



PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

6 CFR part 1000

[PCLOB Case 2019-001; Docket No. 2019-0001; Sequence No. 1]

RIN 0311-AA05

**Amendment to Organization and Delegation of Powers and Duties
of the Privacy and Civil Liberties Oversight Board**

AGENCY: Privacy and Civil Liberties Oversight Board.

ACTION: Final rule.

SUMMARY: The Privacy and Civil Liberties Oversight Board (the Board) revises its Organization and Delegation of powers to reflect the current structure of the agency and set forth greater authority for agency delegations. This revision also reflects the structural flexibility envisioned by our enabling statute.

DATE: Effective: [Insert date 30 days after date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Mr. Eric Broxmeyer, General Counsel, Privacy and Civil Liberties Oversight Board, at 202-296-4617 or eric.broxmeyer@pclob.gov.

SUPPLEMENTARY INFORMATION

I. Background

The changes to the organization and delegation of powers and duties reflect changes to the agency's organization and powers of certain agency officials. Specifically, section 1000.2 provides more detailed

definitions for the roles and responsibilities of the Board's Executive Director and General Counsel. Section 1000.3 presents the Board's revised organizational structure, which has changed from the time the organizational structure was originally published. Finally, Section 1000.5 provides greater specificity regarding how the Board handles delegations and designations.

II. Regulatory Analysis and Notices

Administrative Procedure Act

This rule is a rule of agency organization, procedure, or practice. The Board publishes it as a final rule in accordance with 5 U.S.C. 553 (b) (A).

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Board certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, requires each agency to assess the effects of its regulatory actions on state, local, and tribal governments, and the private sector. Agencies must prepare a written statement of economic and regulatory alternatives any time

a proposed or final rule imposes a new or additional enforceable duty on any state, local, or tribal government or the private sector that causes those entities to spend, in aggregate, \$100 million or more (adjusted for inflation) in any one year (defined in UMRA as a "federal mandate"). This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by 5 U.S.C. 804. The Board is aware of no monetary effect on the economy that would result from this rulemaking, nor will there be any increase in costs or prices; or any effect on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Order 12866

The Board does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Board has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866. This rule deals with the structure of the Board and sets forth greater authority for agency

delegations and will not impose any costs on the public. The Board has determined that the benefits of this regulation, i.e., providing transparency to the public regarding its current structure and its authority for agency delegations, outweigh any costs.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders 12372 and 13132.

Executive Order 12988: Civil Justice Reform

The Board has reviewed the regulation in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563: Improving Regulation and Regulatory Review

The Board has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Order 13771: Reducing Regulation and Controlling
Regulatory Costs

This rule is not expected to be a regulatory action under Executive Order 13771 because this rule is not significant under Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq., federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. This rule does not impose new or revised information collection requirements under the provisions of the PRA.

List of Subjects in 6 CFR part 1000

Administrative practice and procedure; Organization;
Functions; Delegations of Authority

Dated: July 23, 2019

Eric Broxmeyer,
General Counsel,
Privacy and Civil Liberties Oversight Board.

For the reasons set forth in the preamble, the Board amends 6 CFR part 1000 as set forth below:

**PART 1000—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES
OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD**

1. The authority citation for 6 CFR part 1000 through 1000 continues to read as follows:

Authority: 5 U.S.C. 552, as amended.

2. Amend § 1000.2 by adding in alphabetical order a definition for "Executive Director" and revising the definition of "General Counsel" to read as follows:

§ 1000.2 Definitions.

* * * * *

Executive Director means the individual appointed by the Chairman to act as the Executive Director (or, in the event the Chairman position is vacant, by the Board) to discharge the responsibilities assigned to the Executive Director.

General Counsel means the individual appointed by the Chairman to act as the chief legal officer of the Board or, if the General Counsel is absent or unavailable, the Deputy General Counsel, or in the event both positions are vacant, the individual(s) designated by the Chairman (or, in the event the Chairman position is vacant, by the Board) to discharge the responsibilities assigned to the General

Counsel. If both the General Counsel and Deputy General Counsel are absent and unavailable for a prolonged period of time, the Chairman (or the Board in the event the Chairman position is vacant) may designate any Staff Member who is an active member of the bar of any state, territory, or the District of Columbia to temporarily discharge the responsibilities assigned to the General Counsel until the General Counsel or Deputy General Counsel is again available or a successor has been duly appointed.

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3. Amend § 1000.3 by revising paragraph (b) to read as follows:

1000.3 Organization.

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(b) The Board's staff is comprised of the following:

(1) Mission staff who assist the Board with its advice, oversight, and other mission functions, as described in 42 U.S.C. 2000ee(d) and 6 CFR 1000.4; and

(2) Administrative staff who support the Board's operations on a variety of administrative matters, such as budget, contracts, information technology and information assurance, and security; and

(3) Legal staff who provide the Board and agency employees with legal advice and ethical guidance.

4. Amend § 1000.5 by-
 - a. Revising paragraph (a) (5);
 - b. Adding paragraph (a) (6);
 - c. Revising paragraphs (b) (5) and (6);
 - d. Removing paragraphs (b) (7) through (10); and
 - e. Revising paragraph (c) and paragraphs (d)

introductory text and (d) (2).

The revisions and addition read as follows:

§ 1000.5 Delegations of authority.

(a) * * *

(5) Formulation and implementation of policies designed to assure the effective administration of the Board's operations and the efficient operations of the staff.

(6) Any authority that is not delegated by the Board in this part, or otherwise vested in officials other than the Board, is reserved to the Board. The Board may reverse delegations at any time, and all delegated authority reverts to the Board upon the termination or expiration of the delegation.

(b) * * *

(5) Redelegate to one or more Board staff persons those responsibilities to the Executive Director or General

Counsel under this part, in the event that either position is unfilled.

(6) Authorize any officer or employee of the Board to perform a function vested in, delegated, or otherwise designated to the Chairman.

(c) *Executive Director.* The Executive Director manages the staff and assists with the day-to-day operation of the agency. The Executive Director is delegated authority to—

(1) Manage the Board's mission-related projects in accordance with the priorities set by the Board;

(2) Supervise the Board's mission staff; and

(3) Authorize any officer or employee of the Board to perform a function vested in, delegated, or otherwise designated to the Executive Director.

(d) *General Counsel.* The General Counsel is the Board's chief legal officer, and serves as the Board's legal advisor. The General Counsel is delegated authority to—

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(2) Certify Board votes and conduct other necessary

corporate secretary functions consistent with Board
policies and procedures; and

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