

DEPARTMENT OF EDUCATION**Privacy Act of 1974; System of Records**

AGENCY: Office of Elementary and Secondary Education, School Improvement Programs, Department of Education.

ACTION: Notice of a new 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 new system of records entitled "Native Hawaiian Education Council (18-14-03)." The system will contain information on individuals who have been nominated and are interested in serving on the Native Hawaiian Education Council. The information maintained in the system of records entitled "Native Hawaiian Education Council" will consist of one or more of the following: Name, title, sex, place and date of birth, home address, business address, organizational affiliation, phone numbers, fax numbers, e-mail addresses, degrees held, general educational background, ethnic background, resume, curriculum vitae, previous or current membership on the Native Hawaiian Education Council, source who recommended the individual for membership on the council, and miscellaneous correspondence. The information that will form the new system of records will be collected through various sources, including telephone, written, and e-mail inquiries, as well as written requests to be included with letters of recommendation describing the qualifications of those individuals for service on the Native Hawaiian Education Council, and addresses and telephone numbers of those individuals. The information will be used to fulfill the requirement outlined in section 7204 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110).

DATES: The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before July 8, 2002.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Governmental Affairs, the Chair of the House Committee on Government Reform, and the Administrator of the Office of Information and Regulatory Affairs,

Office of Management and Budget (OMB) on May 31, 2002. This new system of records will become effective at the later date of— (1) the expiration of the 40-day period for OMB review on July 10, 2002, or (2) July 8, 2002, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Lynn Thomas, Program Officer, Native Hawaiian Education Program, Office of Elementary and Secondary Education, School Improvement Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Federal Building 6, Room 3C126, Washington, DC 20202-4160. If you prefer to send comments through the Internet, use the following address: comments@ed.gov.

You must include the term "Native Hawaiian Education Council" in the subject line of your electronic comment.

During and after the comment period, you may inspect all comments about this notice in room 3C126, 400 Maryland Avenue, SW., Federal Building 6, Washington, DC, between the hours of 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply 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 record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Lynn Thomas. Telephone: (202) 260-1541. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's

regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act applies to a record about an individual that contains individually identifiable information that is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a "record" and the system, whether manual or computer-based, is called a "system of records." The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new system of records.

Electronic Access to This Document

You may view this document, as well as other Department of Education documents published in the **Federal Register** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll-free, at 1-888-293-6498; or in the Washington DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official version of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: <http://www.access.gpo.gov/nara/index.html>.

Dated: May 31, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

For the reasons discussed in the preamble, the Office of Elementary and Secondary Education of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18-14-03

SYSTEM NAME:

Native Hawaiian Education Council Membership.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

School Improvement Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3C126, Washington, DC 20202-6140.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been or are presently members of or are being considered for membership on the Native Hawaiian Education Council.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system consist of one or more of the following: Name, title, sex, place and date of birth, home address, business address, organizational affiliation, phone numbers, fax numbers, e-mail addresses, degrees held, general educational background, ethnic background, resume, curriculum vitae, previous or current membership on the Native Hawaiian Education Council, source who recommended the individual for membership on the advisory council, and miscellaneous correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7204 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (Pub. L. 107-110).

PURPOSE(S):

To establish a Native Hawaiian Education Council to help coordinate the educational and related services available to Native Hawaiians, including programs receiving funding under the Native Hawaiian Education Act.

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

The Department of Education (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 purposes 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 Act, under a computer matching agreement.

(1) Litigation and Alternative Dispute Resolution (ADR) Disclosures.

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

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or

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

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

(v) The United States if the Department determines that the 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 DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

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

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

(2) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(3) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research that is compatible with the purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research that is compatible with the purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(4) *Congressional Member 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.

(5) *Freedom of Information Act (FOIA) Advice Disclosure.* In the event that the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice or the Office of Management and Budget for the purpose of obtaining their advice.

(6) *Disclosure to the Department of Justice.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

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

Records are maintained in hard copy filed in file cabinets and on personal computers.

RETRIEVABILITY:

Records are retrieved by the name of the individual.

SAFEGUARDS:

Direct access to records is restricted to authorized personnel through locked files, rooms, and buildings, as well as building pass and security guard sign-in systems. Furthermore, the designated individuals' access to personal computers, the network, and the system of records will require personal identifiers and unique passwords, which will be periodically changed to prevent unauthorized access.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the Department's Records Disposition Schedules (ED/RDS), Part 5 and the National Archives and Records Administration's General Records Schedules (GRS) 16, item 8.

SYSTEM MANAGER(S) AND ADDRESS:

Native Hawaiian Program Manager, School Improvement Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E126, Washington, DC 20202-6140.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this

system of records, contact the system manager. Your request must meet the requirements of the Department's Privacy Act regulations in 34 CFR 5b.7, including proof of identity. You may present your request in person at any of the locations identified for this system of records or address your request to the system manager at the following address: School Improvement Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E126, Washington, DC 20202-6140.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. These access procedures are in accordance with Department regulations (34 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures, reasonably identify the record, and specify the information to be contested. Your request must meet the regulatory

requirements of 34 CFR 5b.7, including proof of identity.

RECORD SOURCE CATEGORIES:

Information in this system of records will be obtained from the individuals, references, recommendations, private organizations, Members of Congress, and other government sources.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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