



4191-02U

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 401

[Docket No. SSA-2015-0014]

RIN 0960-AH82

Anti-Harassment and Hostile Work Environment Case Tracking and Records System

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: The Social Security Administration (SSA) is issuing a final rule to amend its Privacy Act regulation exempting portions of a system of records from certain provisions of the Privacy Act of 1974, entitled Anti-Harassment & Hostile Work Environment Case Tracking and Records System. Because this system will contain some investigatory material compiled for law enforcement purposes, this rule will exempt those records within this new system of records from specific provisions of the Privacy Act.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Pamela J. Carcirieri, Supervisory Government Information Specialist, SSA, Office of Privacy & Disclosure, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, Phone: (410) 965-0355, for information about this rule. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

## SUPPLEMENTARY INFORMATION:

### Background

We published a Notice of Proposed Rulemaking (NPRM) in the Federal Register on December 2, 2016 (81 FR 86979).

In accordance with the Privacy Act (5 U.S.C. 552a) we also issued a public notice of our intent to establish a new system of records entitled, Anti-Harassment & Hostile Work Environment Case Tracking and Records System (Anti-Harassment System) (60-0380). (81 FR 87119). In order to exercise reasonable care to prevent and correct promptly any harassment, agencies must implement anti-harassment policies and procedures separate from the Equal Employment Opportunity process. Consequently, we are establishing the Anti-Harassment system to manage information regarding allegations of workplace harassment filed by SSA employees and SSA contractors alleging harassment by another SSA employee, as well as allegations of workplace harassment filed by SSA employees alleging harassment by an SSA contractor.

We are establishing the Anti-Harassment system as part of our compliance efforts under Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 (ADA); the ADA Amendments Act of 2008; the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act); and the Genetic Information Nondiscrimination Act of 2008 (GINA); and Executive Orders 11478, 11246, 13152, and 13087. These legal authorities prohibit discrimination, including harassment, based on sex, race, color, religion, national origin, age, disability, genetic information, or other protected basis.

The Anti-Harassment System will capture and house information regarding allegations of workplace harassment filed by SSA employees and SSA contractors alleging harassment by another SSA employee and any investigation, or response, we take because of the allegation. Due to the investigatory nature of information that will be maintained in this system of records, this rule adds the Anti-Harassment System to the list of SSA systems that are exempt from specific provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

#### Public Comments

We provided 30 days for the public to comment on the NPRM. The comment period ran from December 2, 2016 through January 3, 2016. We received one comment, but did not publish it as part of the regulatory record because it was not within the subject matter of the proposed rule.

#### Regulatory Procedures

##### Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Executive Order 13132 (Federalism)

This final rule was analyzed in accordance with the principles and criteria established by Executive Order 13132, and SSA determined that the rule will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. SSA also determined that this final rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations effectuating Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

List of Subjects in 20 CFR Part 401

Privacy and disclosure of official records and information.

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Nancy Berryhill,  
Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart B of part 401 of title 20 of the Code of Federal Regulations as set forth below:

PART 401—PRIVACY AND DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Subpart B— [Amended].

1. The authority citation for subpart B of part 401 continues to read as follows:

Authority: Secs. 205, 702(a)(5), 1106, and 1141 of the Social Security Act (42 U.S.C. 405, 902(a)(5), 1306, and 1320b-11); 5 U.S.C. 552 and 552a; 8 U.S.C. 1360; 26 U.S.C. 6103; 30 U.S.C. 923.

2. Amend §401.85 by adding paragraph (b)(2)(ii)(F) to read as follows:

§401.85 Exempt systems.

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(b) \*\*\*

(2) \* \* \*

(ii) \* \* \*

(F) Anti-Harassment & Hostile Work Environment Case Tracking and Records System, SSA.

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[FR Doc. 2017-06719 Filed: 4/4/2017 8:45 am; Publication Date: 4/5/2017]