

## § 5.14

functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedures, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Department;

(5) Every amendment, revision, or repeal of the foregoing.

(b) *Agency opinions and orders.* The Department shall, in accordance with this part and applicable regulations, make available for public inspection and copying:

(1) All final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases (initial decisions and reconsiderations thereof in matters that are not the result of administrative proceedings such as hearings or formal appeals are not "opinions and orders in the adjudication of cases");

(2) Those statements of policy and interpretations which have been adopted by the agency and are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to staff that affect any member of the public;

unless such materials are promptly published and copies offered for sale.

The Department shall maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required by this paragraph (b) to be published or made available.

(c) *Availability of records on request.* In addition to the records made available pursuant to paragraphs (a) and (b) of this section, the Department shall, upon request for identifiable records made in accordance with this part, make such records available to any person, unless it is determined that such records must be withheld from disclosure and are exempt under sub-

## 34 CFR Subtitle A (7-1-04 Edition)

section (b) of the Act and subpart F of this part.

### § 5.14 Published documents.

Published records of the Department, whether or not available for purchase, shall be made available for examination.

### § 5.15 Creation of records.

Records are not required to be created by compiling selected items from the files, and records are not required to be created to provide the requester with such data as ratios, proportions, percentages, per capita, frequency distributions, trends, correlations, and comparisons. If such data have been compiled and are available in the form of a record, the record shall be made available as provided in this part.

### § 5.16 Deletion of identifying details.

Whenever any final opinion, order, or other materials required to be made available pursuant to subsection (a)(2) of the Act relates to a private party or parties and the release of the name or names or other identifying details will constitute a clearly unwarranted invasion of personal privacy, the record shall be published or made available with such identifying details left blank, or shall be published or made available with obviously fictitious substitutes and with a notification such as the following as a preamble:

Names of parties and certain other identifying details have been removed [and fictitious names substituted] in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved.

### § 5.17 Records in record centers.

When a request is made for identifiable records of the Department which have been stored in the National Archives or other record centers of the General Services Administration, but would otherwise be available under this Act, such records shall be requested by the Department for the requester.

### § 5.18 Destroyed records.

Records of specified form or character are destroyed after the lapse of time specified in the Records Disposal Act of 1943 (44 U.S.C. 366-380), the Federal Property Management Regulations