

§ 401.90

(A) The Investigatory Material Compiled for Security and Suitability Purposes System, SSA; and,

(B) The Suitability for Employment Records, SSA.

(iv) Pursuant to subsection (k)(6) of the Privacy Act, the Personnel Research and Merit Promotion Test Records, SSA/DCHR/OPE.

(c) *Notification of or access to records in exempt systems of records.* (1) Where a system of records is exempt as provided in paragraph (b) of this section, you may nonetheless request notification of or access to a record in that system. You should make requests for notification of or access to a record in an exempt system of records in accordance with the procedures of §§ 401.35 through 401.55.

(2) We will grant you notification of or access to a record in an exempt system but only to the extent such notification or access would not reveal the identity of a source who furnished the record to us under an express promise, and prior to September 27, 1975, an implied promise, that his or her identity would be held in confidence, if:

(i) The record is in a system of records which is exempt under subsection (k)(2) of the Privacy Act and you have been, as a result of the maintenance of the record, denied a right, privilege, or benefit to which you would otherwise be eligible; or,

(ii) The record is in a system of records which is exempt under subsection (k)(5) of the Privacy Act.

(3) If we do not grant you notification of or access to a record in a system of records exempt under subsections (k) (2) and (5) of the Privacy Act in accordance with this paragraph, we will inform you that the identity of a confidential source would be revealed if we granted you notification of or access to the record.

(d) *Discretionary actions by SSA.* Unless disclosure of a record to the general public is otherwise prohibited by law, we may at our discretion grant notification of or access to a record in a system of records which is exempt under paragraph (b) of this section. Discretionary notification of or access to a record in accordance with this paragraph will not be a precedent for discretionary notification of or access

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to a similar or related record and will not obligate us to exercise discretion to grant notification of or access to any other record in a system of records which is exempt under paragraph (b) of this section.

§ 401.90 Contractors.

(a) All contracts which require a contractor to maintain, or on behalf of SSA to maintain, a system of records to accomplish an SSA function must contain a provision requiring the contractor to comply with the Privacy Act and this part.

(b) A contractor and any employee of such contractor will be considered employees of SSA only for the purposes of the criminal penalties of the Privacy Act, 5 U.S.C. 552a(i), and the employee standards of conduct (see appendix A of this part) where the contract contains a provision requiring the contractor to comply with the Privacy Act and this part.

(c) This section does not apply to systems of records maintained by a contractor as a result of his management discretion, e.g., the contractor's personnel records.

§ 401.95 Fees.

(a) *Policy.* Where applicable, we will charge fees for copying records in accordance with the schedule set forth in this section. We may only charge fees where you request that a copy be made of the record to which you are granted access. We will not charge a fee for searching a system of records, whether the search is manual, mechanical, or electronic. Where we must copy the record in order to provide access to the record (e.g., computer printout where no screen reading is available), we will provide the copy to you without cost. Where we make a medical record available to a representative designated by you or to a physician or health professional designated by a parent or guardian under § 401.55 of this part, we will not charge a fee.

(b) *Fee schedule.* Our Privacy Act fee schedule is as follows:

(1) Copying of records susceptible to photocopying—\$.10 per page.

(2) Copying records not susceptible to photocopying (e.g., punch cards or

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magnetic tapes)—at actual cost to be determined on a case-by-case basis.

(3) We will not charge if the total amount of copying does not exceed \$25.

(c) *Other Fees.* We also follow §§402.155 through 402.165 of this chapter to determine the amount of fees, if any, we will charge for providing information under the FOIA and Privacy Act.

Subpart C—Disclosure of Official Records and Information

§401.100 Disclosure of records with the consent of the subject of the record.

(a) Except as permitted by the Privacy Act and the regulations in this chapter, or if required by the FOIA, we will not disclose your record without your written consent. The consent must specify the individual, organizational unit or class of individuals or organizational units to whom the record may be disclosed, which record may be disclosed and, where applicable, during which time frame the record may be disclosed (e.g., during the school year, while the subject individual is out of the country, whenever the subject individual is receiving specific services). We will not honor a blanket consent to disclose all your records to unspecified individuals or organizational units. We will verify your identity and, where applicable (e.g., where you consent to disclosure of a record to a specific individual), the identity of the individual to whom the record is to be disclosed.

(b) A parent or guardian of a minor is not authorized to give consent to a disclosure of the minor's medical record. See §401.55(c) for the procedures for disclosures of or access to the medical records of minors.

§401.105 Disclosure of personal information without the consent of the subject of the record.

(a) SSA maintains two categories of records which contain personal information:

(1) Nonprogram records, primarily administrative and personnel records which contain information about SSA's activities as a government agency and employer, and

(2) Program records which contain information about SSA's clients that it keeps to administer benefit programs under Federal law.

(b) We apply different levels of confidentiality to disclosures of information in the categories in paragraphs (a) (1) and (2) of this section. For administrative and personnel records, we apply the Privacy Act restrictions on disclosure. For program records, we apply somewhat more strict confidentiality standards than those found in the Privacy Act. The reason for this difference in treatment is that our program records include information about a much greater number of persons than our administrative records, the information we must collect for program purposes is often very sensitive, and claimants are required by statute and regulation to provide us with the information in order to establish entitlement for benefits.

§401.110 Disclosure of personal information in nonprogram records without the consent of the subject of the record.

The disclosures listed in this section may be made from our nonprogram records, e.g., administrative and personnel records, without your consent. Such disclosures are those:

(a) To officers and employees of SSA who have a need for the record in the performance of their duties. The SSA official who is responsible for the record may upon request of any officer or employee, or on his own initiative, determine what constitutes legitimate need.

(b) Required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, and 20 CFR part 402.

(c) For a routine use as defined in §401.25 of this part. Routine uses will be listed in any notice of a system of records. SSA publishes notices of systems of records, including all pertinent routine uses, in the FEDERAL REGISTER.

(d) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 U.S.C.

(e) To a recipient who has provided us with advance written assurance that