

good cause so warrant. The Board may seek additional information, including the appellant's official file, if deemed relevant and necessary to deciding the appeal.

(i) If the Board determines that amendment is justified, it will amend the record and notify the requester, the AARA, the custodian of the record, and any prior recipients of the record.

(ii) If the Board denies the request, it will obtain the General Counsel's concurrence. Response to the appellant will include reasons for denial and the appellant's right to file a statement of disagreement with the Board's action and to seek judicial review of the Army's refusal to amend.

(9) Statements of disagreement will be an integral part of the record to which it pertains so the fact that the record is disputed is apparent to anyone who may have access to, use of, or need to disclose from it. The disclosing authority may include a brief summary of the Board's reasons for not amending the disputed record. The summary will be limited to the reasons stated to the individual by the Board.

(l) *Privacy case files.* Whenever an individual submits a Privacy Act request, a case file will be established; see system notice AO240.01DAAG. In no instance will the individual's request and Army actions thereon be included in the individual's personnel file. The case file will comprise the request for access/amendment, grants, refusals, coordination action, and related papers. This file will not be used to make any determinations about the individuals.

§ 505.3 Disclosure of personal information to other agencies and third parties.

(a) *Disclosure without consent.* The Army is prohibited from disclosing a record from a system of records without obtaining the prior written consent of the data subject, except when disclosure is:

(1) To those officers and employees of the Department of Defense who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (see § 505.3(c) for information normally releasable);

(3) Permitted by a routine use that has been published in the FEDERAL REGISTER;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to title 13 of the United States Code;

(5) To a recipient who has provided the Army with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) 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 U.S. Government, or for determination of such value by the Administrator of the General Services Administration (GSA), or designee. (Records sent to Federal Records Centers for storage remain under Army control; these transfers are not disclosures and do not therefore need an accounting.)

(7) To another agency or to an 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 has made a written request to the Army element which maintains the record. The request must specify the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health and safety of an individual. Upon such disclosure, notification will be transmitted to the last known address of such individual;

(9) To either House of Congress, or to a committee or subcommittee to the extent that the subject matter falls within the jurisdiction of the committee or subcommittee;

(10) To the Comptroller General, or any authorized representative in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order signed by a judge of a court of competent jurisdiction. (Reasonable efforts must be made to notify the individual if the

legal process is a matter of public record); or

(12) To a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (originally codified at 31 U.S.C. 952(d); recodified at 31 U.S.C. 3711(f), the name, address, SSN, other information identifying the individual; amount, status, and history of the claim, and the agency or program under which the case arose may be disclosed in this instance.

(b) *Blanket routine use disclosures.* In addition to the routine uses in each system notice, the following blanket routine uses apply to all records from systems of records maintained by the Army except those which state otherwise.

(1) *Law enforcement.* Relevant records maintained to carry out Army functions may be referred to Federal, State, local, or foreign law enforcement agencies if the record indicates a violation or potential violation of law. The agency to which the records are referred must be the appropriate agency charged with the responsibility of investigating or prosecuting the violation or charges, with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

(2) *Disclosure when requesting information.* A record may be disclosed to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, to obtain information relevant to an Army decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(3) *Disclosure of requested information.* If the information is relevant and necessary to the requesting agency's decision, a record may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and nec-

essary to the requesting agency's decision on the matter.

(4) *Congressional inquiries.* Disclosure from a system of records maintained by the Army may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(5) *Private relief legislation.* Relevant information in all systems of records of the Department of Defense published on or before August 22, 1975, will be disclosed to the Office of Management and Budget (OMB) review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process.

(6) *Disclosures required by international agreements.* A record may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities. These disclosures are in compliance with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of DOD military and civilian personnel.

(7) *Disclosure to State and local taxing authorities.* Any information normally contained in Internal Revenue Service Form W-2 which is maintained in a record from a system of records of the Army may be disclosed to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements under 5 U.S.C., sections 5516, 5517, and 5520 only to those State and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use complies with Treasury Fiscal Requirements Manual, Sec. 5060.

(8) *Disclosures to the Office of Personnel Management.* A record may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

(9) *Disclosure to National Archives and Records Administration.* A record may be disclosed to the National Archives and Records Administration in records

management inspections conducted under authority of title 44 U.S.C., sections 2904 and 2906.

(10) *Disclosure to the Department of Justice for Litigation.* A record may be disclosed as a routine use to any component of the Department of Justice, when—

(i) The agency, or any component thereof, or

(ii) Any employee of the agency in his or her official capacity, or

(iii) Any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or

(iv) The United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which it is collected.

(11) *Disclosure for Agency use in Litigation.* A record may be disclosed in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when—

(i) The agency, or any component thereof, or

(ii) Any employee of the agency in his or her official capacity, or

(iii) Any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee, or

(iv) The United States, where the agency determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the agency determines that their use of such records is relevant and necessary to the litigation, provided; however, that in each case, the agency determines that disclosure of the records to the court or adjudicative body is a use of the information contained in the records that is compatible with the purpose for which it is collected.

(c) *Disclosure to third parties.* Personal information which may be disclosed under the Freedom of Information Act:

(1) On military personnel: Name, rank, date of rank, gross salary, present and past duty assignments, future assignments that are officially established, office or duty telephone number, source of commission, promotion sequence number, awards and decorations, military and civilian educational level, duty status at any given time.

(2) On civilian employees: Name, present and past position titles, grades, salaries, duty stations that include office or duty telephone numbers. However, disclosure of this information will not be made where the information requested is a list of present or past position titles, grades, salaries, and/or duty stations and, as such, is:

(i) Selected to constitute a clearly unwarranted invasion of personal privacy. For example, the nature of the request calls for a response that would reveal more about the employee than the five enumerated items;

(ii) Would be protected from mandatory disclosure under an exemption of the Freedom of Information Act.

(iii) In addition to the information in § 505.3(c)(2) above, the following information may be made available to a prospective employer of a current or former Army employee: Tenure of employment, civil service status, length of service in the Army and the Government and, date and reason for separation shown on the Notification of Personnel Action, SF 50.

(d) *Accounting of disclosure.* (1) An accounting of disclosure is required whenever a record from an Army system of records is disclosed to someone other than the data subject, except when that record:

(i) Is disclosed to officials within the Department of Defense who have a need for it in the performance of official business;

(ii) Is required to be disclosed under the Freedom of Information Act.

(2) Since the characteristics of records maintained within the Army vary widely, no uniform method for keeping the disclosure of accounting is prescribed. For most paper records, the accounting may be affixed to the

record being disclosed. It must be a written record and consist of:

(i) Description of the record disclosed;

(ii) Name, position title, and address of the person to whom disclosure was made;

(iii) Date, method, and purpose of the disclosure; and

(iv) Name and position title of the person making the disclosure.

(3) Purpose of the accounting of disclosure is to enable an individual:

(i) To ascertain those persons/agencies that have received information about the individual, and

(ii) To provide a basis for informing recipients of subsequent amendments or statements of dispute concerning the record.

(4) When an individual requests such an accounting, the system manager or designee shall respond within 10 work days and inform the individual of the items in § 505.3(d)(2) above.

(5) The only basis for not furnishing the data subject an accounting of disclosures are if disclosure was made for law enforcement purposes under 5 U.S.C. 552a(b)(7), or the disclosure was from a system of records for which an exemption from 5 U.S.C. 552a(c)(3) has been claimed (see appendix C to this part).

[50 FR 42164, Oct. 18, 1985, as amended at 58 FR 51013, Sept. 30, 1993]

§ 505.4 Record-keeping requirements under the Privacy Act.

(a) *Systems of records.* (1) Notices of all Army systems of records are required by the Act to be published in the FEDERAL REGISTER. An example is at appendix A to this part. When new systems are established, or major changes occur in existing systems, which meet the criteria of OMB Guidelines summarized at § 505.4(f)(2), advance notice is required to be furnished OMB and the Congress before the system or proposed changes become operational.

(2) Uncirculated personal notes, papers and records which are retained at the author's discretion and over which the Army exercises no control or dominion are not considered Army records within the meaning of the Privacy Act. Individuals who maintain

such notes must restrict their use of memory aids. Disclosure from personal notes, either intentional or through carelessness, remove the information from the category of memory aids and the notes then become subject to the provisions of the Act.

(3) Only personal information as is relevant and necessary to accomplish a purpose or mission of the Army, required by Federal statute or Executive Order of the President, will be maintained in Army systems of records. Statutory authority, or regulatory authority to establish and maintain a system of records does not convey unlimited authority to collect and maintain all information which may be useful or convenient. The authority is limited to relevant and necessary information.

(4) Except for statistical records, most records could be used to determine an individual's rights, benefits, or privileges. To ensure accuracy, personal information to be included in a system of records will be collected directly from the individual if possible. Collection of information from third parties should be limited to verifying information for security or employment suitability or obtaining performance data or opinion-type evaluations.

(b) *Privacy Act Statement.* Whenever personal information is requested from an individual that will become part of system of records retrieved by reference to the individual's names or other personal identifier, the individual will be furnished a Privacy Act Statement. This is to ensure that individuals know why the information is collected so they can make an informed decision on whether or not to furnish it. As a minimum, the Privacy Act Statement will include the following information in language that is explicit and easily understood and not so lengthy as to deter an individual from reading it:

(1) Cite the specific statute or Executive Order, including a brief title or subject, that authorizes the Army to collect the personal information requested. Inform the individual whether or not a response is mandatory or voluntary, and any possible consequences of failing to respond.