



4000-01-U

DEPARTMENT OF EDUCATION

[Docket ID ED-2018-FSA-0031]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of a New System of Records and Rescindment of a System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this new notice of a system of records entitled "Postsecondary Education Participants System (PEPS)" (18-11-09) and a rescinded system of records entitled "Integrated Partner Management (IPM) system" (18-11-21). The Department is rescinding the IPM system because the Department did not implement it and will continue using the PEPS system of records.

DATES: Submit your comments on the proposed new PEPS system of records notice and rescinded IPM system of records notice on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The re-issuance of the PEPS and the rescission of the IPM systems of records notices will become applicable upon publication in the *Federal Register* on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless changes are

made to the systems of records notices as a result of public comment. The routine uses listed under "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES" for the new system of records will become applicable on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the new system of records notice needs to be revised as a result of public comment. The Department will publish any changes to the systems of records notices or routine uses that result 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 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 either system of records, address them to: Director, Postsecondary Education Participants System, Office of Student Financial Assistance Programs, U.S. Department of Education, 830 First Street NE, Room 112G1, Washington, DC 20202.

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 aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Director, Postsecondary Education Participants System, Office of Student Financial Assistance Programs, U.S. Department of Education, 830 First Street NE, Room 112G1, Washington, DC 20202.

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:

The PEPS enables the Department of Education effectively to administer the approval, periodic review, and oversight of postsecondary educational institutions that participate in the student aid programs under title IV of the Higher Education Act of 1965, as amended (HEA). A postsecondary educational institution must be accredited by an accrediting agency recognized by the Department for that purpose, and the institution must also be authorized by the State in which it is located to be eligible for programs under title IV of the HEA. An eligible postsecondary institution must be approved by the Department for participation in programs under title IV of the HEA.

Postsecondary educational institutions submit an application through the internet for participation in programs authorized under title IV of the HEA. PEPS is the back-end repository where the data provided by those institutions resides and can be accessed by Department staff to confirm compliance with title IV of the HEA. Any authorized user can perform an ad hoc data extract from PEPS, and the PEPS staff provides tailored extracts to users

on request. A limited number of scheduled extracts and uploads are run on a routine basis. These are fixed files, and no changes are made on either side without written approval/notice on both sides.

The PEPS system of records notice was last published in full in the *Federal Register* on June 4, 1999 (64 FR 30106, 30171-30173), and amended on December 27, 1999 (64 FR 72384, 72405). This system of records notice was rescinded on August 8, 2017 (82 FR 37089), with plans for the PEPS functions and records to be integrated into a new system of records entitled "Integrated Partner Management (IPM) system." The Department subsequently determined not to bring the IPM system of records into service, and, as a result, PEPS was kept in service. The new PEPS system of records notice is being republished in full in accordance with the Privacy Act with modifications being made to system of records notices from the last publications in 1999. The IPM system of records notice is being rescinded.

The Department is modifying the section of the PEPS notice entitled "SECURITY CLASSIFICATION" to add that the system is unclassified and the section of the PEPS notice entitled "SYSTEM LOCATION" to reflect the current addresses where the system is located. The Department is modifying

the section entitled "SYSTEM MANAGER(S)" to reflect the current location of the Office of Student Financial Assistance Programs in Federal Student Aid.

The Department is modifying the section of the notice entitled "RECORD SOURCE CATEGORIES" to include that the system may obtain records from other persons or entities from which data is obtained under the section entitled "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES."

The Department is modifying routine use (3) entitled "Litigation and Alternative Dispute Resolution (ADR) Disclosure" to indicate that the Department may make disclosures under this routine use when the Department requests representation from the Department of Justice for an employee of the Department who is being sued in his or her individual capacity as well as to change "an individual" to "a person" who has been designated by the Department or otherwise empowered to resolve or mediate disputes in order to avoid confusion because the word "individual" is a defined term under the Privacy Act.

The Department is also modifying routine uses (5) entitled "Employee Grievance, Complaint, or Conduct Disclosure" and (6) "Labor Organization Disclosure" to

clarify and promote the standardization of the language used in this routine use with that used in the Department's other systems of records notices. The Department is also modifying routine use (7) entitled "Freedom of Information Act (FOIA) or Privacy Act Advice Disclosure" to permit the Department to obtain counsel necessary to ensure that individual privacy rights are protected under the Privacy Act.

The Department is also modifying routine use (9) entitled "Contract Disclosure" and routine use (10) entitled "Research Disclosure" to remove language that respectively referenced safeguard requirements under subsection (m) of the Privacy Act and Privacy Act safeguards. The Department is revising the language in these routine uses to clarify that contractors and researchers to whom disclosures are made under these routine uses will be required to agree to safeguards to protect the security and confidentiality of the records in the system. The Department is also revising routine use (9) to clarify that these safeguards will be entered into "as part of such a contract," rather than "before entering into such a contract."

The Department is further modifying routine use (12) "Disclosure to the Office of Management and Budget or the

Congressional Budget Office (CBO) for Credit Reform Act (CRA) Support” to add that the Department may disclose records to the CBO as necessary to fulfill CRA requirements and to clarify that any disclosure must be in accordance with 2 U.S.C. 661b.

Pursuant to the requirements in Office of Management and Budget (OMB) M-17-12, the Department is adding the routine use (13) entitled “Disclosure in the Course of Responding to a Breach of Data” and routine use (14) entitled “Disclosure in Assisting another Agency in Responding to a Breach of Data.”

The Department is updating the section entitled “POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS” to reflect the current Department records retention and disposition schedule covering records in this system. The Department is also updating the section entitled “ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS” to include two-factor authentication, firewalls, encryption, and password protection as additional safeguards.

The Department is modifying the sections entitled “RECORD ACCESS PROCEDURES,” “CONTESTING RECORDS PROCEDURES,” and “NOTIFICATION PROCEDURES” to specify the required information that an individual must provide when making a

request for access to or notification of a record or to contest the content of a record in the system.

Finally, pursuant to the requirements of OMB Circular No. A-108, the Department is adding a new section entitled "HISTORY."

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 program contact 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: September 6, 2018.

James F. Manning,
Acting Chief Operating Officer,
Federal Student Aid.

For the reasons discussed in the preamble, the Acting Chief Operating Officer, Federal Student Aid of the U.S. Department of Education (Department) publishes a notice of a new and a rescinded system of records to read as follows:

RESCINDED SYSTEM NAME AND NUMBER:

Integrated Partner Management (IPM) system (18-11-21).

HISTORY:

The Integrated Partner Management system of records notice was published in the *Federal Register* on August 8, 2017 (82 FR 37089-37094).

NEW SYSTEM NAME AND NUMBER:

Postsecondary Education Participants System (PEPS)
(18-11-09).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Plano Technology Center, 2300 West Plano Parkway,
Plano, Texas, 75075-8427;

Federal Student Aid, U.S. Department of Education, 830
First Street NE, Room 4111, Washington, DC 20202.

See the Appendix at the end of this system of records notice for additional system locations.

SYSTEM MANAGER(S):

Director, Postsecondary Education Participants System,
Office of Student Financial Assistance Programs, U.S.
Department of Education (Department), 830 First Street, NE,
Room 112G1, Washington, DC 20202. Telephone: (202) 377-
3202.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 481, 487, 498 of the Higher Education Act of
1965, as amended (HEA), (20 U.S.C. 1088, 1094, 1099c);
Section 31001(i)(1) of the Debt Collection Improvement Act
of 1996, Pub. L. 104-134 (31 U.S.C. 7701).

PURPOSE(S) OF THE SYSTEM:

The information maintained in the PEPS is used for the
purposes of determining the initial and continuing
eligibility of and the administrative capability and
financial responsibility of postsecondary educational
institutions that participate in the student financial
assistance programs authorized under title IV of the HEA,
tracking school changes and maintaining a history of
information regarding postsecondary educational
institutions that have previously applied to participate or
participated in these programs, and documenting any need
for any protective or corrective action against a
postsecondary educational institution or individual
associated with that institution.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The PEPS maintains records about individuals who are owners of postsecondary educational institutions (either individually, as partners, or owners of the corporate entities that own those institutions); officials or authorized agents for those institutions; members of boards of directors or trustees of such institutions; employees of foreign entities that evaluate the quality of education; and individuals from third-party servicers that work with postsecondary educational institutions, including contact persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

The PEPS maintains information regarding the eligibility, administrative capability, and financial responsibility of postsecondary educational institutions that participate in the student financial aid programs authorized under title IV of the HEA, including the names, Taxpayer Identification Numbers (generally Social Security numbers (SSNs)), business addresses, phone numbers of the individuals with substantial ownership interests in, or control over, those institutions, and personal identification numbers assigned by the Department.

RECORD SOURCE CATEGORIES:

Information is obtained from applications submitted by postsecondary educational institutions and their owners who seek approval for such an institution to participate or continue participating under new ownership in the student financial assistance programs authorized under title IV of the HEA, from components of the Department, from other Federal, State and non-governmental agencies and organizations that acquire information relevant to the purposes of the PEPS. Information may also be obtained from other persons or entities from which data is obtained under routine uses set forth below.

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 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 Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *Program Purposes.* The Department may disclose information contained in the PEPS to appropriate guaranty

agencies, educational and financial institutions, accrediting agencies, and appropriate Federal, State, or local agencies, in order to verify and assist with the determination of eligibility, administrative capability, and financial responsibility of postsecondary educational institutions that have applied to participate in the student financial assistance programs authorized under title IV of the HEA.

(2) *Enforcement Disclosure.* 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 Department may disclose the relevant records in the PEPS, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

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

(a) *Introduction.* In the event that one of the parties listed below in subsections (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 PEPS 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;

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

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

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

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

(b) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to 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, Counsel, Representatives, and 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) *Employment, Benefit, and Contracting Disclosure.*

(a) *For decisions by the Department.* The Department may disclose records to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain

information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For decisions by Other Public Agencies and Professional Organizations.* The Department may disclose records to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) *Employee Grievance, Complaint, or Conduct Disclosure.* If a record is relevant and necessary to an employee grievance, complaint, or disciplinary action involving a present or former employee of the Department, the Department may disclose a record from this system of records in the course of investigation, fact-finding, or adjudication, to any party to the grievance, complaint, or action; to the party's counsel or representative; to a

witness; or to a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter.

(6) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance process or to officials of a labor organization recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) *Freedom of Information Act (FOIA) or Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or the Office of Management and Budget (OMB) if the Department seeks advice regarding whether records maintained in this system of records are required to be disclosed under the FOIA or Privacy Act.

(8) *Disclosure to the DOJ.* 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.

(9) *Contract Disclosure.* If the Department contracts with an entity for the purpose 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. As part of such a

contract, the Department shall require the contractor to agree to maintain safeguards to protect the security and confidentiality of the records in the system.

(10) *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 related to functions or 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 related to the functions or purposes of this system of records. The researcher shall be required to agree to maintain safeguards to protect the security and confidentiality of the disclosed records.

(11) *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.

(12) *Disclosure to the Office of Management and Budget or the Congressional Budget Office (CBO) for Credit Reform Act (CRA) Support.* The Department may disclose records to

the OMB or the CBO as necessary to fulfill CRA requirements in accordance with 2 U.S.C. 661b.

(13) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records 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, program, and operation), 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.

(14) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The Department may disclose records from this system 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 on electronic data files on a server.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The records are indexed by the name of the institution or organization, and may be retrieved by the OPEID of postsecondary educational institution, EIN (Entity Identification Number) of the postsecondary educational institution or entity; or the name or the Taxpayer Identification Number (generally the Social Security number) of the individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained and disposed of in accordance with the Department Records Schedule 074: FSA Guaranty Agency, Financial and Education Institution Eligibility, Compliance, Monitoring and Oversight Records (N1-441-09-15). Records are destroyed/deleted 30 years after cut off. Cut off occurs at the end of the fiscal year when final action is completed.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All physical access to the Department of Education sites, and the site of Department contractor where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention with firewalls, encryption, and password protection. This security system limits data access to staff of the Department, guarantors, accrediting agencies, State agencies, and Department contractors on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded. Access to the system requires two-factor authentication.

RECORD ACCESS PROCEDURES:

If you wish to gain access to any record in the system of records, you must contact the system manager at the address listed above. You must provide the necessary particulars of your name, SSN, and any other identifying information requested by the Department, while processing

the request, to distinguish between individuals with the same name. Such requests must meet the requirements of 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record in the system pertaining to you, you must contact the system manager at the address listed above. The request to amend must be made in writing and addressed to the system manager at the address provided above with the necessary particulars of your name, SSN, and any other identifying information requested by the Department, while processing the request, to distinguish between individuals with the same name. The request must identify the particular record within the PEPS that you wish to have changed, state whether you wish to have the record amended, corrected, or deleted, and explain the reasons why you wish to have the record changed. Requests to amend a record 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 the system, you must contact the system manager at the address listed above. You must provide the necessary particulars of your name, SSN, and any other

identifying information requested by the Department, while processing the request, to distinguish between individuals with the same name. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The system of records was published in the *Federal Register* on June 4, 1999 (64 FR 30106, 30171-30173), and amended on December 27, 1999 (64 FR 72384, 72405). This system of records was rescinded on August 8, 2017 (82 FR 37089-37094).

Appendix to 18-11-09

ADDITIONAL SYSTEM LOCATIONS:

Boston Office, 5 Post Office Square, Boston, MA 02109.

New York Office, 32 Old Slip, New York, NY 10005.

Philadelphia Office, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107.

Chicago Office, Citigroup Center, 500 W. Madison Street, Chicago, IL 60661.

Atlanta Office, 61 Forsyth Street, SW, Atlanta, GA 30303.

Dallas Office, 1999 Bryan Street, Dallas, TX 75201.

Kansas City Office, 1010 Walnut Street, Kansas City, MO 64106.

Denver Office, Cesar E. Chavez Memorial Building, 1244 Speer Boulevard, Denver, CO 80204.

San Francisco Office, 50 Beale Street, San Francisco, CA 94105.

Seattle Office, 915 Second Avenue, Seattle, WA 98174.

U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

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