

(a) Final opinions and orders made in the adjudication of cases;

(b) Statements of policy and interpretations which have been adopted under the authority of the A&TBCB and are not published in the FEDERAL REGISTER;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) A record of the final votes of each member of the Board in every Board proceeding;

(e) Current indexes providing identifying information for the public as to the materials made available under paragraphs (a) through (d) of this section.

(f) All papers and documents made a part of the official record in administrative proceedings conducted by the A&TBCB in connection with the issuance, amendment, or revocation of rules and regulations or determinations having general applicability or legal effect with respect to members of the public or a class of the public.

(g) After a final order is issued in any adjudicative proceeding conducted by the A&TBCB, all papers and documents made a part of the official record of the proceeding. (The official docket is kept in the office of the administrative law judge hearing the case until a final order is issued.)

#### § 1120.12 Indexes to certain records.

Current indexes are normally available to the public in published form as provided in §1120.11. These indexes, whether or not published, are made available for inspection and copying on request. If published copies of a particular index are at any time not available or if publication of the index has been determined to be unnecessary and impracticable by order published in the FEDERAL REGISTER, copies of the index will be furnished on request. (See §1120.6(b), *Published indexes.*)

#### § 1120.13 Effect of nonavailability.

Any material listed in paragraph (a) of this section that is not indexed as required by §1120.11(e) and §1120.12, may not be cited, relied on, or used as precedent by the Board to adversely affect any member of the public unless the person against whom it is cited, re-

lied on, or used has had actual and timely notice of the material.

### Subpart D—Information Available Upon Request

#### § 1120.21 Policy on disclosure of records.

(a) It is the policy of the A&TBCB to make information available to the public to the greatest extent possible in keeping with the spirit of the Freedom of Information Act. Therefore, all records of the A&TBCB, except those that the A&TBCB specifically determines must not be disclosed in the national interest, for the protection of private rights, or for the efficient conduct of public business to the extent permitted by the Freedom of Information Act, are declared to be available for public inspection and copying as provided in this part. Each member and employee of the A&TBCB is directed to cooperate to this end and to make records available to the public promptly and to the fullest extent consistent with this policy. A record may not be withheld from the public solely because its release might suggest administrative error or embarrass a member or employee of the A&TBCB.

(b) Subject to §1120.51, any non-exempt A&TBCB record is available to the public upon request regardless of whether the requestor shows any justification or need for the record.

(c) An A&TBCB office may waive the procedures on this subpart in favor of the requestor, for reasons of the public interest, simplicity, or speed.

(d) If a requested record contains both exempt and nonexempt material, the nonexempt material shall be disclosed, after the exempt material has been deleted in accordance with §1120.42.

#### § 1120.22 Requests to which this subpart applies.

(a) This subpart applies to any written request (other than a request made by another Federal agency) received by the A&TBCB, whether or not the request cites the Freedom of Information Act, 5 U.S.C. 552, except with respect to records for which a less formal disclosure procedure is provided specifically in this part.

### § 1120.23

(b) Any written request to the A&TBCB for existing records prepared by the A&TBCB for routine public distribution, *e.g.*, pamphlets, copies of speeches, press releases, and educational materials, shall be honored. No individual determination under § 1120.32 is necessary in these cases, since preparation of the materials for routine public distribution itself constitutes that a determination that the records are available to the public.

(c) This subpart applies only to records that exist at the time the request for information is made. (See § 1120.3, *Existing records.*)

#### **§ 1120.23 Where requests for agency records must be filed.**

A written request for records must be filed with the A&TBCB Freedom of Information Officer, Suite 501, 1111 18th Street NW., Washington, DC 20036. Requests may be mailed to that address or filed in person at that address during the A&TBCB's normal business hours.

[45 FR 80976, Dec. 8, 1980, as amended at 55 FR 2520, Jan. 25, 1990]

#### **§ 1120.24 Misdirected written requests; oral requests.**

(a) The A&TBCB cannot assure that a timely for satisfactory response under this subpart will be given to written requests that are addressed to A&TBCB offices, members, or employees other than the Freedom of Information Officer listed in § 1120.23. Any A&TBCB member or employee who receives a written request for inspection or disclosure of A&TBCB records must promptly forward a copy of the request to the Freedom of Information Officer, by the fastest practicable means, and must, if appropriate, commence action under § 1120.32.

(b) While A&TBCB members and employees will attempt in good faith to comply with oral requests for inspection or disclosure of A&TBCB records, by telephone or otherwise, these requests are not required to be processed in accordance with this subpart.

#### **§ 1120.25 Form of requests.**

A request must be in writing, must reasonably describe the records sought

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in a way that will permit their identification and location, and must be addressed to the address set forth in § 1120.23, but otherwise need not be in any particular form. Each request under the Freedom of Information Act should be clearly and prominently identified by a legend on the first page, such as "Freedom of Information Act Request." The envelope in which the request is sent should be prominently marked with the letters "FOIA." It is helpful, but not necessary, for the requestor to include his or her phone number and the reason for the request. A request may state the maximum amount of fees which the requester is willing to pay. Under § 1120.33(d), the failure to state willingness to pay fees as high as are anticipated by the A&TBCB will delay running of the time limit and delay processing of the request, if the responsible official anticipates that the fees chargeable may exceed \$250.00.

[45 FR 80976, Dec. 8, 1980, as amended at 52 FR 43195, Nov. 10, 1987]

#### **§ 1120.26 Deficient descriptions.**

(a) If the description of the records sought in the request is not sufficient to allow the A&TBCB to identify and locate the requested records, the office taking action under § 1120.32 must notify the requestor (by telephone when practicable) that the request cannot be further processed until additional information is furnished.

(b) The A&TBCB must make every reasonable effort to assist the requestor in formulating his or her request. If a request is described in general terms (*e.g.*, all records having to do with a certain area), the A&TBCB office taking action under § 1120.32 may communicate with the requestor (by telephone when practicable) with a view toward reducing the administrative burden of processing a broad request and minimizing the fee payable by the requestor. Such attempts must not be used as a means to discourage requests, but rather as a means to help identify with more specificity the records actually sought.