

**DEPARTMENT OF EDUCATION****Privacy Act of 1974; System of Records—Erma Byrd Scholarship Program (EBSP) System**

**AGENCY:** Office of Postsecondary Education, 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 (Department) publishes this notice of a new system of records entitled “Erma Byrd Scholarship Program (EBSP)” system (18–12–08).

The EBSP system contains a variety of information relating to a student’s application for, and participation in, the EBSP. The Department collects this information to determine the qualifications and eligibility of scholarship recipients under the EBSP, which provides scholarships to individuals pursuing a course of study that will lead to a career in industrial health and safety occupations, including mine safety. The information in the EBSP system will also be used to ensure compliance with program requirements and to demonstrate program effectiveness. The Department seeks comment on the new system of records described in this notice, in accordance with the requirements of the Privacy Act.

**DATES:** We must receive your comments about this new system of records on or before September 3, 2009.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on July 30, 2009. This system of records will become effective at the later date of—(1) the expiration of the 40-day period for OMB review on September 8, 2009; or (2) September 3, 2009, unless the system of records needs to be changed as a result of public comment or OMB review.

**ADDRESSES:** Address all comments about this new system of records to Lauren Kennedy, Erma Byrd Scholarship Program Office, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8510. If you prefer to send comments through the Internet, use the following address: [comments@ed.gov](mailto:comments@ed.gov).

You must include the term “Erma Byrd Scholarship Program” in the subject line of your electronic message.

During and after the comment period, you may inspect all comments about this notice at the U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC, between the hours of 8:00 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:** Lauren Kennedy, Erma Byrd Scholarship Program Office. Telephone number: (202) 502–7630. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed in this section.

**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 maintained by the Department. The Department’s regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in part 5b of title 34.

The Privacy Act applies to a record about an individual that is maintained in a system of records from which individually identifying information 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.”

Whenever the agency publishes a new system of records or makes a significant change to an established system of records, the Privacy Act requires each agency to publish a system of records notice in the **Federal Register** and to submit a report to the Administrator of the Office of Information and Regulatory Affairs, OMB. Each agency is also

required to send copies of the report to the Chair of the Committee on Oversight and Government Reform of the House of Representatives, and to the Chair of the Committee on Homeland Security and Governmental Affairs of the Senate.

**Electronic Access to this Document**

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

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 edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara>.

*Delegation of Authority:* The Secretary of Education has delegated authority to Daniel T. Madzellan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: July 30, 2009.

**Daniel T. Madzellan,**

*Director, Forecasting and Policy Analysis.*

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

**SYSTEM NUMBER: 18–12–08****SYSTEM NAME:**

Erma Byrd Scholarship Program (EBSP).

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8510.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system contains records on students who apply for EBSP scholarships to pursue a course of study that will lead to a career in industrial health and safety occupations, including mine safety. To be eligible for EBSP scholarships, applicants must be United

States citizens, nationals, or permanent residents who are enrolled or planning to enroll in an accredited institution of higher education in a degree program that will prepare them for a career in industrial health and safety occupations, including mine safety. Individuals must be enrolled or planning to enroll in an associate's degree program, or be within two years of completing a degree at the bachelor's or graduate level.

In selecting undergraduate applicants to receive an EBSP scholarship, the Department will give priority first to students who are eligible to receive a Federal Pell Grant. The Federal Pell Grant Program provides need-based grants to low-income undergraduate and certain postbaccalaureate students to promote access to postsecondary education. In addition, the Department will evaluate eligibility for the EBSP scholarships based on an applicant's course of study.

#### CATEGORIES OF RECORDS IN THE SYSTEM:

The EBSP system contains a variety of information relating to a student's application for, and participation in, the EBSP. Information on an applicant in the system includes the student's name, the student's Social Security number, the student's address, the student's phone number, the student's e-mail address, the student's course of study, and the name of the institution of higher education in which the student is enrolled or intends to enroll. The Department is collecting the student's Social Security number in order to verify the Federal Pell Grant eligibility of EBSP undergraduate applicants through the U.S. Department of Education's National Student Loan Data System. If the applicant receives an EBSP scholarship, the system also includes information about the amount and period of the student's scholarship, the student's agreement to the terms of the scholarship, verification of the institution's agreement to disburse the scholarship, and verification of the student's employment in a career related to industrial health and safety occupations, including mine safety, for a period of at least one year, beginning no more than six months after completion of the degree. The Department is also collecting the student's Social Security number in order to facilitate conversion of the scholarship into a Federal Direct Loan should the recipient fail to comply with the terms and conditions of the scholarship.

#### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Division F, Title III of the Omnibus Appropriations Act, 2009 (Pub. L. 111-8) and the Government Performance Results Act of 1993 (Pub. L. 103-62).

#### PURPOSE(S):

The Department is establishing this system of records for the following purposes:

(1) To determine the qualifications and eligibility of EBSP scholarship applicants, including the determination of Pell eligibility (for undergraduates).

(2) To ensure compliance with program requirements.

(3) To demonstrate program effectiveness.

(4) To ensure that an EBSP scholarship recipient fulfills the service obligation associated with this program by obtaining employment in a career related to industrial health and safety occupations, including mine safety, for at least one year after completion of the degree.

(5) To ensure the repayment of the amount of the scholarship if the student is not employed in a career related to industrial health and safety occupations, including mine safety, for at least one year after completion of the degree.

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

The Department 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 purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis, or, if the Department has complied with the computer matching requirements of the Computer Matching and Privacy Protection Act of 1988, as amended, under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose records to an institution of higher education to verify that the scholarship recipient is enrolled in an eligible program at that institution and to facilitate the disbursement of scholarship funds under this program. In addition, the Department may disclose records to the scholarship recipient's employer to verify that the scholarship recipient is employed in a career position related to industrial health and safety, including mine safety, for at least one year after completion of the degree.

(2) *Disclosure for Use by Other Law Enforcement 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, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(3) *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 statutory, regulatory, or legally binding requirement, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

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

(a) *Introduction.* In the event that one of the parties listed below 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 if the U.S. Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation for the employee.

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

(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 DOJ.* If the Department determines that disclosure of certain records to DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that it is relevant and necessary to the litigation or ADR to disclose certain records to an adjudicative body before which the Department is authorized to appear, to an individual, or to an entity designated by the Department or otherwise empowered to resolve or mediate disputes, the Department may disclose

those records as a routine use to the adjudicative body, individual, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, or Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness 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.

(5) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to DOJ or OMB if the Department concludes that disclosure would help in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(6) *Contract Disclosure.* If the Department contracts with an entity to perform any function that requires disclosing records to the contractor's employees, 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.

(7) *Congressional Member Disclosure.* The Department may disclose the records of an individual to a member of Congress or the member's staff 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 the inquiry.

(8) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the EBSP system has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of the EBSP system or other systems or programs (whether maintained by the Department or by another agency or entity) that rely upon the compromised information; 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 compromise

and prevent, minimize, or remedy such harm.

#### **DISCLOSURE TO CONSUMER REPORTING AGENCIES**

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in the preceding sentence in accordance with 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined in 31 U.S.C. 3701(a)(3).

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

##### **STORAGE**

The hard copy records will be stored in locked filing cabinets, and the electronic copy records will be maintained in a database on the Department's secure servers and in other electronic storage media.

##### **RETRIEVABILITY**

Records are retrieved using an individual's name, Social Security number, or institution of higher education in which the applicant is enrolled.

##### **SAFEGUARDS**

Access to the records is limited to authorized personnel only. All physical access to the Department's site where the data is collected and this system of records is maintained is controlled and monitored by security personnel who check each individual entering the buildings 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. This security system limits data access to Department and contract staff on a "need-to-know" basis, and controls an individual user's ability to access and alter records within the system. All users of this system of records are given a unique user identification. The Department's Privacy

Policy requires the enforcement of a complex password policy. In addition, users are required to change their passwords at least every 60 to 90 days in accordance with the Department's information technology standards.

#### **RETENTION AND DISPOSAL**

In accordance with the Department's Records Disposition Schedules, part 10, Item 3a, records will be destroyed five years after final payment to grantee, or after audit, whichever is sooner.

#### **SYSTEM MANAGER(S) AND ADDRESS**

Lauren Kennedy, Erma Byrd Scholarship Program Office, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006-8510.

#### **NOTIFICATION PROCEDURE**

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

#### **RECORD ACCESS PROCEDURE**

If you wish to gain access to your record in the system of records, contact the system manager at the address listed under **SYSTEM MANAGER AND ADDRESS**. Requests should contain your full name, address, and telephone number. Your request must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

#### **CONTESTING RECORD PROCEDURE**

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request must meet the requirements of the regulations in 34 CFR 5b.7, including proof of identity.

#### **RECORD SOURCE CATEGORIES**

Information maintained in this system of records is obtained from applicants, institutions of higher education, and employers of scholarship recipients. In addition, information from the U.S. Department of Education's National Student Loan Data System will be used to verify information maintained in this system of records.

#### **EXEMPTIONS CLAIMED FOR THIS SYSTEM**

None.

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