

§ 310.33

32 CFR Ch. I (7–1–99 Edition)

(3) Automated record systems that are not programed to accept statements of disagreement shall be annotated or coded so that they clearly indicate that a statement of disagreement is on file, and clearly identify the statement with the disputed information in the system.

(4) Provide a copy of the statement of disagreement whenever the disputed information is disclosed for any purpose.

(o) *DoD Component summaries of reasons for refusing to amend.* (1) A summary of reasons for refusing to amend may be included with any record for which a statement of disagreement is filed.

(2) Include in this summary only the reasons furnished to the individual for not amending the record. Do not include comments on the statement of disagreement. Normally, the summary and statement of disagreement are filed together.

(3) When disclosing information for which a summary has been filed, a copy of the summary may be included in the release, if the Component desires.

(p) *Privacy Case Files.* (1) Establish a separate Privacy Case File to retain the documentation received and generated during the amendment or access process.

(2) The Privacy Case File shall contain as a minimum:

(i) The request for amendment or access;

(ii) Copies of the DoD Component's reply granting or denying the request;

(iii) Any appeals from the individual;

(iv) Copies of the action regarding the appeal with supporting documentation which is not in the basic file; and

(v) Any other correspondence generated in processing the appeal, to include coordination documentation.

(3) Only the items listed in paragraphs (p)(4) and (s) of this section may be included in the system of records challenged for amendment or for which access is sought. Do *not* retain copies of unamended records in the basic record system if the request for amendment is granted.

(4) The following items relating to an amendment request may be included in the disputed record system:

(i) Copies of the amended record.

(ii) Copies of the individual's statement of disagreement (see paragraph (m) of this section).

(iii) Copies of Component summaries (see paragraph (o) of this section).

(iv) Supporting documentation submitted by the individual.

(5) The following items relating to an access request may be included in the basic records system:

(i) Copies of the request;

(ii) Copies of the Component's action granting total access.

NOTE.—A separate Privacy case file need not be created in such cases.

(iii) Copies of the Component's action denying access;

(iv) Copies of any appeals filed;

(v) Copies of the reply to the appeal.

(6) There is no need to establish a Privacy case file if the individual has not cited the Privacy Act (reference (b)), this part, or the Component implementing instruction for this part.

(7) Privacy case files shall not be furnished or disclosed to anyone for use in making any determination about the individual other than determinations made under this part.

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57800, Nov. 14, 1991]

§ 310.33 Reproduction fees.

(a) *Assessing fees.* (1) Charge the individual only the direct cost of reproduction.

(2) Do not charge reproduction fees if copying is:

(i) The only means to make the record available to the individual (for example, a copy of the record must be made to delete classified information); or

(ii) For the convenience of the DoD Component (for example, the Component has no reading room where an individual may review the record, or reproduction is done to keep the original in the Component's file).

(3) No fees shall be charged when the record may be obtained without charge under any other regulation, directive, or statute.

(4) Do not use fees to discourage requests.

(b) *No minimum fees authorized.* Use fees only to recoup direct reproduction costs associated with granting access.

Minimum fees for duplication are not authorized and there is no automatic charge for processing a request.

(c) *Prohibited fees.* Do not charge or collect fees for:

(1) Search and retrieval of records;
 (2) Review of records to determine releasability;

(3) Copying records for DoD Component convenience or when the individual has not specifically requested a copy;

(4) Transportation of records and personnel; or

(5) Normal postage.

(d) *Waiver of fees.* (1) Normally, fees are waived automatically if the direct costs of a given request is less than \$30. This fee waiver provision does not apply when a waiver has been granted to the individual before, and later requests appear to be an extension or duplication of that original request. A DoD Component may, however, set aside this automatic fee waiver provision when on the basis of good evidence it determines that the waiver of fees is not in the public interest.

(2) Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis.

(e) *Fees for members of Congress.* Do not charge members of Congress for copying records furnished even when the records are requested under the Privacy Act on behalf of a constituent (see §310.41(k) of subpart E). When replying to a constituent inquiry and the fees involved are substantial, consider suggesting to the Congressman that the constituent can obtain the information directly by writing to the appropriate offices and paying the costs. When practical, suggest to the Congressman that the record can be examined at no cost if the constituent wishes to visit the custodian of the record.

(f) *Reproduction fees computation.* Compute fees using the appropriate portions of the fee schedule in subpart G of the DoD Freedom of Information Program (32 CFR part 286).

[51 FR 2364, Jan. 16, 1986. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57800, Nov. 14, 1991]

Subpart E—Disclosure of Personal Information to Other Agencies and Third Parties

§310.40 Conditions of disclosure.

(a) *Disclosures to third parties.* (1) The Privacy Act only compels disclosure of records from a system of records to the individuals to whom they pertain.

(2) All requests by individual for personal information about other individuals (third parties) shall be processed under the DoD Freedom of Information Program (32 CFR part 286), except for requests by the parents of a minor, or legal guardians of an individual, for access to the records pertaining to the minor or individual.

(b) *Disclosures among DoD Components.* For the purposes of disclosure and disclosure accounting, the Department of Defense is considered a single agency (see §310.41(a)).

(c) *Disclosures outside the Department of Defense.* Do not disclose personal information from a system of records outside the Department of Defense unless:

(1) The record has been requested by the individual to whom it pertains.

(2) The written consent of the individual to whom the record pertains has been obtained for release of the record to the requesting agency, activity, or individual, or

(3) The release is for one of the specific nonconsensual purposes set forth in §310.41 of this part.

(d) *Validation before disclosure.* Except for releases made in accordance with the Freedom of Information Act (5 U.S.C. 552), before disclosing any personal information to any recipient outside the Department of Defense other than a federal agency or the individual to whom it pertains:

(1) Ensure that the records are accurate, timely, complete, and relevant for agency purposes;

(2) Contact the individual, if reasonably available, to verify the accuracy, timeliness, completeness, and relevancy of the information, if the cannot be determined from the record; or

(3) If the information is not current and the individual is not reasonably available, advise the recipient that the information is believed accurate as of a