

**DEPARTMENT OF EDUCATION****Privacy Act of 1974; System of Records—Investigatory Material Compiled for Personnel Security and Suitability Purposes (18–10–02)**

**AGENCY:** Department of Education.

**ACTION:** Notice of new, amended, altered and deleted systems of records; amendments.

**SUMMARY:** We publish this notice to amend the system of records “Investigatory Material Compiled for Personnel Security and Suitability Purposes” (18–10–02) by changing its numbering to 18–05–17, changing its system location from the Office of Inspector General to the Office of Management, adding a note to the categories of records in this system notice explaining that, to the extent that the Department has records of a personnel investigative nature that come from the Office of Personnel Management or its contractors, they are covered by OPM/CENTRAL–9, Personnel Investigations Records, and not this system notice, changing its purpose statement, routine uses, and system manager to reflect the move of the security program from the Office of Inspector General to the Office of Management, and updating the paragraphs on storage, retrievability, retention and disposal and safeguards to reflect current retention and security measures.

**DATES:** The amendments in this notice are effective on March 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Sandra H. Warren, Chief, Personnel & Information (Non-Cyber) Security, Office of Management, Security Services, 400 Maryland Avenue, SW., room 2W229, Washington, DC 20202. Telephone: (202) 205–0127. 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, audiocassette, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Amendments:* The following amendments are made in the notice of new, amended, altered and deleted systems of records published in the **Federal Register** on June 4, 1999 (64 FR 30105):

1. On page 30153, third column, the identification number 18–10–02 is revised to read 18–05–17.

2. On page 30154, first and second columns, make the following amendments:

a. Under the heading **SYSTEM LOCATION**, paragraphs one and two are revised to read as follows:

Security Services, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

U.S. Office of Personnel Management, Federal Investigations Processing Center, PO Box 618, 1137 Branchton Road, Boyers, PA 16018–0618.

b. Under the heading **CATEGORIES OF RECORDS IN THE SYSTEM**, a footnote is added at the end of the paragraph to read as follows:

**Note 1.** To the extent that the Department of Education has records of a personnel investigative nature that come from OPM or its contractors, they are covered by OPM/CENTRAL–9, Personnel Investigations Records, and are not covered by this system notice.

c. Under the heading **PURPOSE(S)**, the paragraph is revised to read as follows:

Records in this system are maintained to provide the Office of Management and other responsible Department officials with information to assist them in making individual personnel determinations concerning suitability for Federal employment, security clearances, access to classified information or restricted areas, and evaluations as to acceptability for performance under Federal contracts or other agreements with the Federal Government. Incidental to this purpose, these records may also be disclosed to other Federal and non-Federal investigatory agencies to protect the public or Federal interest, or both.

d. Under the heading **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE**, routine use (3) is revised to read as follows:

(3) To a Federal, State, local, or foreign entity or other public authority responsible for the investigation, prosecution, enforcement, or implementation of a statute, rule, regulation, or order, when a record on its face or in combination with any other information indicates a violation or potential violation of law (whether civil, criminal, or regulatory in nature) if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity. It is Office of Management policy not to disclose records under this routine use that pertain to those questions for which the Office of Management has promised confidentiality under Standard Form

85P, Questionnaire for Public Trust Positions.

3. On page 30155, first and second columns, make the following amendments:

a. Under the heading **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE**, routine use (8) is revised to read as follows:

(8) *Disclosure for Use by Other Law Enforcement and Intelligence Agencies.* The Department may disclose information to any Federal, State, local or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, investigative, or prosecutorial responsibility within the receiving entity’s jurisdiction. Under this routine use, the Department may also disclose information to Federal intelligence agencies for use in intelligence activities.

b. Under the heading **STORAGE**, the paragraph is revised to read as follows:

Records are maintained in secured space either in locked lektriers, in a room accessible by access control card; or in fire resistant safes with manipulation proof combination locks, and in a computer database.

c. Under the heading **SAFEGUARDS**, the paragraph is revised to read as follows:

Folders are maintained in secured space in locked lektriers, in a room accessible by access control card, or in fire resistant safes with manipulation proof combination locks. All records, including those records that are maintained on the computer database, are in limited access rooms. All employees are required to have an appropriate security clearance before they are allowed access, on a “need-to-know” basis, to the records. Computer databases are kept on a local area network that is not connected to any outside network including the Internet. Database accessibility is restricted to hard wire network connection from within the office or via modem. Authorized log-on codes and passwords prevent unauthorized users from gaining access to data and system resources. All users have unique log-on codes and passwords. The password scheme requires that users must change passwords every 90 days and may not repeat the old password. Any individual attempting to log on who fails is locked out of the system after three attempts. Access after that time requires intervention by the system manager.

d. Under the heading **RETENTION AND DISPOSAL**, the paragraph is revised to read as follows:

Most background investigative records are maintained no later than 5 years after separation or transfer of employee or no later than 5 years after contract relationship expires, whichever is applicable in accordance with General Records Schedule 18, Item 22. Reports of background investigations that were conducted under delegated authority from the Office of Personnel Management by the Office of Inspector General are retained for 15 years after the last investigative activity, except for investigations involving potentially actionable issue(s), which are maintained for 25 years after the last investigative activity. The records are disposed of by electronic erasure or shredding.

e. Under the heading **SYSTEM MANAGER(S) AND ADDRESS**, the paragraph is revised to read as follows:

Security Services, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW., Room 2W229, Washington, DC 20202.

#### Electronic Access to This Document

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

Dated: March 9, 2004.

**William J. Leidinger,**

*Assistant Secretary for Management and Chief Information Officer.*

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**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

### Privacy Act of 1974; System of Records—Office for Civil Rights Complaint Files and Log

**AGENCY:** Office for Civil Rights, Department of Education.

**ACTION:** Notice of an altered system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of proposed alterations to its system of records for the Complaint Files and Log (18-08-01). These alterations serve to update the system of records to reflect current administrative and related procedures, the implementation of a new computer system to maintain what formerly and exclusively were paper files, the deletion and consolidation of the Case Information System into the Complaint Files and Log system, the renumbering of the Complaint Files and Log system notice from 18-08-02 to 18-08-01, revisions to the purpose statement, and the addition of a new routine use disclosure.

**DATES:** The Department seeks comments on the altered system of records described in this notice, in accordance with the requirements of the Privacy Act. We must receive your comments on or before April 14, 2004.

The Department filed a report describing the altered 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 March 9, 2004. This altered system of records will become effective at the later date of—(1) the expiration of the 40-day period for OMB review on April 18, 2004, or (2) April 14, 2004, unless the system of records needs to be changed as a result of public comment or OMB review.

**ADDRESSES:** Address all comments about this altered system of records to Sandra G. Battle, Director, Program Legal Group, Office for Civil Rights, room 5036, MES Building, 400 Maryland Avenue, SW., Washington, DC 20202-6132. The fax number for submitting comments is (202) 260-3040. If you prefer to send your comments through the Internet, use the following address: [comments@ed.gov](mailto:comments@ed.gov).

You must include the term “Complaint Files and Log” in the subject line of the electronic message.

During and after the comment period, you may inspect all public comments about this notice in room 5036, MES Building, 330 C Street, SW., Washington, DC, between the hours of 9:30 a.m. and 5 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:** Sandra G. Battle. Telephone: (202) 205-5526. 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 in the preceding paragraph.

### 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 an altered system of records maintained 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 for OMB whenever the agency publishes a new or altered system of records. Each agency is also required to send copies of the report to the Chair of the Senate Committee on Governmental Affairs and the Chair of the House Committee on Government Reform.

Examples of when a system of records is considered altered include an expansion of the types or categories of information or an addition of a new routine use for information maintained in the system. Since the last publication of these system of records notices in the **Federal Register** on June 4, 1999 (64 FR