

an informed decision may serve as the basis for a determination not to comply with your request.

**§ 1631.35 Certification (authentication) of copies of records.**

The Board may certify that copies of records are true copies in order to facilitate their use as evidence. The records custodian or other qualified individual shall certify copies of books, records, papers, writings, and documents by attaching a written declaration that complies with current Federal Rules of Evidence. No seal or notarization shall be required.

**§ 1631.36 Fees.**

(a) *Generally.* The Board may condition the production, disclosure, or release of records or the appearance and testimony of a Board employee upon advance payment of a reasonable estimate of the costs to the Board.

(b) *Fees for records.* Fees for the production, disclosure, or release of records are the same as those charged by the Board in its Freedom of Information Act regulations in subpart A of this part.

(c) *Fees for oral testimony.* Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(d) *Fees for written testimony.* For time spent by each employee preparing affidavits or declarations (including declarations to authenticate records), the Board may assess charges at the rate described in § 1631.14(a).

**Subpart C—Administrative Subpoenas**

AUTHORITY: 5 U.S.C. 8480.

SOURCE: 75 FR 8796, Feb. 26, 2010, unless otherwise noted.

**§ 1631.40 Subpoena authority.**

The Executive Director or General Counsel may issue subpoenas pursuant to 5 U.S.C. 8480. The General Counsel may delegate this authority to a Deputy General Counsel, Associate General Counsel, or Assistant General Counsel.

**§ 1631.41 Production of records.**

A subpoena may require the production of designated books, documents, records, electronically stored information, or tangible materials in the possession or control of the subpoenaed party when the individual signing the subpoena has determined that production is necessary to carry out any of the Agency's functions.

**§ 1631.42 Service.**

(a) *Return of service.* Each subpoena shall be accompanied by a Return of Service certificate stating the date and manner of service and the names of the persons served.

(b) *Methods of service.* Subpoenas shall be served by one of the following methods:

(1) Certified or registered mail, return receipt requested to the principal place of business or the last known residential address of the subpoenaed party.

(2) Fax or electronic transmission to the subpoenaed party or the subpoenaed party's counsel, provided the subpoenaed party gives prior approval.

(3) Personal delivery at the principal place of business or residence of the subpoenaed party during normal business hours.

**§ 1631.43 Enforcement.**

Upon the failure of any party to comply with a subpoena, the General Counsel shall request that the Attorney General seek enforcement of the subpoena in the appropriate United States district court.

**PART 1632—RULES REGARDING PUBLIC OBSERVATION OF MEETINGS**

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AUTHORITY: 5 U.S.C. 552b and 5 U.S.C. 8474.

SOURCE: 53 FR 36777, Sept. 22, 1988, unless otherwise noted.

### § 1632.1 Purpose and scope.

This part is issued by the Federal Retirement Thrift Investment Board (Board) under section 552b of title 5 of the United States Code, the Government in the Sunshine Act, to carry out the policy of the Act that the public is entitled to the fullest practicable information regarding the decision making processes of the Board while at the same time preserving the rights of individuals and the ability of the Board to carry out its responsibilities. These regulations fulfill the requirement of subsection (g) of the Act that each agency subject to the provisions of the Act shall promulgate regulations to implement the open meeting requirements of subsections (b) through (f) of the Act.

### § 1632.2 Definitions.

For purposes of this part, the following definitions shall apply:

- (a) The term *Act* means the Government in the Sunshine Act, 5 U.S.C. 552b.
- (b) The term *Board* means the Federal Retirement Thrift Investment Board and subdivisions thereof.
- (c) The term *meeting* means the deliberations of at least the number of individual agency members required to take action on behalf of the Board where such deliberations determine or result in the joint conduct or disposition of official Board business. However, this term does not include—
  - (1) Deliberations required or permitted by subsection (d) or (e) of the Act (relating to decisions to close all or a portion of a meeting, or to decisions on the timing or content of an announcement of a meeting), or

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- (2) The conduct or disposition of official agency business by circulating written material to individual members.

(d) The term *number of individual agency members required to take action on behalf of the agency* means three members.

(e) The term *member* means a member of the Board appointed under section 101 of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8472.

(f) The term *public observation* means that the public shall have the right to listen and observe but not the right to participate in the meeting or to record any of the meeting by means of cameras or electronic or other recording devices unless approval in advance is obtained from the Secretary of the Board.

### § 1632.3 Conduct of agency business.

Members shall not jointly conduct or dispose of official Board business other than in accordance with this part.

### § 1632.4 Meetings open to public observation.

(a) Except as provided in § 1632.5 of this part, every portion of every meeting of the agency shall be open to public observation.

(b) The Freedom of Information Act, 5 U.S.C. 552, and the Board's implementing regulations, 5 CFR part 1611, shall govern the availability to the public of copies of documents considered in connection with the Board's discussion of agenda items for a meeting that is open to public observation.

(c) The annual Board meeting schedule will be maintained on *frtib.gov*. In addition, agency announcements of meetings open to public observation will be published in the FEDERAL REGISTER. Requests for announcements may be made by telephoning or by writing to the Office of External Affairs, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.

[53 FR 36777, Sept. 22, 1988, as amended at 59 FR 55331, Nov. 7, 1994; 77 FR 11384, Feb. 27, 2012; 85 FR 12432, Mar. 3, 2020]

### § 1632.5 Exemptions.

- (a) Except in a case where the Board finds that the public interest requires

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otherwise, the Board may close a meeting or a portion or portions of a meeting under the procedures specified in § 1632.7 or § 1632.8 of this part, and withhold information under the provisions of §§ 1632.6, 1632.7, 1632.8, or 1632.11 of this part, where the Board properly determines that such meeting or portion of its meeting or the disclosure of such information is likely to:

- (1) Disclose matters that are:
  - (i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and
  - (ii) In fact properly classified pursuant to such Executive Order;
- (2) Relate solely to internal personnel rules and practices;
- (3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of title 5 of the United States Code), provided that such statute:
  - (i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
  - (ii) Established particular criteria for withholding or refers to particular types of matters to be withheld;
- (4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (5) Involve accusing any person of a crime, or formally censuring any person;
- (6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:
  - (i) Interfere with enforcement proceedings,
  - (ii) Deprive a person of a right to a fair trial or an impartial adjudication,
  - (iii) Constitute an unwarranted invasion of personal privacy,
  - (iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by a Federal

agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by or on behalf of, or for the use of the Board or other Federal agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would:

(i) Be likely to (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or

(ii) Be likely to significantly frustrate implementation of a proposed action except that paragraph (a)(9)(ii) of this section shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpoena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular case of formal agency adjudication pursuant to the procedures in section 554 of title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) [Reserved]

### § 1632.6 Public announcement of meetings.

(a) Except as otherwise provided by the Act, public announcement of meetings open to public observation and meetings to be partially or completely closed to public observation pursuant to § 1632.7 of this part will be made at least one week in advance of the meeting. Except to the extent such information is determined to be exempt from disclosure under § 1632.5 of this part,

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each such public announcement will state the time, place and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated to respond to requests for information about the meeting.

(b) If a majority of the members of the Board determines by a recorded vote that Board business requires that a meeting covered by paragraph (a) of this section be called at a date earlier than that specified in paragraph (a) of this section, the Board shall make a public announcement of the information specified in paragraph (a) of this section at the earliest practicable time.

(c) Changes in the subject matter of a publicly announced meeting, or in the determination to open or close a publicly announced meeting or any portion of a publicly announced meeting to public observation, or in the time or place of a publicly announced meeting made in accordance with the procedures specified in §1632.9 of this part, will be publicly announced at the earliest practicable time.

(d) Public announcements required by this section will be posted at the Board's External Affairs Office and may be made available by other means or at other locations as may be desirable.

(e) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding announcements and the name and telephone number of the official designated by the Board to respond to requests about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

### § 1632.7 Meetings closed to public observation.

(a) A meeting or a portion of a meeting will be closed to public observation, or information as to such meeting or portion of a meeting will be withheld, only by recorded vote of a majority of the Members of the Board when it is determined that the meeting or the portion of the meeting or the withholding of information qualifies for ex-

emption under §1632.5. Votes by proxy are not allowed.

(b) Except as provided in paragraph (c) of this section, a separate vote of the Members of the Board will be taken with respect to the closing or the withholding of information as to each meeting or portion thereof which is proposed to be closed to public observation or with respect to which information is proposed to be withheld pursuant to this section.

(c) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation or with respect to any information concerning such series of meetings proposed to be withheld, so long as each meeting or portion thereof in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(d) Whenever any person's interests may be directly affected by a portion of the meeting for any of the reasons referred to in exemption (a)(5), (a)(6) or (a)(7) of §1632.5 of this part, such person may request in writing to the Secretary of the Board that such portion of the meeting be closed to public observation. The Secretary, or in his or her absence, the Acting Secretary of the Board, shall transmit the request to the members and upon the request of any one of them a recorded vote shall be taken whether to close such meeting to public observation.

(e) Within one day of any vote taken pursuant to paragraphs (a) through (d) of this section, the agency will make publicly available at the Board's External Affairs Office a written copy of such vote reflecting the vote of each member on the question. If a meeting or a portion of a meeting is to be closed to public observation, the Board, within one day of the vote taken pursuant to paragraphs (a) through (d) of this section, will make publicly available at the Board's External Affairs Office a full written explanation of its action closing the meeting or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation, except to the extent such information is determined by the Board to be exempt from disclosure

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under subsection (c) of the Act and § 1632.5 of this part.

(f) Any person may request in writing to the Secretary of the Board that an announced closed meeting, or portion of the meeting, be held open to public observation. The Secretary, or in his or her absence, the Acting Secretary of the Board, will transmit the request to the members of the Board and upon the request of any member a recorded vote will be taken whether to open such meeting to public observation.

### § 1632.8 Changes with respect to publicly announced meetings.

The subject matter of a meeting or the determination to open or close a meeting or a portion of a meeting to public observation may be changed following public announcement under § 1632.6 only if a majority of the Members of the Board determines by a recorded vote that that agency business so requires and that no earlier announcement of the change was possible. Public announcement of such change and the vote of each member upon such change will be made pursuant to § 1632.6(c). Changes in time, including postponements and cancellations of a publicly announced meeting or portion of a meeting or changes in the place of a publicly announced meeting will be publicly announced pursuant to § 1632.6(c) by the Secretary of the Board or, in the Secretary's absence, the Acting Secretary of the Board.

### § 1632.9 Certification of General Counsel.

Before every meeting or portion of a meeting closed to public observation under § 1632.7 of this part, the General Counsel, or in the General Counsel's absence, the Acting General Counsel, shall publicly certify whether or not in his or her opinion the meeting may be closed to public observation and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, will be retained for the time prescribed in § 1632.10(d).

### § 1632.10 Transcripts, recordings, and minutes.

(a) The Board will maintain a complete transcript or electronic recording or transcription thereof adequate to record fully the proceedings of each meeting or portion of a meeting closed to public observation pursuant to exemption (a)(1), (a)(2), (a)(3), (a)(5), (a)(6), (a)(7), or (a)(9)(ii) of § 1632.5 of this part. Transcriptions of recordings will disclose the identity of each speaker.

(b) The Board will maintain either such a transcript, recording or transcription thereof, or a set of minutes that will fully and clearly describe all matters discussed and provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question), for meetings or portions of meetings closed to public observation pursuant to exemptions (a)(8), (a)(9)(i)(A) or (a)(10) of § 1632.5 of this part. The minutes will identify all documents considered in connection with any action taken.

(c) Transcripts, recordings or transcriptions thereof, or minutes will promptly be made available to the public in the External Affairs Office except for such item or items of such discussion or testimony as may be determined to contain information that may be withheld under subsection (c) of the Act and § 1632.5 of this part. These documents, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription.

(d) A complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording or verbatim copy of a transcription thereof of each meeting or portion of a meeting closed to public observation will be maintained for a period of at least two years, or one year after the conclusion of any Board proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

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### § 1632.11 Procedures for inspection and obtaining copies of transcriptions and minutes.

(a) Any person may inspect or copy a transcript, a recording or transcription, or minutes described in § 1632.10(c) of this part.

(b) Requests for copies of transcripts, recordings or transcriptions of recordings, or minutes described in § 1632.10(c) of this part shall specify the meeting or the portion of meeting desired and shall be submitted in writing to the Secretary of the Board, Federal Retirement Thrift Investment Board, 77 K Street, NE., Suite 1000, Washington, DC 20002. Copies of documents identified in minutes may be made available to the public upon request under the provisions of 5 CFR part 1630 (the Board's Freedom of Information Act regulations).

[53 FR 36777, Sept. 22, 1988, as amended at 59 FR 55331, Nov. 7, 1994; 77 FR 11384, Feb. 27, 2012]

## PART 1633—STANDARDS OF CONDUCT

AUTHORITY: 5 U.S.C. 7301.

### § 1633.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Federal Retirement Thrift Investment Board (Board) are subject to the executive branch-wide Standards of Ethical conduct at 5 CFR part 2635, the Board regulations at 5 CFR part 8601 which supplement the executive branch-wide standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

[59 FR 50817, Oct. 6, 1994]

## PART 1636—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

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1636.170 Compliance procedures.

1636.171–1636.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 58 FR 57696, 57699, Oct. 26, 1993, unless otherwise noted.

### § 1636.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

### § 1636.102 Application.

This part (§§ 1636.101–1636.170) applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

### § 1636.103 Definitions.

For purposes of this part, the term—  
*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*Auxiliary aids* means services or devices that enable persons 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 agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar