

Equal Employment Opportunity Comm.

§ 1610.9

§ 1610.7 Where to make request; form.

(a) Requests for the following types of records shall be submitted to the regional attorney for the pertinent district, field, area or local office, at the district office address listed in § 1610.4(c) or, in the case of the Washington Field Office, shall be submitted to the regional attorney in the Charlotte District Office at the address listed in § 1610.4(c).

(1) Information about current or former employees of an office;

(2) Existing non-confidential statistical data related to the case processing of an office;

(3) Agreements between the Commission and State or local fair employment agencies operating within the jurisdiction of an office; or

(4) Materials in office investigative files related to charges under: Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act (29 U.S.C. 206(d)); the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 *et seq.*); or, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*)

(b) A request for any record which does not fall within the ambit of subparagraph (a) of this section, or a request for any record the location of which is unknown to the person making the request, shall be submitted in writing to the Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street NW., Washington DC 20507.

(c) A request must be clearly and prominently defined as a request for information under the Freedom of Information Act. If submitted by mail, or otherwise submitted under any cover, the envelope or other cover must be similarly identified.

(d) When a request is one which by nature should properly be directed to the Legal Counsel, or a regional attorney, such request shall not be deemed to have been received by the Commission until the time it is actually received by the appropriate official.

(e) Any Commission official who receives a written Freedom of Information request shall promptly forward it to the appropriate official specified in paragraph (a) or (b) of this section. Any Commission official who receives an

oral request under the Freedom of Information Act shall inform the other person making the request that it must be in writing and also inform such person of the provisions of this subpart.

[45 FR 40604, June 16, 1980, as amended at 47 FR 46275, Oct. 18, 1982; 52 FR 4902, Feb. 18, 1987; 54 FR 32062, Aug. 4, 1989; 56 FR 29578, June 28, 1991; 71 FR 26830, May 9, 2006]

§ 1610.8 Authority to determine.

The Legal Counsel's designee, the regional attorney, or the regional attorney's designee, when receiving a request pursuant to these regulations, shall grant or deny each such request. That decision shall be final, subject only to administrative review as provided in § 1610.11 of this subpart.

[63 FR 1341, Jan. 9, 1998]

§ 1610.9 Responses: timing.

(a) The Legal Counsel's designee, the regional attorney, or the regional attorney's designee shall either grant or deny a request for records within 20 working days after receipt of the request unless additional time is required for one of the following reasons:

(1) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) It is necessary to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) If it is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(b) When additional time is required for one of the reasons stated in paragraph (a) of this section the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, shall acknowledge receipt of the request within the 20 day period and include a brief notation of the reason for the delay and an indication of the date on which it is expected that a determination as to disclosure will be forthcoming. If more than 10 working additional days are needed, the requester

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shall be notified and provided an opportunity to limit the scope of the request or to arrange for an alternate time frame for processing the request.

(c)(1) Requests for records may be eligible for expedited processing if the requester demonstrates a compelling need. For the purposes of this section, compelling need means:

(i) that the failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) that the requester is a person primarily engaged in disseminating information and there is an urgency to inform the public concerning actual or alleged Federal government activity.

(2) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. A determination on the request for expedited processing will be made and the requester notified within 10 working days. The Legal Counsel or designee shall promptly respond to any appeal of the denial for expedited processing.

[45 FR 40604, June 16, 1980, as amended at 47 FR 46275, Oct. 18, 1982; 52 FR 4902, Feb. 18, 1987; 56 FR 29578, 29579, June 28, 1991; 63 FR 1341, Jan. 9, 1998]

§ 1610.10 Responses: form and content.

(a) Once a requested record is identified and available, the requester will be notified of when and where the record will be made available and the cost assessed for processing the request. Records shall be made available in the form or format indicated by the requester, if the record is readily reproducible in that form or format. Fees for processing requests will be determined in accordance with the schedule set forth in § 1610.15. Checks shall be made payable to the Treasurer of the United States.

(b) A reply denying a written request for a record shall be in writing, signed by the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, and shall include:

(1) His or her name and title;

(2) A reference to the specific exemption under the Freedom of Information

Act authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld, or a statement that, after diligent effort, the requested records have not been found or have not been adequately examined during the time allowed under § 1610.9(a), and that the denial will be reconsidered as soon as the search or examination is complete; and

(3) A statement that the denial may be appealed to the Legal Counsel within 30 days of receipt of the denial or partial denial.

(c) When denying a request for records, the estimated volume of denied material shall be indicated, unless providing such estimate would harm an interest protected by the exemptions in 5 U.S.C. 522(b). When providing a reasonably segregable portion of a record, the amount of information deleted from the released portion, and to the extent technically feasible, the place in the record where such deletion was made shall be indicated.

(d) If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the person making the request shall be so notified.

[40 FR 8171, Feb. 26, 1975, as amended at 52 FR 4902, Feb. 18, 1987; 56 FR 29579, June 28, 1991; 63 FR 1342, Jan. 9, 1998]

§ 1610.11 Appeals to the Legal Counsel from initial denials.

(a) When the Legal Counsel's designee, the regional attorney, or the regional attorney's designee, has denied a request for records in whole or in part, the person making the request may appeal within 30 calendar days of its receipt. The appeal must be in writing addressed to the Legal Counsel or designee, Equal Employment Opportunity Commission, 1801 L Street NW., Washington DC 20507, and clearly labeled as a Freedom of Information Act appeal. Any appeal of a denial in whole or part by a regional attorney, or the regional attorney's designee, must include a copy of the regional attorney's, or the regional attorney's designee's determination.

(b) The Legal Counsel or designee shall act upon the appeal within 20 working days of its receipt, and more