

Appendix D
APPEAL PROCEDURES

D-1 APPEAL FROM INITIAL DENIAL OF ACCESS TO RECORDS. The Privacy Appeals Officer will review any initial denial for access to records only if a written request for review is filed within 30 calendar days from the date of the notification of denial of access to the record.

- A. The appeal package must contain:
1. A copy of the request for access.
 2. A copy of the written denial of the request for access.
 3. A statement of the reasons why the initial denial is believed to be in error.
 4. The individual's signature.
- B. If the appeal package fails to provide the required information the Privacy Appeals Officer will give the requester reasonable opportunity to amend the request and will advise that the time of receipt for processing purposes will be the time when the additional necessary information is received by the Privacy Appeals Officer.
- C. If the request for appeal is misdirected, the Department official receiving it will promptly refer the request to the Privacy Appeals Officer, who is the General Counsel; the time of receipt of the request for processing purposes is the time the Privacy Appeals Officer receives it.
- D. When all the necessary information is provided, the Privacy Appeals Officer will act on the appeal and issue a final determination in writing within 30 working days from the date on which the appeal is received. If the Privacy Appeals Officer determines that a fair and equitable review cannot be made within that period, then the period may be extended to 60 working days from receipt of the request for appeal. The individual must be advised in writing of the decision to extend the review period, the reason for the extension and the estimated date by which a final determination will be reached (within the 60 working day limitation)

1. If unusual circumstances exist (such as, records are in inactive storage, field facilities or other establishments; voluminous data are involved information on other individuals must be separated or deleted; consultations with other agencies having a substantial interest in the determination are necessary), the 60-day review period may be further extended; however, only if

the individual is notified of this decision and the reason(s) for it in writing.

2. The Privacy Appeals Officer will not conduct hearings in connection with administrative review of an initial denial of access to a record.

E. The Privacy Appeals officer will render a decision in writing, which will constitute final action on the part of the Department on a request for access to a record. If the denial of the request is upheld, in whole or in part, the Privacy Appeals Officer will notify the requester of the right to judicial review under the provisions of the Privacy Act and the Departmental Regulations.

D-2 APPEAL FROM INITIAL DENIAL TO CORRECT OR AMEND A RECORD. The Privacy Appeals Officer will review any initial denial to correct or amend a record only if a written request for review is filed within 30 calendar days from the date of the notification of denial to correct or amend the record.

A. The appeal package must contain:

1. A copy of the original request for correction or amendment.
2. A copy of the initial denial.
3. A statement of the reasons why the initial denial is believed to be in error.
4. The individual's signature.

B. If the appeal package fails to provide the required information, the Privacy Appeals Officer will give the requester reasonable opportunity to amend the request and will advise him that the time of receipt of the appeal for processing purposes will be the time when the additional necessary information is received by the Privacy Appeals Officer.

10/95

D-2

1325.01 REV-1

C. If the request for appeal is misdirected, the Department official receiving it will promptly refer the request to the Privacy Appeals Officer; the time of receipt of the request for processing purposes is the time the Privacy Appeals Officer receives it.

D. The appeal package, received from the individual, and the record in question, to be supplied by the Privacy Act Officer who issued the initial denial, will normally comprise the entire record on appeal. However, the Privacy Appeals Officer may seek additional information to assure that the final determination is fair and equitable. In such instances the Privacy Appeals Officer will disclose this additional

information to the greatest extent possible to the individual and provide him with the opportunity to comment on the information disclosed.

- E. When all the necessary information is provided, the Privacy Appeals Officer will act on the appeal and issue a final determination in writing within 30 working days from the date when all necessary information is received. If the Privacy Appeals Officer determines that he cannot make a fair and equitable review within that period, then the period may be extended to no more than 60 working days from receipt of the request for appeal. The individual must be advised in writing of the decision to extend the review period, the reason for the extension, and the estimated date by which a final determination will be reached (within the 60 working day limitation).
1. If unusual circumstances exist (such as, records are in inactive storage, field facilities or other establishments; voluminous data are involved; information on other individuals must be separated or deleted; consultations with other agencies having a substantial interest in the determination are necessary), the review period may be extended to 60 days; however, only if the individual is notified of this decision in writing.
 2. The Privacy Appeals Officer will not conduct hearings in connection with administrative appeal of an initial denial to correct or amend a record.
 3. The Privacy Appeals Officer will consider the following criteria in making a final determination on an appeal from a denial to correct or amend a record:

D-3

10/95

1325.01 REV-1

- a. The sufficiency of the evidence submitted by the individual.
- b. The factual accuracy of the information.
- c. The relevance and necessity of the information in terms of the purpose for which it was collected.
- d. The timeliness and currency of the information in terms of the purpose for which it was collected.
- e. The completeness of the information in terms of the purpose for which it was collected.
- f. The possibility that denial of the request could unfairly result in determinations adverse to the individual.
- g. The character of the record sought to be corrected or amended.

the record and notify any other person or agency to whom it has disclosed the record, providing an accounting was made of the disclosure, of the substance of the correction or amendment.

G. If the appeal is denied, the Privacy Appeals Officer will promptly notify the individual of the determination and state the reasons for denying the appeal. The Privacy Appeals Officer will also notify the individual of his rights as follows:

1. The individual may file a concise statement of reasons for disagreeing with the final determination.

a. The statement should contain the date of the final determination and the individual's signature, and be filed with the Privacy Appeals Officer, who will

D-5

10/95

1325.01 REV-1

acknowledge receipt of the statement, including the date on which it was received.

b. The Privacy Appeals Officer and the Departmental Privacy Act Officer will jointly determine whether to accept or reject a statement of excessive length, typically greater than one page.

c. Any such disagreement statement will be noted in the disputed record and a copy will be provided to persons or agencies to which the record was disclosed subsequent to the date of receipt of such statement, providing an accounting was made of the disclosure.

d. The Department will append to any such disagreement statement a copy or summary of the final determination which will also be provided to persons or agencies to which the disagreement statement is disclosed.

e. Although the copy or summary of the final determination is a part of the individual's record for purposes of disclosure, it will not be subject to correction or amendment by the individual.

2. The individual may obtain judicial review under the provisions of the Privacy Act and the Departmental Regulations.

10/95

D-6