



4000-01-U

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Postsecondary Education, U.S. 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 (Department) publishes this notice of a modified system of records entitled "Fulbright-Hays-Doctoral Dissertation Research Abroad (DDRA) and Seminars Abroad (SA) (18-12-02)," last published in the *Federal Register* on June 4, 1999. The information contained in this system is used to determine applicants' qualifications, eligibility, suitability, and feasibility; to award benefits for overseas research; to monitor the progress of the project including its accomplishments; and, to demonstrate the programs' effectiveness.

DATES: Submit your comments on this modified system of records notice 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].

Modified routine uses (2), (3), (5), (6), (7), (9), (10), (12) and new routine uses (13) and (14) outlined in the section entitled "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES" in the modified system of records 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 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 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 modified system of records, address them to: Sara Starke, International and Foreign Language Education, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Ave., SW., 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 auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Sara Starke, International and Foreign Language Education, Office of Postsecondary Education, U.S. Department of Education, 400

Maryland Ave., SW., Washington, DC 20202. Telephone:
(202) 453-7681.

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

SUPPLEMENTARY INFORMATION:

The Department is modifying the section entitled "SYSTEM NAME AND NUMBER" to remove "Faculty Research Abroad (FRA)" and "Fellows" from the system name.

The Department is modifying the section entitled "SECURITY CLASSIFICATION" to indicate that the system is unclassified.

The Department is modifying the section entitled "SYSTEM LOCATION" to reflect the current location within the Office of Postsecondary Education (OPE) as the "International and Foreign Language Education (IFLE)" office; and, to update the Department's address, as applicable.

The Department is modifying the section entitled "SYSTEM MANAGER(S)" to list the system manager's name; to reflect the current location of the system manager within OPE as the "International and Foreign Language Education (IFLE)" office; and, to update the Department's address, as applicable.

The Department is modifying the section entitled "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM" to include doctoral candidates and to specify that both applicants and selectees are individuals whose information is maintained in the system.

The Department is modifying the section entitled "CATEGORIES OF RECORDS IN THE SYSTEM" to remove the "FRA" (Faculty Research Abroad) program and Social Security numbers, and to indicate that email addresses will be collected in the system.

The Department is modifying the section entitled "RECORD SOURCE CATEGORIES" to clarify that information in the system may also be obtained from other persons or entities from which data is obtained under routine uses set forth in the notice.

The Department is modifying the section entitled "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES" to remove the previous routine use (2) entitled "Disclosure for Use by Other Law Enforcement Agencies" from the list of routine uses of records maintained in the system because the system is not used in a law enforcement capacity.

The Department is modifying newly renumbered routine use (2) entitled "Enforcement Disclosure" to standardize it

with other routine uses (permitting similar disclosures) commonly used by the Department in its systems of records notices to explain that if information in the system, either alone or in connection with other information, indicates a violation or potential violation of any applicable statutory, regulatory, or legally binding requirement, the Department may disclose records from the system to an entity charged with investigating or prosecuting those violations or potential violations.

The Department is modifying newly renumbered routine use (3) "*Litigation and Alternative Dispute Resolution (ADR) Disclosures*" to include, under subsection (3)(a)(iii), disclosures to the Department of Justice (DOJ) where DOJ's representation of a Department employee in his or her individual capacity has been requested; to revise the subsection heading of subsection (3)(c) that had referred to "Administrative Disclosures" to instead refer to "Adjudicative Disclosure;" to insert, in subsection (3)(c), the word "person" in place of the word "individual," in order to avoid any public confusion that may have been caused by the Department's prior use of the word "individual" given that this term is a defined term in the Privacy Act; and, to clarify that subsections (3)(c) and (3)(d) apply to disclosures that are relevant and

necessary to (applicable) judicial or administrative litigation or alternative dispute resolution rather than only "administrative litigation."

The Department is modifying newly renumbered routine use (5) to standardize it with other routine uses (permitting similar disclosures) commonly used by the Department in its systems of records notices to permit disclosure, in the course of investigation, fact-finding, or adjudication, of records from this system that are relevant and necessary to employee grievances, complaints, or disciplinary actions involving present or former employees, 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.

The Department is modifying newly renumbered routine use (6) to permit the disclosure of records from this system of records to arbitrators to resolve disputes under negotiated grievance procedures 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.

The Department is modifying newly renumbered routine use (7) to permit the Department to disclose records to DOJ and the Office of Management and Budget (OMB) for assistance in determining whether particular records are required to be disclosed under the Privacy Act.

The Department is modifying newly renumbered routine use (9) to remove language that referenced imposing safeguard requirements on the contractor "before entering into" the contract and that are required under subsection (m) of the Privacy Act. The modified language clarifies that the Department will require, as part of applicable Department contracts, contractors to whom disclosures are made under this routine use to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

The Department is modifying newly renumbered routine use (10) to remove language that had referred to "Privacy Act safeguards" to clarify that all researchers to whom disclosures are made under this routine use will be required to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

The Department is modifying newly renumbered routine use (12) to permit the Department to disclose records to

the Congressional Budget Office (CBO) as necessary to fulfill the requirements of the Federal Credit Reform Act of 1990, as amended, in accordance with 2 U.S.C. 661b.

Pursuant to the requirements in OMB Memorandum M-17-12 entitled "Preparing for and Responding to a Breach of Personally Identifiable Information," the Department is adding: routine use (13) entitled "Disclosure in the Course of Responding to Breach of Data" to permit the Department to disclose records from this system to appropriate agencies, entities, and persons in connection with the Department's efforts to respond to a suspected or confirmed data breach of this system or to prevent, minimize, or remedy harm resulting from such a breach; and, routine use (14) entitled "Disclosure in Assisting another Agency in Responding to a Breach of Data" to permit the Department to disclose records from this system of records in the course of assisting another Federal agency or entity in responding to, or preventing, minimizing, or remedying the risk of harm resulting from, a suspected or confirmed breach of data.

The Department is removing the section entitled "DISCLOSURE TO CONSUMER REPORTING AGENCIES" because the Department will not disclose information in this system of records to consumer reporting agencies.

The Department is modifying the section entitled "POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS" to explain that both hard copy and electronic records are retrieved by an individual's name; and, in the event that an individual's name cannot be located, records can also be retrieved by award number and name of the educational institution.

The Department is modifying the section entitled "POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS" to reference the current, appropriate records schedule, General Records Schedule 1.2: Grant and Cooperative Agreement Records, Items 020 and 021; and, explain that records are destroyed either 3 years (for unsuccessful applications) or 10 years (for successful applications), as applicable, after final action is taken on an applicant's case file, unless longer retention is required for business use.

The Department is modifying the section entitled "ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS" to describe the safeguards used by the Department for hard copy files.

The Department is modifying the sections entitled "RECORD ACCESS PROCEDURES," "CONTESTING RECORD PROCEDURES," and "NOTIFICATION PROCEDURES" to define and discuss the

information needed to access, contest, or be notified of a record.

The Department is also adding a section entitled "HISTORY" to comply with the requirements in OMB Circular No. A-108.

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 at www.govinfo.gov. At this site you can view this document, as well as all other documents of the 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: August 8, 2019.

Robert L. King,
*Assistant Secretary for the Office
of Postsecondary Education.*

For the reasons discussed in the preamble, the delegatee performing the duties of the Assistant Secretary for Postsecondary Education, U.S. Department of Education (Department), publishes a notice of a modified system of records to read as follows:

SYSTEM NAME AND NUMBER:

Fulbright-Hays-Doctoral Dissertation Research Abroad (DDRA) and Seminars Abroad (SA) (18-12-02).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

International and Foreign Language Education (IFLE), Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

AppNet, 103 W. Broad Street, Fifth Floor, Falls Church, VA 22046.

SYSTEM MANAGER(S):

Sara Starke, International and Foreign Language Education (IFLE), Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458).

PURPOSE(S) OF THE SYSTEM:

The information contained in this system is used for the following purposes: (1) To determine an applicant's qualifications, eligibility, suitability, and feasibility; (2) to award benefits for overseas research; (3) to monitor the progress of the project including its accomplishments; and (4) to demonstrate the programs' effectiveness.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on teachers, prospective teachers, or doctoral candidates who apply for or are selected to be recipients for Fulbright-Hays awards to enable them to engage in foreign language and area studies projects overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records consists of a variety of records relating to an individual's application for, and participation in, the Fulbright-Hays DDRA or SA programs. In addition to the individual's name, the system contains the individual's address, telephone number, email address, educational institution, date and place of birth, citizenship, veteran's status, accompanying dependents' names, previous overseas travel, educational and employment background, student loan default status, health statement,

transcripts, references, project description and project cost based on either the cost-of-living in the host country or the annualized salary of a faculty member, field reader and US Embassy comments, award documents, and final project reports.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on approved application forms and from field readers, and may be secured from the U.S. Department of State, U.S. embassies, binational commissions, the J. William Fulbright Foreign Scholarship Board, and foreign educators and officials. Information in this system also may 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 matching agreement.

(1) *Program Disclosure.* The Department may disclose information to field readers, the U.S. Department of State, U.S. embassies, binational commissions, the J. William Fulbright Foreign Scholarship Board, or to foreign educators or officials so that the information can be used to determine the qualifications, eligibility, suitability, feasibility, and award benefits for overseas research.

(2) *Enforcement Disclosure.* If information in this system of records, either alone or in connection with other information, indicates a violation or potential violation of any applicable statutory, regulatory, or legally binding requirement, the Department may disclose records to an entity charged with investigating or prosecuting those violations or potential violations.

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

(a) *Introduction.* In the event that one of the parties listed in sub-paragraphs (i) through (v) 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, or any of its components;

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

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

(iv) Any Department employee 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 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) *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 litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsels, Representatives, and Witnesses.* If the Department determines that disclosure of certain records is relevant and necessary to the 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 a record 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 a record 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 reporting of an investigation of an employee, 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 in 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 a record from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure 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 and the Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the 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 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. As part of such a contract, the Department will require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(10) *Research Disclosure.* The Department may disclose records to a researcher if an 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 establish and 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 OMB and the Congressional Budget Office (CBO) for Federal Credit Reform Act (CRA) Support.* The Department may disclose records to OMB and CBO as necessary to fulfill CRA requirements in accordance with 2 U.S.C. 661b.

(13) *Disclosure in the Course of Responding to 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, 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 in hardcopy, filed in standard filing cabinets, and in an electronic data warehouse maintained by AppNet and accessible by AppNet,

individual participants, participants' institutions, and Department personnel.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Hardcopy and electronic files are retrieved by individual names. In the event an individual's name cannot be located, records can be retrieved by award number and name of educational institution.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are retained and disposed of in accordance with General Records Schedule 1.2: Grant and Cooperative Agreement Records (GRS 1.2), Items 020 and 021. Records of successful applications are destroyed, in accordance with GRS 1.2, Item 020, 10 years after final action is taken on the applicant's case file, but longer retention is authorized if required for business use. Records of unsuccessful applications are destroyed, in accordance with GRS 1.2, Item 021, 3 years after final action is taken on the applicant's case file, but longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All physical access to the site of the Department and the site of the Department's contractor where this system of records is maintained is controlled and monitored by

personnel who check each individual entering the building. The computer system employed by AppNet offers a high degree of resistance to tampering and circumvention.

This security system limits data access to Department and contract staff grantees 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. Hard copy files are locked in file cabinets, and only those with a need-to-know have keys.

RECORD ACCESS PROCEDURES:

If you wish to gain access to records regarding you in this system of records, contact the system manager at the address listed above. Requests must contain the necessary particulars, such as your full name, date of birth, the year of the award, the name of the grantee institution, major country in which you conducted your educational activity, and any other identifying information requested by the Department while processing the request in order to distinguish between individuals with the same name. Your request must meet the requirements of the regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record regarding you in this system of records, contact the system manager at the address listed above. Requests should contain your full name, date of birth, the year of the award, the name of the grantee institution, major country in which you conducted your educational activity, and any other identifying information requested by the Department while processing the request in order to distinguish between individuals with the same name. Your request must meet the requirements of the regulations at 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager at the address listed above. Requests must contain the necessary particulars, such as your full name, date of birth, the year of the award, the name of the grantee institution, major country in which you conducted your educational activity, and any other identifying information requested by the Department while processing the request in order to distinguish between individuals with the same name. Your request must meet the requirements of the regulations at 34 CFR 5b.5.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The system of records entitled "Fulbright-Hays-
Doctoral Dissertation Research Abroad (DDRA) and Seminars
Abroad (SA) (18-12-02)," was last fully published in the
Federal Register on June 4, 1999 (64 FR 30175-30177).

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