

§ 6.34 Appeal of denial of access within FEMA.

A requestor denied access in whole or in part, to records pertaining to that individual, exclusive of those records for which the system manager is the Administrator, may file an administrative appeal of that denial. Appeals of denied access will be processed in the same manner as processing for appeals from a denial of a request to amend a record set out in § 6.55, regardless whether the denial being appealed is made at headquarters or by a regional official.

Subpart D—Requests To Amend Records

§ 6.50 Submission of requests to amend records.

An individual who desires to amend any record containing personal information about the individual should direct a written request to the system manager specified in the pertinent FEDERAL REGISTER notice concerning FEMA’s systems of records. A current FEMA employee who desires to amend personnel records should submit a written request to the Director, Human Capital Division, Washington, DC 20472. Each request should include evidence of and justification for the need to amend the pertinent record. Each request should bear the legend “Privacy Act—Request to Amend Record” prominently marked on both the face of the request letter and the envelope.

§ 6.51 Review of requests to amend records.

(a) The system manager shall acknowledge the receipt of a request to amend a record within 10 workdays. If possible, the acknowledgment shall include the system manager’s determination either to amend the record or to deny the request to amend as provided in § 6.53.

(b) When reviewing a record in response to a request to amend, the system manager shall assess the accuracy, relevance, timeliness, and completeness of the existing record in light of the proposed amendment and shall determine whether the request for the amendment is justified. With respect to a request to delete information, the

system manager also shall review the request and the existing record to determine whether the information is relevant and necessary to accomplish an agency purpose required to be accomplished by statute or Executive Order.

§ 6.52 Approval of requests to amend records.

If the system manager determines that amendment of a record is proper in accordance with the request to amend, he or she promptly shall make the necessary corrections to the record and shall send a copy of the corrected record to the individual. Where an accounting of disclosure has been maintained, the system manager shall advise all previous recipients of the record of the fact that a correction has been made and the substance of the correction. Where practicable, the system manager shall advise the Privacy Appeals Officer that a request to amend has been approved.

§ 6.53 Denial of requests to amend records.

(a) If the system manager determines that an amendment of a record is improper or that the record should be amended in a manner other than that requested by an individual, he shall refer the request to amend and his determinations and recommendations to the appropriate official listed in § 6.33(b) through normal supervisory channels.

(b) If the official listed in § 6.33, after reviewing the request to amend a record, determines to amend the record in accordance with the request, said official promptly shall return the request to the system manager with instructions to make the requested amendments in accordance with § 6.52.

(c) If the appropriate official listed in § 6.33, after reviewing the request to amend a record, determines not to amend the record in accordance with the request, the requestor shall be promptly advised in writing of the determination. The refusal letter (1) shall state the reasons for the denial of the request to amend; (2) shall include proposed alternative amendments, if appropriate; (3) shall state the requestor’s right to appeal the denial of the request to amend; and (4) shall state

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the procedures for appealing and the name and title of the official to whom the appeal is to be addressed.

(d) The appropriate official listed in § 6.33 shall furnish the Privacy Appeals Officer a copy of each initial denial of a request to amend a record.

[44 FR 50293, Aug. 27, 1979, as amended at 45 FR 17152, Mar. 18, 1980]

§ 6.54 Agreement to alternative amendments.

If the denial of a request to amend a record includes proposed alternative amendments, and if the requestor agrees to accept them, he or she must notify the official who signed the denial. That official immediately shall instruct the system manager to make the necessary amendments in accordance with § 6.52.

§ 6.55 Appeal of denial of request to amend a record.

(a) A requestor who disagrees with a denial of a request to amend a record may file an administrative appeal of that denial. The requestor should address the appeal to the FEMA Privacy Appeals Officer, Washington, DC 20472. If the requestor is an employee of FEMA and the denial to amend involves a record maintained in the employee's Official Personnel Folder covered by an Office of Personnel Management Government-wide system notice, the appeal should be addressed to the Assistant Director, Information Systems, Agency Compliance and Evaluation Group, Office of Personnel Management, Washington, DC 20415.

(b) Each appeal to the Privacy Act Appeals Officer shall be in writing and must be received by FEMA no later than 30 calendar days from the requestor's receipt of a denial of a request to amend a record. The appeal should bear the legend "Privacy Act—Appeal," both on the face of the letter and the envelope.

(c) Upon receipt of an appeal, the Privacy Act Appeals Officer shall consult with the system manager, the official who made the denial, the Chief Counsel or a member of that office, and such other officials as may be appropriate. If the Privacy Act Appeals Officer in consultation with these officials, determines that the record should be amend-

ed, as requested, the system manager shall be instructed immediately to amend the record in accordance with § 6.52 and shall notify the requestor of that action.

(d) If the Privacy Act Appeals Officer, in consultation with the officials specified in paragraph (c) of this section, determines that the appeal should be rejected, the Privacy Act Appeals Officer shall submit the file on the request and appeal, including findings and recommendations, to the Deputy Administrator for a final administrative determination.

(e) If the Deputy Administrator determines that the record should be amended as requested, he or she immediately shall instruct the system manager in writing to amend the record in accordance with § 6.52. The Deputy Administrator shall send a copy of those instructions to the Privacy Act Appeals Officer, who shall notify the requestor of that action.

(f) If the Deputy Administrator determines to reject the appeal, the requestor shall immediately be notified in writing of that determination. This action shall constitute the final administrative determination on the request to amend the record and shall include:

(1) The reasons for the rejection of the appeal.

(2) Proposed alternative amendments, if appropriate, which the requestor subsequently may accept in accordance with § 6.54.

(3) Notice of the requestor's right to file a Statement of Disagreement for distribution in accordance with § 6.56.

(4) Notice of the requestor's right to seek judicial review of the final administrative determination, as provided in § 6.57.

(g) The final agency determination must be made no later than 30 workdays from the date on which the appeal is received by the Privacy Act Appeals Officer.

(h) In extraordinary circumstances, the Administrator may extend this time limit by notifying the requestor in writing before the expiration of the 30 workdays. The Administrator's notification will include a justification for the extension.

[44 FR 50293, Aug. 27, 1979, as amended at 45 FR 17152, Mar. 18, 1980]