



BILLING CODE 754501

NATIONAL LABOR RELATIONS BOARD

Notice of a New System of Records; request for comments

AGENCY: National Labor Relations Board

ACTION: Notice of a New System of Records; request for comments.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the Agency publishes this notice of its use and maintenance of a system of records, NLRB-35, NLRB FOIAonline. All persons are advised that, in the absence of submitted comments considered by the Agency as warranting modification of the notice as here proposed, it is the intention of the Agency that the notice shall be effective upon expiration of the comment period without further action.

DATES: Written comments must be received on or before [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: All persons who desire to submit written comments for consideration by the Agency in connection with this proposed notice of the amended system of records shall mail them to the Agency's Senior Agency Official for Privacy, National Labor Relations Board, 1015 Half Street SE, Third Floor, Washington, DC 20570-0001, or submit them electronically to privacy@nlrb.gov. Comments may also be submitted electronically through <http://www.regulations.gov>, which contains a copy of this proposed notice and any submitted comments.

FOR FURTHER INFORMATION CONTACT: Virginia Ephraim, IT Security and Privacy Compliance Specialist, National Labor Relations Board, 1015 Half Street SE., Third Floor, Washington, DC 20570-0001, (202)-273-3733, privacy@nlrb.gov.

SUPPLEMENTARY INFORMATION:

The NLRB FOIAonline system contains electronic information of each request and administrative appeal made to the Agency pursuant to the Freedom of Information Act (FOIA), as well as correspondence related to the requests and appeals, including names, addresses, telephone numbers, and other information about a requester. NLRB FOIAonline is managed by the United States Environmental Protection Agency (EPA) and used by the EPA and other agencies to process, track, and respond to FOIA requests and appeals. The NLRB FOIAonline system provides the NLRB with a secure, password-protected Web site to electronically receive, process, track, and store requests from the public for federal records; store responsive records; post responsive records to a Web site; collect data for annual reporting requirements to the Department of Justice; and manage internal FOIA administration activities. In addition, the NLRB FOIAonline system allows the public to submit and track FOIA requests and appeals; access requests and responsive records online,

and obtain the status of requests filed with the NLRB. Social security numbers and other types of personally identifiable information may be provided in requests or in responsive documents to first-party requesters. Such sensitive personally identifiable information (PII) is not made publicly available. The name of a FOIA requester is publicly available and searchable by the public. With the exception of a requester's name, any other personally identifiable information provided by a requester during the process of completing the request form or creating an online account (*e.g.*, home addresses, email address, and contact information) will not be posted to the Web site, nor will it be searchable by the public. PII determined to be publicly releasable and contained in documents released to the public under FOIA (*e.g.*, the names and official contact information of government employees or the names of agency correspondents) will be publicly available and searchable by the public when posted. Individuals accessing the system are the Agency's Chief FOIA Officer, FOIA Officer, FOIA Branch management, FOIA processors, and members of the public. Prior to the use of NLRB FOIAonline, the Agency used NLRB-32, its FOIA Tracking System, which was published on December 13, 2006 (71 Fed. Reg. 74941). As of August 1, 2017, FTS is a legacy system only, and its modification is being published.

SYSTEM NAME AND NUMBER:

NLRB FOIAonline. NLRB-35

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are stored electronically through the FOIAonline Web site, maintained at EPA's National Computer Center located at 109 T.W. Alexander Drive, Durham, NC 27709. Records from limited numbers of FOIA requests involving large volumes of documents may also be stored in contractor-maintained electronic databases with document management capabilities. Additionally, pursuant to the Agency's flexiplace and telework programs, or due to official travel, NLRB FOIAonline may also be accessed electronically from alternative worksites, including employees' homes. All appropriate safeguards will be taken at these sites.

SYSTEM MANAGER:

Assistant General Counsel/Freedom of Information Act Officer, FOIA Branch, National Labor Relations Board. The Agency's address is available on its Web site (www.nlr.gov).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; 44 U.S.C. 3101.

PURPOSE(S):

To provide the public a single location to submit and track FOIA requests and administrative appeals filed with participating agencies such as the NLRB, to participate in litigation regarding agency action on such requests and appeals, to manage internal FOIA administration activities, to collect data for quarterly and annual reporting requirements to the Department of Justice, and to assist the NLRB in carrying out any other responsibilities under the FOIA, Privacy Act, and applicable executive orders. NLRB FOIAonline may also be used to assist in evaluating Agency employee performance. This system replaces the Agency's FTS system (NLRB-32), which is now a legacy system only.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requesting information or filing administrative appeals under the Freedom of Information Act; current and former Agency employees assigned to process FOIA requests and appeals; individual parties in Agency and related judicial proceedings; and individuals who are subjects of such requests and administrative appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

A copy of each Freedom of Information Act request received by the NLRB, which may include individuals' names, mailing addresses, email addresses, phone numbers, social security numbers, dates of birth, user names and passwords for registered users, FOIA tracking numbers, dates requests are submitted and received, related administrative appeals and agency responses. Records also include communications with requesters, internal FOIA administrative documents, notes or other related or supporting documentation, and responsive records.

RECORDS SOURCE CATEGORIES:

Record source categories include the Agency's electronic case management system (NxGen), the Agency's email system, Agency employees processing FOIA requests and providing information, FOIA requesters and appellants, and documents relating to the processing of a FOIA request.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records may be disclosed:

1. to a federal, state, or local agency (including a bar association or other legal licensing authority), charged with the responsibility for investigating, defending, or pursuing violations of law or rule (civil, criminal, or regulatory in nature), in any case in which there is an indication of a violation or potential violation of law or rule;

2. to another federal agency (a) with an interest in the record in connection with a referral of a FOIA request to that agency for its views or decision on disclosure, or (b) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence that may be useful to an agency in making required determinations under the FOIA;

3. in a federal, state, or local proceeding or hearing, which is administrative, judicial, or regulatory, in accordance with the procedures governing such disclosure and proceeding or hearing, and such records are determined by the Agency to be arguably relevant to the litigation;

4. to a submitter of records or subject of a record in order to provide assistance to the NLRB in making a determination as to disclosure.

5. information from this system of records may be disclosed to appropriate Federal, State, or local agencies, other entities, and persons when it is suspected or confirmed that: (1) The security or confidentiality of information in the system of records has been compromised; (2) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (3) and those receiving the information are reasonably necessary to assist with the Agency's efforts to respond to the suspected or confirmed compromise and to prevent, minimize, or remedy any such harm.

6. to the Agency's legal representative, including the Department of Justice and other outside counsel, where the Agency is a party in litigation or has an interest in litigation, including when any of the following is a party to litigation or has an interest in such litigation: (a) the Agency, or any component thereof; (b) any employee of the Agency in his or her official capacity; (c) any employee of the Agency in her or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (d) the United States, where the Agency determines that litigation is likely to affect the Agency or any of its components;

7. to individuals who need the information in connection with the processing of an internal Agency grievance;

8. to an arbitrator to resolve disputes under a negotiated Agency grievance arbitration procedure;

9. to officials of labor organizations recognized under 5 U.S.C., chapter 71, when disclosure is not prohibited by law, and the data is normally maintained by the Agency in the regular course of business and is necessary for a full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining. The foregoing shall have the identical meaning as 5 U.S.C. 7114(b)(4);

10. to a member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the constituent about whom the records are maintained;

11. to the following federal agencies: (a) the Office of Management and Budget in order to obtain advice regarding the Agency's obligations under the Privacy Act, or to assist with the Agency's budget requests; (b) the Department of Justice in order to obtain advice regarding the Agency's obligations under the Freedom of Information Act; or (c) the National Archives and Records Administration, in records management inspections conducted under the authority of 44 U.S.C. § 2904 and 2906;

12. to contractors and other federal agencies, for the purpose of assisting the Agency in further development and continuing maintenance of electronic case tracking systems, or for assisting the Agency with electronic document management for purposes of responding to discovery, FOIA requests, or congressional inquiries;

13. to the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. § 552(h), to review administrative agency policies, procedures and compliance with the FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored in a secure, password protected electronic system that utilizes security hardware and software to include multiple firewalls, active intruder detection, and role-based access controls.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Requests are retrieved from the system by numerous data elements and key word searches, including name, agency, date, subject, FOIA tracking number, and other information retrievable with full-text searching capability.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with General Records Schedule 4.2, Item 020, which provides for destruction six years after final agency action, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to electronic information is controlled by administrators who determine users' authorized access based on each user's office and position within the office. Access criteria, procedures, controls, and responsibilities are documented and consistent with the policies

stated in APPM IT-8 (Agency Wide Information Assurance Policy), memorandum AC-1: Information Security Access Control Policy, and memorandum 1A-1: Information Security Identification and Authentication Policy. All network users are also warned at the time of each network login that the system is for use by authorized users only, and that unauthorized or improper use is a violation of law. Those Agency employees who telework may access NLRB FOIAonline from alternative worksites and are instructed as to keeping such information in a secure manner.

RECORDS ACCESS PROCEDURES:

Individuals seeking to gain access to their own records in this system should contact the System Manager in accordance with the procedures set forth in 29 C.F.R. 102.119(b)-(c).

CONTESTING RECORDS PROCEDURE:

Individuals may request amendment of a record in this system pertaining to their own records by directing a request to the System Manager in accordance with the procedures set forth in 29 C.F.R. 102.119(d).

NOTIFICATION PROCEDURES:

An individual may inquire as to whether this system contains a record pertaining to such individual by directing a request to the System Manager in accordance with the procedures set forth in 29 C.F.R. 102.119(a).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None for this system.

Dated: Washington, DC, December 9, 2019.

By direction of the Board.

Roxanne L. Rothschild,
Executive Secretary.

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