

§ 5.25

take appropriate action to ensure compliance with 6 CFR part 7.

§ 5.25 Administrative appeals for access requests.

(a) *Requirements for filing an appeal.* An individual may appeal an adverse determination denying the individual's request for access in any respect to the appropriate Appeals Officer. For the address of the appropriate component Appeals Officer, an individual may contact the applicable component FOIA Liaison using the information in appendix A to this part, visit www.dhs.gov/foia, or call 1-866-431-0486. An appeal must be in writing, and to be considered timely it must be post-marked or, in the case of electronic submissions, transmitted to the Appeals Officer within 90 working days, consistent with the procedures in subpart A to this part, after the date of the component's response. An electronically filed appeal will be considered timely if transmitted to the Appeals Officer by 11:59:59 p.m. EST or EDT on the 90th working day. The appeal should clearly identify the component determination (including the assigned request number if the requester knows it) that is being appealed and should contain the reasons the requester believes the determination was erroneous. For the quickest possible handling, an individual should mark both the appeal letter and the envelope "Privacy Act Appeal" or "Judicial Redress Act Appeal."

(b) *Adjudication of appeals.* The DHS Office of the General Counsel, or its designee, (e.g., Component Appeals Officer) is the authorized appeals authority for DHS. On receipt of any appeal involving classified information, the Appeals Officer will consult with the Chief Security Officer and take appropriate action to ensure compliance with 6 CFR part 7. If the appeal becomes the subject of a lawsuit, the Appeals Officer is not required to act further on the appeal.

(c) *Appeal decisions.* Consistent with the procedures in subpart A to this part, the decision on an appeal will be made in writing generally twenty (20) working days after receipt. However, consistent with the procedures in subpart A to this part, the time limit for

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responding to an appeal may be extended provided the circumstances set forth in 5 U.S.C. 552(a)(6)(B)(i) are met. A decision affirming an adverse determination in whole or in part will include a brief statement of the reason(s) for the affirmance, including any Privacy Act exemption applied, and will inform the requester of the Privacy Act provisions for court review of the decision. If the adverse determination is reversed or modified on appeal in whole or in part, the requester will be notified in a written decision and the request will be reprocessed in accordance with that appeal decision. An adverse determination by the DHS Office of the General Counsel or its designee or Component Appeals Officer will be the final action of the Department.

(d) *Appeal necessary before seeking court review.* If an individual wishes to seek review by a court of any adverse determination or denial of a request by DHS within the allotted 20 working days to respond unless there are unusual or exceptional circumstances, that individual must first appeal it under this subpart. An appeal will not be acted on if the request becomes a matter of litigation.

§ 5.26 Requests for amendment or correction of records.

(a) *How made and addressed.* Unless the record is not subject to amendment or correction as stated in paragraph (f) of this section, an individual may make a request for amendment or correction of a record of the Department about that individual by writing directly to the component that maintains the record, following the procedures in § 5.21. The request should identify each record in question, state the amendment or correction requested, and state the reason why the requester believes that the record is not accurate, relevant, timely, or complete. The requester may submit any documentation that the requester thinks would support the request. If the individual believes that the same record is in more than one system of records, the requester should state that and address the request to each component that maintains a system of records containing the record.