

OPM GOVT-3

System Name:

Records of Adverse Actions, Performance Based Reduction in Grade and Removal Actions, and Termination of Probationers.

System Location(s):

These records are located in personnel or designated offices in Federal agencies in which the actions were processed.

Categories of Individuals Covered by the System:

Current or former Federal employees (including Senior Executive Service (SES) employees) against whom such an action has been proposed or taken in accordance with 5 CFR parts 315 (subparts H and I), 432, 752, or 754 of the Office's regulations.

Categories of Records in the System:

This system contains records and documents on: (1) The processing of adverse actions, performance based reduction in grade and removal actions, and (2) the termination of employees serving initial appointment probation and return to their former grade of employees serving supervisory or managerial probation. The records include, as appropriate, copies of the notice of proposed action, materials relied on by the agency to support the reasons in the notice, replies by the employee, statements of witness, hearing notices, reports, and agency decisions.

Note: This system does not include records, including the action file itself, compiled when such actions are appealed to the Merit Systems Protection Board (MSPB) or become part of a discrimination complaint record at the Equal Employment Opportunity Commission (EEOC). Such appeal and discrimination complaint file records are covered by the appropriate MSPB or EEOC system of records.

Authority for Maintenance of the System:

5 U.S.C. 3321, 4303, 7504, 7514, and 7543.

Purpose(s):

These records result from the proposal, processing, and documentation of these actions taken either by the OPM or by agencies against employees in accordance with 5 CFR parts 315 (subparts H and I), 432, 752, or 754 of the Office's regulations.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of such Uses:

- a. To provide information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.
- b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order,

when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to any source from which additional information is requested for processing any of the covered actions or in regard to any appeal or administrative review procedure, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

d. To disclose information to a Federal agency, in response to its request, in connection with hiring or retaining an employee, issuing a security clearance, conducting a security or suitability investigation of an individual, or classifying jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding.

g. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the agency is authorized to appear, when:

1. The agency, or any component thereof; or

2. Any employee of the agency in his or her official capacity; or

3. Any employee of the agency in his or her individual capacity where the Department of Justice or the agency has agreed to represent the employee; or

4. The United States, when 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 or the agency is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

h. By the National Archives and Records Administration in records management inspections and its role as Archivist.

i. By the agency maintaining the records or the OPM to locate individuals for personnel research or survey response and in producing summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. To disclose information to the Merit Systems Protection Board or the Office of the Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel

practices, and such other functions, as promulgated in 5 U.S.C. 1205 and 1206, and as specified in 5 U.S.C. 7503(c) and 5 U.S.C. 7513(e), or as may be authorized by law.

l. To disclose information to the EEOC when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

n. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties or reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

o. To disclose information to the Department of Labor, Department of Veterans Administration, Social Security Administration, Department of Defense, or any other Federal agencies that have special civilian employee retirement programs; or to a national, State, county, municipal, or other publicly recognized charitable or income security, administration agency (e.g., State unemployment compensation agencies), when necessary to adjudicate a claim under the retirement, insurance, unemployment, or health benefits programs of the Office or an agency to conduct an analytical study or audit of benefits being paid under such programs.

p. To disclose to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government.

Policies and Practice for Storing, Retrieving, Accessing, Retaining, and Disposing of Records in the System:

Storage:

These records are maintained in file folders, in automated media, or on microfiche or microfilm.

Retrievability:

These records are retrieved by the names and social security number of the individuals on whom they are maintained.

Safeguards:

These records are maintained in locked metal filing cabinets or in automated media to which only authorized personnel have access.

Retention and Disposal:

Records documenting an adverse action, performance-based removal or demotion action, or covered actions against probationers are disposed of not sooner than four years nor later than seven years after the closing of the case in accordance with each agency's records disposition manual. Disposal is by shredding, or erasure of tapes (disks).

System Manager(s) and Address(es):

Deputy Associate Director, Center for HR Systems Requirements and Strategies, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6H31, Washington, DC 20415.

Notification Procedure:

Individuals receiving notice of a proposed adverse, removal, or demotion action must be provided access to all documents supporting the notice. At any time thereafter, individuals subject to the action will be provided access to the complete record. Individuals should contact the agency personnel or designated office where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

- a. Name.
- b. Date of birth.
- c. Approximate date of closing of the case and kind of action taken.
- d. Organizational component involved.

Record Access Procedures:

Individuals against whom such actions are taken must be provided access to the record. However, after the action has been closed, an individual may request access to the official file by contacting the agency personnel or designated office where the action was processed. Individuals must furnish the following information for their records to be located and identified:

- a. Name.
- b. Date of birth.
- c. Approximate date of closing of the case and kind of action taken.
- d. Organizational component involved.

Individuals requesting access must also follow the OPM's Privacy Act regulations on verification of identity and access to records (5 CFR part 297).

Contesting Record Procedures:

Review of requests from individuals seeking amendment of their records that have or could have been the subject of a judicial, quasi-judicial, or administrative action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the agency personnel or designated office where the actions were processed. Individuals must furnish the following information for their records to be located and identified:

- a. Name.
- b. Date of birth.
- c. Approximate date of closing of the case and kind of action taken.
- d. Organizational component involved.

Individuals requesting amendment must also follow the OPM's Privacy Act regulations on verification of identity and amendment of records (5 CFR part 297).

Record Source Categories:

Information in this system of records is provided:

- a. By supervisors/managers.
- b. By the individual on whom the record is maintained.
- c. By testimony of witnesses.
- d. By other agency officials.
- e. By other agency records.
- f. From related correspondence from organizations or persons.

