

§ 5b.9 Disclosure of records.

(a) *Consent to disclosure by a subject individual.* (1) Except as provided in paragraph (b) of this section authorizing disclosures of records without consent, no disclosure of a record will be made without the consent of the subject individual. In each case the consent, whether obtained from the subject individual at the request of the Department or whether provided to the Department by the subject individual on his own initiative, shall be in writing. The consent shall 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). A blanket consent to disclose all of a subject individual's records to unspecified individuals or organizational units will not be honored. The subject individual's identity and, where applicable (*e.g.*, where a subject individual gives consent to disclosure of a record to a specific individual), the identity of the individual to whom the record is to be disclosed shall be verified.

(2) A parent or guardian of any minor is not authorized to give consent to a disclosure of the minor's medical record.

(b) *Disclosures without the consent of the subject individual.* The disclosures listed in this paragraph may be made without the consent of the subject individual. Such disclosures are:

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

(2) Required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, and part 5 of this title.

(3) For a routine use as defined in paragraph (j) of § 5b.1 of this part. Routine uses will be listed in any notice of a system of records. Routine uses published in appendix B are applicable to more than one system of records. Where applicable, notices of systems of records may contain references to the routine uses listed in appendix B. Appendix B will be published with any compendium of notices of systems of records.

(4) 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.

(5) To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; *Provided*, That, the record is transferred in a form that does not identify the subject individual.

(6) To the National Archives of the United States 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 Administrator of General Services or his designee to determine whether the record has such value.

(7) To another government 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 such government agency or instrumentality has submitted a written request to the Department specifying the record desired and the law enforcement activity for which the record is sought.

(8) To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject individual.

(9) 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.

(10) To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office.

(11) Pursuant to the order of a court of competent jurisdiction.

(c) *Accounting of disclosures.* (1) An accounting of all disclosures of a record will be made and maintained by the Department for 5 years or for the life of the record, whichever is longer; *except that*, such an accounting will not be made:

(i) For disclosures under paragraphs (b) (1) and (2) of this section; and,

(ii) For disclosures made with the written consent of the subject individual.

(2) The accounting will include:

(i) The date, nature, and purpose of each disclosure; and

(ii) The name and address of the person or entity to whom the disclosure is made.

(3) Any subject individual may request access to an accounting of disclosures of a record. The subject individual shall make a request for access to an accounting in accordance with the procedures in § 5b.5 of this part. A subject individual will be granted access to an accounting of the disclosures of a record in accordance with the procedures of this part which govern access to the related record. Access to an accounting of a disclosure of a record made under paragraph (b) (7) of this section may be granted at the discretion of the responsible Department official.