

SYSTEM NAME AND NUMBER:

PBGC-10: Administrative Appeals Files

SECURITY CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation (PBGC), *445 12th Street SW, Washington, DC, 20024-2101*. (Records may be kept at an additional location as backup for continuity of operations.)

SYSTEM MANAGER(S):

Manager of the Appeals Division, Office of the General Counsel, PBGC, *445 12th Street SW, Washington, DC, 20024-2101*.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1302; 44 U.S.C. 3101; 5 U.S.C. 301; 29 U.S.C. ch. 18; 29 CFR 4003.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to catalog, review, and respond to administrative appeals of PBGC determinations (such as plan, benefit, qualified domestic relations order, payment, and liability determinations) *by plan participants, beneficiaries and employers*.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who file administrative appeals with *the* PBGC Appeals Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information (such as names, addresses, social security numbers, *sex*, dates of birth, dates of hire and termination, salary, marital status, marriage certificates, birth certificates, domestic relations orders, medical records); employment and pension plan information (such as the name of the pension plan, plan number, dates of commencement of plan participation or employment, statements regarding employment, dates of termination of plan participation or retirement, benefit payment data, benefit election forms and data on beneficiaries, pay status, calculations of benefit amounts, calculations of amounts subject to recoupment and/or recovery,

and worker's compensation awards); Social Security Administration (SSA) information; insurance claims and awards; correspondence; and other information relating to appeals and initial and final PBGC determinations.

RECORD SOURCE CATEGORIES:

Subject individuals; participants, beneficiaries, or alternate payees; *attorney or other authorized representative*; plan administrators, plan actuaries, paying agents, purchased annuity providers, contributing sponsors (or other employer who maintained the plan, which may include any predecessor, successor, or member of the same control group); the labor organization recognized as the collective bargaining representative of a participant; SSA; *other individuals who possess relevant records*; and any third party affected by the decision.

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

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, 5 U.S.C. 552a(b), and:

1. A record from this system may be disclosed to third parties who may be aggrieved by the decision of the Appeals Board under 29 CFR 4003.57.
2. A record from this system may be disclosed, upon request, to an attorney representative or a non-attorney representative who has a power of attorney for the subject individuals, under 29 CFR 4003.6.
3. A record from this system may be disclosed to third parties, such as banks, insurance companies, and trustees, to effectuate benefit payments to plan participants, beneficiaries, and/or alternate payees.
4. A record from this system may be disclosed to third parties, such as contractors and expert witnesses, to obtain expert analysis of an issue necessary to resolve an appeal.
5. A record from this system, specifically, the name and social security number of a participant, may be disclosed to an official of a labor organization recognized as the

collective bargaining representative of the participant to obtain information relevant to the resolution of an appeal.

6. A record from this system may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(e).
7. *A record from this system may be disclosed to law enforcement in the event the record is connected to a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, regulation, rule, or order issued pursuant thereto. Such disclosure may be made to the appropriate agency, whether Federal, state, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if PBGC determines that the records are both relevant and necessary to any enforcement, regulatory, investigative or prospective responsibility of the receiving entity.*
8. *A record from this system of records may be disclosed in a proceeding before a court or other adjudicative body in which PBGC, an employee of PBGC in his or her official capacity, an employee of PBGC in his or her individual capacity whom PBGC (or the Department of Justice (DOJ)) has agreed to represent is a party, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, and if PBGC determines that the record is relevant and necessary to the litigation and that the use is compatible with the purpose for which PBGC collected the information.*
9. *When PBGC, an employee of PBGC in his or her official capacity, or an employee of PBGC in his or her individual capacity whom PBGC (or DOJ) has agreed to represent is a party to a proceeding before a court or other adjudicative body, or the United States or any other Federal agency is a party and PBGC determines that it has an interest in the proceeding, a record from this system of records may be disclosed to DOJ if PBGC is*

consulting with DOJ regarding the proceeding or has decided that DOJ will represent PBGC, or its interest, in the proceeding and PBGC determines that the record is relevant and necessary to the litigation and that the use is compatible with the purpose for which PBGC collected the information.

- 10. A record from this system of records may be disclosed to OMB in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.*
- 11. A record from this system of records may be disclosed to a congressional office in response to an inquiry from the congressional office made at the request of the individual.*
- 12. A record from this system of records may be disclosed to an official of a labor organization recognized under 5 U.S.C. ch. 71 when necessary for the labor organization to properly perform its duties as the collective bargaining representative of PBGC employees in the bargaining unit.*
- 13. A record from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) PBGC suspects or has confirmed that there has been a breach of the system of records; (2) PBGC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, PBGC (including its information systems, programs and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with PBGC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm*
- 14. To contractors, experts, consultants, and the agents thereof, and others performing or working on a contract, service, cooperative agreement, or other assignment for PBGC when necessary to accomplish an agency function. Individuals provided information*

under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to PBGC employees.

- 15. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.*
- 16. To any source from which information is requested in the course of processing a grievance, investigation, arbitration, or other litigation, 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.*
- 17. 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.*
- 18. To another Federal agency or Federal entity, when information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security.*
- 19. To another Federal agency or non-Federal entity to compare such records in the agency's system of records or to non-Federal records in coordination with the Office of Inspector General conducting an audit, investigation, inspection, or some other review as authorized by the Inspector General Act, as amended.*

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained manually in paper and/or electronic form (including computer databases or discs). Records may also be maintained on back-up tapes, or on a PBGC or a contractor-hosted network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by any one or more of the following: participant, beneficiary, and/or alternate payee's name, social security number, or PBGC customer identification number; plan name; appeal number; or extension request number.

Electronic records are stored on computer networks, which may include cloud-based systems, and protected by controlled access with Personal Identity Verification (PIV) cards, assigning user accounts to individuals needing access to the records and by passwords set by authorized users that must be changed periodically.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained and destroyed in accordance with the National Archives and Record Administration's (NARA) Basic Laws and Authorities (44 U.S.C. 3301, et seq.) or a PBGC records disposition schedule approved by NARA. Records existing on paper are destroyed beyond recognition. Records existing on computer storage media are destroyed according to the applicable PBGC media practice for participant systems and will be maintained in accordance with PBGC Records Schedule Item 1.2: Administrative Records.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

PBGC has established security and privacy protocols that meet the required security and privacy standards issued by the National Institute of Standards and Technology (NIST). Records are maintained 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. PBGC has adopted appropriate administrative, technical, and physical controls in accordance with PBGC's security program to protect the confidentiality, integrity, and availability of the

information, and to ensure that records are not disclosed to or accessed by unauthorized individuals.

RECORD ACCESS PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to request access to their records in accordance with 29 CFR 4902.4, should submit a written request to the Disclosure Officer, PBGC, *445 12th Street SW, Washington, DC, 20024-2101*, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

CONTESTING RECORD PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to amend their records must submit a written request, *in accordance with 29 CFR 4902.5*, identifying the information they wish to correct in their file, in addition to following the requirements of the Record Access Procedure above.

NOTIFICATION PROCEDURES:

Individuals, or third parties with written authorization from the individual, wishing to learn whether this system of records contains information about them should submit a written request to the Disclosure Officer, PBGC, *445 12th Street SW, Washington, DC, 20024-2101*, providing their name, address, date of birth, and verification of their identity in accordance with 29 CFR 4902.3(c).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None

HISTORY:

PBGC – 10, Administrative Appeals Files (last published at *83 FR 6260 (Feb. 13, 2018)*).