

§ 1611.10

submitted under paragraph (a) of this section not later than 30 working days from the date on which the individual requests a review, unless for good cause shown, this 30-day period is extended and the requester is notified of the reasons for the extension and of the estimated date on which a final determination will be made. Such extensions will be used only in exceptional circumstances and will not normally exceed 30 working days.

(c) In conducting the review of an appeal submitted under paragraph (a) of this section, the Legal Counsel or the Legal Counsel's designee shall be guided by the requirements of 5 U.S.C. 552a(e).

(d) If the Legal Counsel or the Legal Counsel's designee determines to grant all or any portion of a request on an appeal submitted under paragraph (a) of this section, he or she shall so inform the requester, and the appropriate Commission official shall comply with the procedures set forth in § 1611.8(a)(1)(ii) and (iii).

(e) If the Legal Counsel or the Legal Counsel's designee determines in accordance with paragraphs (b) and (c) of this section not to grant all or any portion of a request on an appeal submitted under paragraph (a) of this section, he or she shall inform the requester:

(1) Of this determination and the reasons for it;

(2) Of the requester's right to file a concise statement of reasons for disagreement with the determination of the Legal Counsel or the Legal Counsel's designee;

(3) That such statements of disagreement will be made available to anyone to whom the record is subsequently disclosed, together with (if the Legal Counsel or Legal Counsel's designee deems it appropriate) a brief statement summarizing the Legal Counsel or Legal Counsel's designee's reasons for refusing to amend the record;

(4) That prior recipients of the disputed record will be provided with a copy of the statement of disagreement together with (if the Legal Counsel or Legal Counsel's designee deems it appropriate) a brief statement of the Legal Counsel or Legal Counsel's designee's reasons for refusing to amend

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the record, to the extent that an accounting of disclosure is maintained under 5 U.S.C. 552a(c); and

(5) Of the requester's right to file a civil action in Federal district court to seek a review of the determination of the Legal Counsel or the Legal Counsel's designee in accordance with 5 U.S.C. 552a(g).

(f) The Legal Counsel or the Legal Counsel's designee shall ensure that any statements of disagreement submitted by a requestor are made available or distributed in accordance with paragraphs (e) (3) and (4) of this section.

[56 FR 29582, June 28, 1991]

§ 1611.10 Disclosure of record to person other than the individual to whom it pertains.

The Commission shall not disclose any record which is contained in a system of records it maintains, by any means of communication to any person or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, unless the disclosure is authorized by one or more provisions of 5 U.S.C. 552a(b).

§ 1611.11 Fees.

(a) No fee shall be charged for searches necessary to locate records. No charge shall be made if the total fees authorized are less than \$1.00. Fees shall be charged for services rendered under this part as follows:

(1) Photocopies (per page), \$.15.

(2) Attestation of each record as a true copy, \$.75.

(3) Certification of each record as a true copy under the seal of the Commission, \$1.00.

(b) All required fees shall be paid in full prior to issuance of requested copies of records. Fees are payable to "Treasurer of the United States."

[42 FR 7949, Feb. 8, 1977, as amended at 56 FR 29582, June 28, 1991]

§ 1611.12 Penalties.

The criminal penalties which have been established for violations of the Privacy Act of 1974 are set forth in 5 U.S.C. 552a(i). Penalties are applicable

to any officer or employee of the Commission; to contractors and employees of such contractors who enter into contracts with the Commission on or after September 27, 1975, and who are considered to be employees of the Commission within the meaning of 5 U.S.C. 552a(m); and to any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses.

§ 1611.13 Specific exemptions.

Pursuant to subsection (k)(2) of the Act, 5 U.S.C. 552a(k)(2), systems EEOC-1 (Age and Equal Pay Act Discrimination Case Files), EEOC-3 (title VII and Americans With Disabilities Act Discrimination Case Files) and EEOC/GOVT-1 (Equal Employment Opportunity Complaint Records and Appeal Records) are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f) of the Act. The Commission has determined to exempt these systems from the above named provisions of the Privacy Act for the following reasons:

(a) The files in these systems contain information obtained by the Commission and other Federal agencies in the course of investigations of charges and complaints that violations of title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Americans With Disabilities Act and the Rehabilitation Act have occurred. In some instances, agencies obtain information regarding unlawful employment practices other than those complained of by the individual who is the subject of the file. It would impede the law enforcement activities of the Commission and other agencies for these provisions of the Act to apply to such records.

(b) The subject individuals of the files in these systems know that the Commission or their employing agencies are maintaining a file on their charge or complaint, and the general nature of the information contained in it.

(c) Subject individuals of the files in each of these systems have been provided a means of access to their records by the Freedom of Information Act. Subject individuals of the charge files

in system EEOC-3 have also been provided a means of access to their records by section 83 of the Commission's Compliance Manual. Subject individuals of the case files in system EEOC/GOVT-1 have also been provided a means of access to their records by the Commission's Equal Employment Opportunity in the Federal Government regulation, 29 CFR 1613.220.

(d) Many of the records contained in system EEOC/GOVT-1 are obtained from other systems of records. If such records are incorrect, it would be more appropriate for an individual to seek to amend or correct those records in their primary filing location so that notice of the correction can be given to all recipients of that information.

(e) Subject individuals of the files in each of these systems have access to relevant information provided by the allegedly discriminating employer as part of the investigatory process and are given the opportunity to explain or contradict such information and to submit any responsive evidence of their own. To allow such individuals the additional right to amend or correct the records submitted by the allegedly discriminating employer would undermine the investigatory process and destroy the integrity of the administrative record.

(f) The Commission has determined that the exemption of these three systems from subsections (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) of the Privacy Act is necessary for the agency's law enforcement efforts.

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PART 1612—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

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