

Obtaining Records Via the Privacy Act of 1974

Should you leave government without the records you need to obtain benefits or file an appeal or complaint, the rights available under the [Privacy Act of 1974](#) may help you obtain them.

- The right to request such information is available to not only federal employees, but to “individuals.”
 - “[T]he term ‘individual’ means a citizen of the United States or an alien lawfully admitted for permanent residence.” 5 U.S.C. § 552a(a)(2).
- **What is it?** The Privacy Act of 1974 is a federal law that governs the collection and use of records federal agencies maintain on you in a ‘system of records.’ A system of records is any grouping of information about an individual under the control of a Federal agency from which information is retrievable by personal identifiers, such as name, social security number, or other identifying number or symbol.
- **How does it protect you?** The Privacy Act provides protections to individuals in three primary ways. It provides individuals with:
 - **the right to request their records**, subject to Privacy Act exemptions;
 - **the right to request a change to their records** that are not accurate, relevant, timely or complete; and
 - **the right to be protected against unwarranted invasion of their privacy** resulting from the collection, maintenance, use, and disclosure of their personal information.
- **Private Right of Access** Per 5 U.S.C. § 552a(d)(1), “Each agency that maintains a system of records shall . . . upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual’s record in the accompanying person’s presence.”

Every agency is required to provide information on its website about its procedures for submitting a request for your records under the Privacy Act of 1974. If you cannot find it there, try typing “privacy act request” into your web browser with or without the name of a specific agency and links to most agencies will pop up in the results. We are providing a link to a sample Privacy Act request, **but be aware that each agency may have its own specific form and, if they do, you should use the form provided by the agency and not the sample provided.**

If you believe your information has been improperly shared with a person not authorized to receive it, you may file a complaint with an agency pursuant to procedures on agency websites or identified in each agency's Systems of Record Notices (SORNs) published in the Federal Register. The following are the general rules pertaining to disclosure:

- **Conditions of Disclosure.** The general rule under the Privacy Act is that an agency cannot disclose a record contained in a system of records unless the individual to whom the record pertains gives prior written consent to the disclosure. 5 U.S.C. § 552a(b).
- There are twelve exceptions to this general rule. The following are Privacy Act Exemptions when consent to release information is *not* required:
 - to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;
 - required under section 552 of this title (FOIA disclosures);
 - for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section (routine uses);
 - 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;
 - 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, and the record is to be transferred in a form that is not individually identifiable;
 - to the National Archives and Records Administration as a record which 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 the designee of the Archivist to determine whether the record has such value;
 - 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 agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;
 - to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;
 - to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;
 - to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the Government Accountability Office;

- pursuant to the order of a court of competent jurisdiction; or
 - to a consumer reporting agency in accordance with section 3711(e) of title 31.”
- **Accounting for Disclosures** Per 5 U.S.C. 552a(c), subject to listed exceptions, agencies are required to keep a record (account for) disclosures made under the Privacy Act.
- Civil and criminal penalties may be available for non-compliance with the requirements of the Privacy Act of 1974. 5 U.S.C. 552a(g)(1) and (i)(1).