



4000-01-U

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

[Docket ID ED-2016-OS-0134]

AGENCY: Office of the Secretary, Department of Education.

ACTION: Notice of a Modified System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (the Department) publishes this notice of a modified system of records entitled "Secretary's Communications Control System" (18-01-01), last published in full in the *Federal Register* on June 4, 1999 (64 FR 30106, 30108-30109) and subsequently amended on December 27, 1999 (64 FR 72405). This system of records is maintained to account for the correspondence received by the Secretary, Deputy Secretary, Senior Officers, or other officials of the Department for whom the Department controls responses.

DATES: Submit your comments on this notice of a modified system of records on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

This modified system of records notice will become applicable upon publication in the *Federal Register* on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the modified system of records notice needs to be

changed as a result of public comment. Newly proposed routine uses (4), (5), and (6) in the paragraph entitled "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES" will become applicable on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the modified system of records notice needs to be changed as a result of public comment. The Department will publish any significant changes resulting from public comment.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID and the term "Secretary's Communications Control System" at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the "Help" tab.

- Postal Mail, Commercial Delivery, or Hand Delivery:

If you mail or deliver your comments about this system of records, address them to: Ms. Deborah Winters, Deputy Director, Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-0124.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Winters, Deputy Director, Office of the Executive Secretariat, Office of the Secretary, U.S. Department of Education, 400

Maryland Avenue, SW., Washington, DC 20202-0124.

Telephone: (202) 401-3067.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service, toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Introduction:

The system of records notice, entitled "Secretary's Communications Control System" (18-01-01), was last published in full in the *Federal Register* on June 4, 1999 (64 FR 30106, 30108-30109), and subsequently amended on December 27, 1999 (64 FR 72405).

There are various changes in the system of records notice for the Secretary's Communications Control System.

First, we are updating the routine uses of records maintained in the system to include a standard routine use that is included in most of the Department's system of records notices and two routine uses that the Office of Management and Budget (OMB) has required in M-17-12 in order to permit the Department to respond appropriately to a breach of personally identifiable information in this system of records or, as appropriate, to assist another Federal agency or entity in its response to a breach.

These additions will permit the disclosure of records to:

- The Department of Justice or the OMB if the Department concludes that disclosure would help in determining whether particular records are required to be disclosed under the Freedom of Information Act or the Privacy Act.

- Appropriate agencies, entities, and persons when:
 - (a) the Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

- Another Federal agency or Federal entity when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach, or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient

agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Second, we are updating the policies and practices for storage of records to eliminate the reference to the use of "computer disks" as a storage device and to indicate instead that electronic records are stored on servers and on backup media. We are updating the policies and practices for retrieval of records to clarify that, in addition to retrieving records by subject matter, name of the individual, or the document's control number, records also may be retrieved by any other data element included on the data input screen. We are updating the policies and practices for retention and disposal of records to eliminate language stating that "control records on computers" are stored indefinitely. In addition, we are modifying the description of records retention and disposition to reflect the current Department records schedules covering records in this system. Further, we are updating the section of the notice entitled "ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS" to indicate that electronic documents can only be accessed by

authorized individuals using a key card and a secure password.

Third, we are updating the record access procedures and the notification procedures by adding that the Department may, in order to process these requests, ask for any other identifying information needed to distinguish between individuals with the same name.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the *Federal Register* by using the article search feature at:

www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 23, 2018.

Betsy DeVos,
Secretary of Education.

For the reasons discussed in the preamble, the Deputy Director, Executive Secretariat, Office of the Secretary, U.S. Department of Education (Department or ED), publishes a notice of a modified system of records notice to read as follows:

SYSTEM NAME AND NUMBER:

Secretary's Communications Control System (18-01-01).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Secretary, 400 Maryland Avenue, SW., Washington, DC 20202-0124.

SYSTEM MANAGER(S):

Executive Secretariat, Office of the Secretary, 400 Maryland Avenue, SW., Washington, DC 20202-0124.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S) OF THE SYSTEM:

This system of records is maintained to account for the correspondence received by the Department, including correspondence regarding individual concerns and complaints regarding programs administered by the Secretary.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records about individuals who correspond with the Secretary, Deputy Secretary, Senior Officers, or other officials of the Department for whom the Department controls responses.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following types of records:

- (1) the official correspondence files of each principal office within the Department and, where applicable, a principal office's component office, specifically the hard copies of official documents and electronic images of certain incoming and outgoing documents;
- (2) control information from the Secretary's, Deputy Secretary's, Senior Officers', and other officials' correspondence that includes a subject narrative, contact information for the sender, the name of the organization drafting the response, and the type of action required from the Department; and
- (3) records of responses to some telephone inquiries where officials determine that a written response should be controlled.

RECORD SOURCE CATEGORIES:

Records are derived from documents addressed to or issued by the Secretary, the Deputy Secretary, Senior Officials, or other officials of the Department.

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

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purpose for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *Government and Private Organization Disclosure.*

The Department may disclose records to governmental entities and private organizations as necessary to resolve complaints, provide guidance, respond to requests for documents and information, or address concerns regarding those entities and organizations.

(2) *Congressional Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Litigation and Alternative Dispute Resolution*
(ADR) Disclosures.

(a) *Introduction.* In the event that one of the parties listed in subparagraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in judicial or administrative litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), or (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any component of the Department;

(ii) Any Department employee in his or her official capacity;

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to or has been requested to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her official capacity if the Department has agreed to represent the employee; or

(v) The United States if the Department determines that the judicial or administrative litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the Department of Justice (DOJ) is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to that adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsels, Representatives, or Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(4) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to

DOJ or the Office of Management and Budget if the Department concludes that disclosure would help in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(5) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) the Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(6) *Disclosure in the Course of Another Federal Agency or Federal Entity Responding to a Breach of Data.* The Department may disclose records from this system of records to another Federal agency or Federal entity when the Department determines that information from this system of records is reasonably necessary to assist the recipient

agency or entity in: (a) responding to a suspected or confirmed breach, or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are maintained in hard copy in standard file cabinets and electronically on servers and on backup media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Files are indexed and retrievable by subject, name of the individual, any other data element included on the data input screen, or the document's control number assigned at the time the correspondence is logged into the Department.

POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are retained and disposed of in accordance with Department Records Schedule 062: Significant Correspondence (N1-441-08-19) (ED 062) and Department Records Schedule 063: General Correspondence (N1-441-08-13) (ED 063).

Records covered by ED 062 are considered permanent. Permanent nonelectronic records covered by ED 062 are transferred to the National Archives and Records Administration (NARA) 10 years after cut-off. Cut-off occurs annually. Permanent electronic records covered by ED 062 are transferred to NARA every 5 years, with any related documentation and external finding aids, as specified in 36 CFR 1228.70 or standards applicable at the time.

Records covered by ED 063 are considered temporary and are destroyed/deleted 2 years after cut-off. Cut-off occurs annually.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All physical access to the Department sites are controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. During working hours, direct access to the file cabinets is limited to authorized staff. During nonworking hours, the rooms in which the file cabinets are located are locked and only those individuals with access to those rooms can access the hard copies of records. The electronic documents can only be accessed by authorized individuals using a key card and a secure password.

RECORD ACCESS PROCEDURES:

To gain access to records regarding you in this system of records, contact the system manager at the address listed above. You must provide necessary particulars such as your name, the date of the subject documents, a reasonable description of the subject matter of the issue involved, and any other identifying information requested by the Department while processing the request needed to distinguish between individuals with the same name. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in this system of records, contact the system manager, and reasonably identify the record and specify the information to be contested. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in this system of records, contact the system manager at the address listed above. You must provide necessary particulars such as your name, the date of the

subject documents, a reasonable description of the subject matter of the issue involved, and any other identifying information requested by the Department while processing the request needed to distinguish between individuals with the same name. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This system of records notice was last published in full in the *Federal Register* on June 4, 1999 (64 FR 30106, 30108-30109) and subsequently amended on December 27, 1999 (64 FR 72405).

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