

## § 294.104

not for a commercial use, but in furtherance of scholarly or scientific research.

(1) *Educational institution* refers to any public or private, preschool, elementary, or secondary school, institution of undergraduate or graduate higher education, or institution of professional or vocational education, which operates a program or programs of scholarly or scientific research.

(2) A *non-commercial scientific institution* refers to an institution that is not operated on a *commercial* basis as that term is referenced in paragraph (a) of this section, and which is operated solely to conduct scientific or scholarly research, the results of which are not intended to promote any particular product or industry.

(c) *Request from a representative of the news media*. "Representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish, broadcast, or otherwise disseminate news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals who make their products available for purchase or subscription by the general public. Free-lance journalists may be regarded as representatives of the news media if they demonstrate a solid basis for expecting publication, or some other form of dissemination, through a particular organization even though they are not actually employed by it. OPM will assign news media officials to this category only when a request is not for commercial use. If a person meets the other qualifications for inclusion, OPM will not apply the term "commercial use" to his or her request for records in support of a news dissemination function.

(d) *Requests from others*. The category "all others," consists of any requesters not covered by paragraphs (a), (b), or (c) of this section. However, as provided by §294.105, OPM will use its Privacy Act regulations, rather than this subpart, when individuals ask for records about themselves that may be filed in OPM systems of records.

## 5 CFR Ch. I (1-1-05 Edition)

### § 294.104 Clarifying a requester's category.

(a) *Seeking clarification of a requester's category*. OPM may seek additional clarification before assigning a person to a specific category if—

(1) There is reasonable cause to doubt the requester's intended use of records; or

(2) The intended use is not clear from the request itself; or

(3) There is any other reasonable doubt about qualifications that may affect the fees applicable or the services rendered under §294.109.

(b) *Prompt notification to requester*. When OPM seeks clarification as provided by paragraph (a) of this section, it will provide prompt notification either by telephone or in writing of the information or materials needed.

(c) *Effect of seeking clarification on time limits for responding*. When applying the time limits in section 552 of title 5, United States Code, OPM will not officially consider any request for records as being received until the official who is assigned responsibility for making a decision on releasing the records has received any additional clarification sought under paragraphs (a) and (b) of this section; and has determined that the clarifying information is sufficient to correctly place the requester in one of the categories prescribed in this section. If the requested clarifying information is not received within a reasonable time, OPM will, based on the information available, determine a final category for the request and calculate applicable fees.

[54 FR 25094, June 13, 1989, as amended at 58 FR 32043, June 8, 1993]

### § 294.105 Access to the requester's own records.

When the subject of a record, or a duly authorized representative of the subject, requests his or her own records from a Privacy Act system of records, as defined by 5 U.S.C. 552a (a)(5), and the record is maintained so that it is retrieved by the subject's name or other personal identifier, OPM will process the request under the Privacy Act procedures in part 297 of this chapter.