccurate, irrelevant, or untimely.

(b) With respect to requests for the correction or amendment of records that are governed by this section, the Office will respond within 10 working days indicating to the requester that the requested correction or amendment has been made or that it has been refused. If the requested correction or amendment is refused, the Office's response will indicate the reason for the refusal and the procedure available to the individual to appeal the refusal.

[82 FR 9009, Feb. 2, 2017]

**§204.8 Appeal of refusal to correct or amend an individual's record.**

(a) An individual who disagrees with a refusal of the Copyright Office to amend his or her record may request a review of the denial. The individual should submit a written appeal to the General Counsel of the United States Copyright Office at the address specified in §201.1(c)(1) of this chapter. Appeals, and the envelopes containing

them, should be plainly marked "Privacy Act Appeal." Failure to so mark the appeal may delay the General Counsel's response. An appeal should contain a copy of the request for amendment or correction and a copy of the record alleged to be untimely, inaccurate, incomplete, or irrelevant.

(b) The General Counsel will issue a written decision granting or denying the appeal within 30 working days after receipt of the appeal unless, after showing good cause, the General Counsel extends the 30-day period. If the appeal is granted, the requested amendment or correction will be made promptly. If the appeal is denied, in whole or in part, the General Counsel's decision will set forth reasons for the denial. Additionally, the decision will advise the requester that he or she has the right to file with the Copyright Office a concise statement of his or her reasons for disagreeing with the refusal to amend the record and that such statement will be attached to the requester's record and included in any future disclosure of such record. If the requester is dissatisfied with the agency's final determination, the individual may bring a civil action against the Office in the appropriate United States district court.

[82 FR 9364, Feb. 6, 2017]

**§204.9 Judicial review.**

Within two years of the receipt of a final adverse administrative determination, an individual may seek judicial review of that determination as provided in 5 U.S.C. 552a(g)(1).

**PART 205—LEGAL PROCESSES**

**Subpart A—General Provisions**

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205.1 Definitions.

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205.3 Waiver of rules.

205.4 Relationship of this part to the Federal Rules of Civil and Criminal Procedure.

205.5 Scope of this part related to Copyright Office duties under title 17 of the U.S. Code.

205.6–205.10 [Reserved]