

DEPARTMENT OF EDUCATION**Privacy Act of 1974**

AGENCY: Office of Inspector General, Department of Education.

ACTION: Notice of a new System of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (ED) publishes this notice of a new system of records entitled "Hotline Complaint Files of the Inspector General." The system will contain records of telephone calls and letters directed to the Office of Inspector General (OIG) Hotline citing complaints and allegations of wrongdoing concerning ED programs, ED operations, and recipients of ED-administered program funds. It also will contain information on OIG's handling of these complaints. The allegations reported through the Hotline may give rise to the opening of an investigation, audit, or other OIG inquiry or be referred elsewhere for resolution. The Department seeks comment on this new system of records described in this notice, in accordance with the requirements of the Privacy Act.

DATES: Comments on the proposed routine uses of this system of records must be received by the Department on or before December 24, 1997. The Department filed a report of the new system of records with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on November 18, 1997. Normally, this system of records would become effective after the 30-day period for OMB review of the system expired, unless OMB gave specific notice within the 30 days that the system was not approved for implementation or required an additional 10 days for OMB review. However, the Secretary proposes to exempt this system of records from certain requirements of the Privacy Act, as authorized under 5 U.S.C. 552a(j)(2) and (k)(2), and this system will not be implemented until the proposed exemptions become final (See the separate notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**). The Department will publish any changes to the system of records that are a result of comments on the system.

ADDRESSES: All comments on the proposed routine uses should be addressed to the Privacy Act Officer,

Information Management Group, Office of the Chief Information Officer, U.S. Department of Education, 600 Independence Avenue, S.W., Room 5624, GSA Regional Office Building 3, Washington, D.C. 20202-4651. Comments may also be sent through the Internet to: Comments@ed.gov

You must include the term "Hotline" in the subject line of the electronic command.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 5624, 7th & D Streets, S.W., between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this notice. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dianne Van Riper, Assistant Inspector General for Investigation Services, Office of Inspector General, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4106, Switzer Building, Washington, D.C. 20202-1510. Telephone: (202) 205-8762. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Electronic Access to This Document**

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

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Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1-888-293-6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219-1511 or, toll free, 1-800-222-4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

General

The Privacy Act of 1974 (see 5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR Part 5b.

The Office of Inspector General (OIG) has long maintained a Hotline that receives numerous telephone calls and letters citing allegations of wrongdoing concerning ED programs, ED operations, and recipients of ED-administered program funds. These Hotline complaints may give rise to the opening of an investigation, audit, or other OIG inquiry or be referred elsewhere for resolution. Records in the Hotline system of records contain information obtained from complainants who report indications of wrongdoing relating to ED programs and operations. In addition, information on the OIG disposition of the complaints is maintained in the system. That information may include name and address (if available) of the complainant, date the complaint was received, identity of individuals against whom the complaint is filed, affected program area, nature and subject of the complaint, and any additional witnesses, contacts, and specific comments provided by the complainant.

Information gained through the Hotline has until now been retained in general complaint files. In order to more effectively carry out OIG's mission of combating fraud, waste, and abuse through administration of the Hotline, OIG intends to reorganize Hotline complaints so that they will be accessible by an individual identifier, if appropriate, and to incorporate that information into the Hotline Complaint Files System. The records contained in this system are used by the OIG in furtherance of the responsibilities of the Inspector General under the Inspector General Act of 1978, as amended (IG Act), to conduct and supervise audits,

investigations, inspections, and other inquiries relating to programs and operations of ED; to promote economy, efficiency, and effectiveness in the administration of those programs and operations; and to prevent and detect fraud and abuse in those programs and operations.

The personal data on individuals will be maintained only to the extent that the information is considered necessary to meet the purposes of the IG Act. Hotline calls not resulting in investigations are destroyed when five years old in accordance with the National Archives and Records Administration's General Records Schedules, GRS 22/item 1a. If OIG opens investigations based upon Hotline information, the resulting investigation files will be part of another existing system of records, the Investigative Files of the OIG (18-10-0001). Investigative case files are destroyed 10 years after close-out in accordance with GRS 22/item 1b.

The records will be kept in locked file cabinets and in computer terminals that are secured in controlled areas. Access to records is limited to authorized personnel who must use a key to retrieve records in the file cabinets and have a password to gain access to records on the computer terminals.

Dated: November 18, 1997.

Thomas R. Bloom,
Inspector General.

The Inspector General of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18-10-0004

SYSTEM NAME:

Hotline Complaint Files of the Inspector General ED/OIG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Inspector General, U.S. Department of Education, 330 C Street, S.W., Room 4116, Switzer Building, Washington, D.C. 20202-1510.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories include individuals who are sources of information or have made complaints to the OIG Hotline, individuals who allegedly have knowledge regarding wrongdoing affecting the programs and operations of the Department, and individuals about whom complaints and allegations have been made concerning wrongdoing involving the programs and operations of the Department of Education. These

individuals may include, but are not limited to, current and former ED employees, grantees, subgrantees, contractors, subcontractors, program participants, recipients of Federal funds or federally insured funds, and officers, employees, or agents of institutional recipients or program participants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system contain information obtained from complainants who report allegations of wrongdoing relating to ED programs and operations. Specific data may include name and address (if available) of the complainant, the date the complaint was received, the affected program area, the nature and subject of the complaint, and any additional contacts and specific comments provided by the complainant. In addition, information on the OIG disposition of the complaint is included in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended (IG Act), 5 U.S.C. app. 3.

PURPOSES:

Pursuant to the Inspector General Act, the system is maintained for the purposes of maintaining a record of complaints and allegations received concerning Department of Education programs and operations and concerning the disposition of those complaints and allegations.

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

The Department of Education may disclose information contained in a record 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, under the following routine uses:

(a) *Disclosure for Use by Other Law Enforcement Agencies.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting such a violation or charged with enforcing or implementing the statute, Executive order or rule, regulation, or order issued pursuant thereto.

(b) *Litigation Disclosure.*

(1) Introduction. In the event that one of the following parties is involved in litigation, or has an interest in litigation, ED may disclose certain records to the parties described in paragraphs (2), (3), and (4) of this routine use under the conditions specified in those paragraphs:

(i) ED, or any component of the Department; or

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

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

(iv) Any employee of ED in his or her individual capacity if the agency has agreed to represent the employee; or

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

(2) Disclosure to the Department of Justice. If ED determines that disclosure of certain records to the Department of Justice or attorneys engaged by the Department of Justice is relevant and necessary to litigation, ED may disclose those records as a routine use to the Department of Justice.

(3) Administrative Disclosures. If ED determines that disclosure of certain records to an adjudicative body before which ED is authorized to appear or to an individual or an entity designated by ED or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation, ED may disclose those records as a routine use to the adjudicative body, individual, or entity.

(4) Opposing Counsels, Representatives, and Witnesses. If ED determines that disclosure of certain records to an opposing counsel, representative, or witness in an administrative proceeding is relevant and necessary to the litigation, ED may disclose those records as a routine use to the counsel, representative, or witness.

(c) *Disclosure to Public and Private Entities to Obtain Information Relevant to ED/OIG Functions and Duties.* ED/OIG may disclose information from this system of records as a routine use to public or private sources to the extent necessary to obtain information from those sources relevant to an ED/OIG investigation, audit, inspection, or other inquiry.

(d) *Disclosure to Public and Private Sources in Connection with the Higher Education Act of 1965, as amended (HEA).* ED/OIG may disclose information from this system of records as a routine use to any accrediting agency that is or was recognized by the Secretary of Education pursuant to the

HEA, to any guarantee agency that is or was a party to an agreement with the Secretary of Education pursuant to the HEA, or to any agency that is or was charged with licensing or legally authorizing the operation of any educational institution or school that was eligible, is currently eligible, or may become eligible to participate in any program of Federal student assistance authorized by the HEA.

(e) Disclosure to the Department of Justice. ED/OIG may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG.

(f) *Congressional Disclosure*. ED/OIG may disclose information from this system of records to a congressional member from the record of an individual in response to an inquiry from the congressional member made at the written request of that individual. The right of the member to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in complaint files, computer mainframe files, and computer-printed listings.

RETRIEVABILITY:

Hard copy records are organized by and retrievable by the assigned Hotline number. The computer files are indexed and retrievable by Hotline number, name of complainant, and the name of the subject or subjects.

SAFEGUARDS:

Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises to which access is limited to those persons whose official duties require access. Computer terminals are secured in controlled areas that are locked when unoccupied. Access to automated records is limited

to authorized personnel who must use a password system to gain access.

RETENTION AND DISPOSAL:

Hotline records not resulting in investigations are destroyed when five years old, in accordance with the National Archives and Records Administration's General Records Schedules (GRS), GRS 22/item 1a. Investigative case files are destroyed 10 years after close-out in accordance with GRS 22/item 1b.

SYSTEM MANAGER AND ADDRESS:

Assistant Inspector General for Investigation Services, Office of Inspector General, U.S. Department of Education, Room 4106, Switzer Building, 330 C Street, S.W., Washington, D.C. 20202-1510.

NOTIFICATION PROCEDURES:

See "Systems Exempted." As provided in 34 CFR 5b.11(f), the notification procedures are not applicable to Hotline files except at the discretion of the Inspector General. The notification procedures are applicable to noncriminal files only under the conditions in 34 CFR 5b.11(f)(2). To the extent these procedures apply to the ED/OIG Hotline Complaint Files, they are governed by 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

See "Notification Procedures."

CONTESTING RECORD PROCEDURES:

Not applicable. See "Systems Exempted."

RECORD SOURCE CATEGORIES:

Complainants who include, but are not limited to, current and former employees of ED, employees of other Federal agencies, employees of State and local agencies, private individuals, and officers and employees of non-governmental organizations that are involved with ED programs, contracts, or funds or have knowledge about ED programs, contracts, or funds.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Secretary has by regulations exempted the Hotline Complaint Files of the Inspector General ED/OIG from the following provisions of the Privacy Act:

(a) Pursuant to 5 U.S.C. 552a(j)(2):

(1) 5 U.S.C. 552a(c)(3), regarding access to an accounting of disclosures of a record.

(2) 5 U.S.C. 552a(c)(4), regarding notification to outside parties and agencies of correction or notation of dispute made in accordance with 5 U.S.C. 552a(d).

(3) 5 U.S.C. 552a(d)(1) through (4) and (f), regarding notification or access to records and correction or amendment of records.

(4) 5 U.S.C. 552a(e)(1), regarding maintaining only relevant and necessary information.

(5) 5 U.S.C. 552a(e)(2), regarding collection of information from the subject individual.

(6) 5 U.S.C. 552a(e)(3), regarding notice to individuals asked to provide a record to the Department.

(7) 5 U.S.C. 552a(e)(4)(G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

(8) 5 U.S.C. 552a(e)(5), regarding maintaining records with requisite accuracy, relevance, timeliness, and completeness.

(9) 5 U.S.C. 552a(e)(8), regarding service of notice on subject individual if a record is made available under compulsory legal process if that process becomes a matter of public record.

(10) 5 U.S.C. 552a(g), regarding civil remedies for violation of the Privacy Act.

(b) Pursuant to 5 U.S.C. 552a(k)(2):

(1) 5 U.S.C. 552a(c)(3), regarding access to an accounting of disclosures of records.

(2) 5 U.S.C. 552a(d)(1) through (4) and (f), regarding notification of and access to records and correction or amendment of records.

(3) 5 U.S.C. 552a(e)(1), regarding the requirement to maintain only relevant and necessary information.

(4) 5 U.S.C. 552a(e)(4)(G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

These exemptions are stated in 34 CFR 5b.11.

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