

§ 1630.14 Appeals process.

(a) Within 20 work days of receiving the request for review, the Executive Director, after consultation with the General Counsel, will make a final determination on the appeal. If a final decision cannot be made in 20 work days, the Privacy Act Officer will inform the requester of the reasons for the delay and the date on which a final decision can be expected. Such extensions are unusual, and should not exceed an additional 30 work days.

(b) If the original request was for access and the initial determination is reversed, the procedures in §1630.7 will be followed. If the initial determination is upheld, the requester will be so informed and advised of the right to judicial review pursuant to 5 U.S.C. 552a(g).

(c) If the initial denial of a request to amend a record is reversed, the Board or the record keeper will correct the record as requested and inform the individual of the correction. If the original decision is upheld, the requester will be informed and notified in writing of the right to judicial review pursuant to 5 U.S.C. 552a(g) and the right to file a concise statement of disagreement with the Executive Director. The statement of disagreement should include an explanation of why the requester believes the record is inaccurate, irrelevant, untimely, or incomplete. The Executive Director shall maintain the statement of disagreement with the disputed record, and shall include a copy of the statement of disagreement to any person or agency to whom the record has been disclosed, if the disclosure was made pursuant to §1630.9.

[55 FR 18852, May 7, 1990, as amended at 64 FR 67695, Dec. 3, 1999]

§ 1630.15 Exemptions.

(a) Pursuant to subsection (k) of the Privacy Act, 5 U.S.C. 552a, the Board may exempt certain portions of records within designated systems of records from the requirements of the Privacy Act, (including access to and review of such records pursuant to this part) if such portions are:

(1) Subject to the provisions of section 552(b)(1) of the Freedom of Information Act, 5 U.S.C. 552;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act, 5 U.S.C. 552a: Provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(3) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the United States Code;

(4) Required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosures of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, 5 U.S.C. 552a, under an implied promise that the identity of the source would be held in confidence;

(6) Test or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material be held in confidence, or, prior to the effective date of the Privacy Act, 5