

to question 3 above). Availability in such cases is normally restricted to the persons directly involved in the adjudicatory procedure.

Question 5. In what circumstances are unpublished opinions and orders cited or used as precedents in other proceedings?

Answer. Opinions and orders that are unpublished and are not available for public inspection are not cited nor used as precedents in other proceedings.

Question 6. What is the procedure for making available to the general public the records and files, interpretations and legal opinions of your agency?

Answer. In addition to publications listed in the answer to question 3 above, records and files as well as interpretations and legal opinions of the Department are available to those members of the general public having a proper and direct concern in the subject matter. The procedures governing the release and authentication of Department of Defense records are set forth in DOD Directive 5015.1, 32 CFR 285.

Procedures for making Department of the Army files available are contained in Army Regulations 345-20 and 345-200, 32 CFR 518.

Department of the Navy procedures are contained in Navy Regulations 1948, article 1250-1252, and are compiled in part 71, title 32, Code of Federal Regulations.

The procedures of the Department of the Air Force are contained in Air Force Regulation 11-22, part 804, title 32, Code of Federal Regulations.

Question 7. What limitations are placed upon the availability of records and files general public, either by statute, rule or practice?

Answer. Records and files of the Department of Defense are normally made available to any member of the general public having a direct and proper concern in them. Limitations on availability are imposed pursuant to section 3 of the Administrative Procedure Act; section 1905 of title 18, United States Code; sections 2011 through 2281 of the Atomic Energy Act of 1954; Public Law 86-36 (50 U.S.C. 402 note); Executive Order 10501; and published directives of the Department of Defense, which are in turn implemented by regulations of the military departments.

Requirements for the protection of classified information in the Department of Defense are set forth in DOD Directive 5200.1, which is implemented by the Army in AR 380-5, by the Navy in OPNAV Instruction 5510.1B, and by the Air Force in AFR 205-1.

General policy guidance for the protection of most unclassified official information that is not available to the general public is found in DOD Directive 5200.6, which is implemented in the Army by AR 345-15, in the Navy by SecNav Instruction 5570.2A, and in the Air Force by AFR 11-30. Applications of the general policy set forth in DOD Directive 5200.6 for particular kinds of information are found in other directives and regulations, an example of which is DOD Directive 6040.2, which prescribes the conditions under which personal medical records are made available to persons properly and directly concerned.

Question 8. In what circumstances are private parties dealing with your agency required in any manner to resort to organization or procedure not published in the Federal Register (see sec. 3(a) of the APA)?

Answer. Private parties are not required to resort to unpublished organization and procedure.

Question 9. In what types of cases has your agency refrained from publishing rules where there is involved any function of the United States requiring secrecy in the public interest, pursuant to section 3(1) of the APA or other authority?

Answer. Rules which are classified in accordance with Executive Order 10501, as amended, DOD Directive 5200.1 and the implementing regulations of the military departments are not published in the Federal Register because they involve functions of the United States requiring secrecy in the public interest. They are, however, frequently published in a classified form and made available to persons who are determined to have a "need to know," and have been properly cleared for access to classified information.

Examples of the types of unclassified rules that are not published and are not available to the general public involve functions which are described in paragraph IV-C 2, 3, 4, 9, and 10 of DOD Directive 5200.6.

Question 10. In what circumstances has your agency refrained from publishing rules where there is involved any matter relating solely to internal agency management, pursuant to section 3(2) of the APA or other authority?