

**§ 297.307**

**5 CFR Ch. I (1–1–08 Edition)**

(d) The Office reserves the right to hold in abeyance any Privacy Act appeal concerning a record when an individual is involved in challenging an action involving that record in another administrative, judicial, or quasi-judicial forum. At the conclusion of such a challenge, the individual can resubmit the appeal.

(e) If the Office denies the appeal, it will include in the decision letter notification of the appellant's right to judicial review.

**§ 297.307 Statement of disagreement.**

(a) Upon receipt of a final administrative determination denying a request to amend a record, the requester may file a concise statement of disagreement. Such a statement should be filed with the appropriate system manager and should include the reasons why the requester believes the decision to be incorrect.

(b) The statement of disagreement should be maintained with the record to be amended and any disclosure of the record must include a copy of the statement of disagreement.

(c) When practicable and appropriate, the system manager should provide a copy of the statement of disagreement to any individual or agency to whom the record was previously disclosed as noted by the disclosure accounting.

**§ 297.308 Judicial review.**

Upon receipt of notification that the denial to amend a record has been upheld on administrative review, the requester has the right to judicial review of the decision for up to 2 years from the date the cause of action arose. Judicial review may be sought in the district court of the United States in the district in which—

(a) The requester resides;

(b) The requester has his or her principal place of business; or

(c) The agency records are situated; or it may be sought in the district court of the District of Columbia.

**Subpart D—Disclosure of Records**

**§ 297.401 Conditions of disclosure.**

An official or employee of the Office or agency should not disclose a record retrieved from a Governmentwide sys-

tem of records to any person, another agency, or other entity without the express written consent of the subject individual unless disclosure is—

(a) To officers or employees of the Office who have a need for the information in the performance of their duties.

(b) Required by the provisions of the Freedom of Information Act.

(c) For a routine use as published in the FEDERAL REGISTER.

(d) To the Bureau of the Census for uses pursuant to title 13 of the United States Code.

(e)(1) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record. The record will be transferred in a form that is not individually identifiable. The written statement should include as a minimum:

(i) A statement of the purpose for requesting the records; and

(ii) Certification that the records will be used only for statistical purposes.

(2) These written statements should be maintained as records. In addition to deleting personal identifying information from records released for statistical purposes, the system manager will reasonably ensure that the identity of the individual cannot be deduced by combining various statistical records.

(f) To the National Archives of the United States as a record that has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or his or her designee to determine whether the record has such value.

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality or his designated representative has made a written request to the Office or agency that maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought.

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(h) To a person showing compelling circumstances affecting the health and safety of an individual, not necessarily the individual to whom the record pertains. Upon such disclosure, a notification should be sent to the last known address of the subject individual.

(i) To the Congress or to a Congressional committee, subcommittee, or joint committee to the extent that the subject matter falls within its established jurisdiction.

(j) To the Comptroller General or any authorized representatives of the Comptroller General in the course of the performance of the duties of the General Accounting Office.

(k) Pursuant to the order of a court of competent jurisdiction.

(l) To a consumer reporting agency in accordance with section 3711 (f) of title 31 of the United States Code.

### **§ 297.402 Disclosure pursuant to a compulsory legal process served on the Office.**

For purposes of this section, the Office considers that a subpoena signed by a judge is equivalent to a court order.

(a) The Office may disclose, without prior consent of the data subject, specified information from a system of records whenever such disclosure is pursuant to an order signed by the appropriate official of a court of competent jurisdiction or quasi-judicial agency. In this subpart, a court of competent jurisdiction includes the judicial system of a state, territory, or possession of the United States.

(b) Notice of the order will be provided to the data subject by the Office as soon as practicable after service of the order. The notice should be mailed to the last known address of the individual and state the name and number of the case or proceeding, and the nature of the information sought.

(c) Before complying or refusing to comply with the order, an official with authority to disclose records under this subpart should consult legal counsel to ensure that the response is appropriate.

(d) Before responding to the order or subpoena signed by a judge, an official with authority to disclose records

under this subpart in consulting with legal counsel will ensure that—

(1) The requested material is relevant to the subject matter of the related judicial or administrative proceeding;

(2) Motion is made to quash or modify an order that is unreasonable or oppressive;

(3) Motion is made for a protective order when necessary to restrict the use or disclosure of any information furnished for purposes other than those of the involved proceeding; or

(4) Request is made for an extension of time allowed for response, if necessary.

(e) If an order or subpoena signed by a judge for production of documents also requests appearance of an Office employee, the response should be to furnish certified copies of the appropriate records. In those situations where the subpoena is not signed by a judge, the Office will return the document to the sender and indicate that no action will be taken to provide records until the subpoena is signed by a judge.

(f) If oral testimony is requested by the order or subpoena signed by a judge, an explanation that sets forth the testimony desired must be furnished to the Office system manager. The individual who has been ordered or subpoenaed to testify should consult with counsel to determine the matters about which the individual may properly testify.

(g) In all situations concerning an order, subpoena signed by a judge, or other demand for an employee of the Office to produce any material or testimony concerning the records that are subject to the order, that are contained in the Office's systems of records, and that are acquired as part of the employee's official duties, the employee shall not provide the information without the prior approval of the appropriate Office official.

(h) If it is determined that the information should not be provided, the individual ordered or subpoenaed to do so should respectfully decline to comply with the demand based on the instructions from the appropriate Office official.

(i) Notice of the issuance of the ex parte order or subpoena signed by a