

## § 266.6

## 39 CFR Ch. I (7–1–23 Edition)

the requester submits a signed statement authorizing the person to do so, and discussion of the records in the accompanying person's presence.

(4) *Special restrictions for medical and psychological records.* A medical or psychological record must be disclosed to the requester to whom it pertains unless, in the judgment of the medical officer, access to such record could have an adverse effect upon such individual. When the medical officer determines that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, the medical officer will transmit such information to a medical doctor named by the requesting individual. In such cases, an accounting of the disclosure must be kept.

(5) *Limitations on access.* Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding. Other limitations on access are specifically addressed in paragraph (b)(4) of this section and § 266.8.

(6) *Response when compliance is not possible.* A reply denying a written request to review or otherwise access a record must be in writing, signed by the custodian or other appropriate official and must be made only if such a record does not exist or does not contain personal information relating to the requester, or is exempt from disclosure. This reply must include a statement regarding the determining factors of denial, and the right to appeal the denial to the General Counsel.

(c) *Compliance with notification request.* The custodian must promptly notify a requester if a record has been located in response to a request for notification as to whether a specific system of records contains a record pertaining to the requester, unless exempt from notification.

(d) *Compliance with request for amendment.* The custodian must:

(1) Correct or eliminate any information that is found to be incomplete, inaccurate, not relevant to a statutory purpose of the Postal Service, or not timely, and notify the requester when this action is complete; or

(2) Not later than 30 working days after receipt of a request to amend, no-

tify the requester of a determination not to amend, the reason for the refusal, and of the requester's right to appeal, or to submit, in lieu of an appeal, a statement of reasonable length setting forth a position regarding the disputed information to be attached to the contested personal record.

(e) *Availability of assistance in exercising rights.* The Privacy and Records Management Office is available to provide an individual with assistance in exercising rights pursuant to this part.

### § 266.6 Appeal procedure.

(a) *Appeal procedure.* (1) If a request for notification of or to inspect, copy, or amend a record is denied, in whole or in part, or if no determination is made within the period prescribed by this part, the requester may appeal to the General Counsel, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1101.

(2) The requester must submit an appeal in writing within 90 days of the date of denial, or within 90 days of such request if the appeal is from a failure of the custodian to make a determination. The letter of appeal should include, as applicable:

(i) Reasonable identification of the record to which the requester sought notification, access, or amendment;

(ii) A statement of the Postal Service action or failure to act, and of the relief sought; and

(iii) A copy of the request, of the notification of denial, and of any other related correspondence, if any.

(3) Any record found on appeal to be incomplete, inaccurate, not relevant, or not timely, must be appropriately amended within 30 working days of the date of such findings.

(4) The decision of the General Counsel constitutes the final decision of the Postal Service on the right of the requester to be notified of; inspect, copy, or otherwise have access to; or change or update a record. The decision on the appeal must be in writing and, in the event of a denial, must set forth the reasons for such denial and state the individual's right to obtain judicial review in a district court. An indexed file of decisions on appeals must be maintained by the General Counsel.

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(b) *Submission of statement of disagreement.* If the final decision concerning a request for the amendment of a record does not satisfy the requester, any statement of reasonable length provided by that individual setting forth a position regarding the disputed information will be accepted and attached to the relevant personal record.

### § 266.7 Schedule of fees.

(a) *Policy.* The purpose of this section is to establish fair and equitable fees to permit duplication of records for subject individuals (or authorized representatives) while recovering the full allowable direct costs incurred by the Postal Service.

(b) *Duplication.* (1) For duplicating any paper or micrographic record or publication or computer report, the fee is \$.15 per page, except that the first 100 pages furnished in response to a particular request must be furnished without charge. See paragraph (c) of this section for fee limitations.

(2) The Postal Service may at its discretion make user-paid copy machines available at any location. In that event, requesters will be given the opportunity to make copies at their own expense.

(3) The Postal Service normally will not furnish more than one copy of any record. If duplicate copies are furnished at the request of the requester; a fee of \$0.15 per page is charged for each copy of each duplicate page without regard to whether the requester is eligible for free copies pursuant to § 266.7(b)(1).

(c) *Limitations.* No fee will be charged to an individual for the process of retrieving, reviewing, or amending a record pertaining to that individual.

(d) *Reimbursement.* The Postal Service may, at its discretion, require reimbursement of its costs as a condition of participation in a computer matching program or activity with another agency. The agency to be charged is notified in writing of the approximate costs before they are incurred. Costs are calculated in accordance with the schedule of fees set forth at § 265.9.

### § 266.8 Exemptions.

(a) The Postal Reorganization Act, 39 U.S.C. 410(c), provides that certain cat-

egories of information are exempt from disclosure under the Privacy Act. In addition, the Privacy Act, 5 U.S.C. 552a(j) and (k), authorizes the Postmaster General to exempt systems of records meeting certain criteria from various other subsections of 5 U.S.C. 552a. With respect to systems of records so exempted, nothing in this part shall require compliance with provisions hereof implementing any subsections of 5 U.S.C. 552a from which those systems have been exempted.

(b) Paragraph (b)(1) of this section summarizes the provisions of 5 U.S.C. 552a for which exemption is claimed for some systems of records pursuant to, and to the extent permitted by, 5 U.S.C. 552a(j) and (k). Paragraphs (b)(2) through (5) of this section identify the exempted systems of records, the exemptions applied to each, and the reasons for the exemptions:

(1) *Explanation of provisions of 5 U.S.C. 552a for which an exemption is claimed in the systems discussed in this section.* (i) Subsection (c)(3) of 5 U.S.C. 552a requires an agency to make available to the individual named in the records an accounting of each disclosure of records at the individual's request.

(ii) Subsection (c)(4) requires an agency to inform any person or other agency to which a record has been disclosed of any correction or notation of dispute the agency has made to the record in accordance with 5 U.S.C. 552a(d).

(iii) Subsections (d)(1) through (4) require an agency to permit an individual to gain access to records about the individual, to request amendment of such records, to request a review of an agency decision not to amend such records, and to provide a statement of disagreement about a disputed record to be filed and disclosed with the disputed record.

(iv) Subsection (e)(1) requires an agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose required by statute or executive order of the President.

(v) Subsection (e)(2) requires an agency to collect information to the greatest extent practicable directly from