

DEPARTMENT OF EDUCATION**[Docket ID ED–2023–FSA–0113]****Privacy Act of 1974; System of Records****AGENCY:** Federal Student Aid, U.S. 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 U.S. Department of Education (Department) publishes this notice of a new system of records titled “FUTURE Act System (FAS)” (18–11–23). The Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE Act) amended the Internal Revenue Code (IRC) to authorize the U.S. Department of the Treasury, Internal Revenue Service (IRS), to disclose to the Department certain Federal tax information (FTI) of an individual, upon approval being provided by the individual to the Department, for the purpose of determining eligibility for, or repayment obligations under, Income-Driven Repayment (IDR) plans under title IV of the Higher Education Act of 1965, as amended (HEA), with respect to loans under part D of title IV of the HEA, and determining eligibility for, and amount of Federal student financial aid under, a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA. The Department and the IRS have entered into a computer matching agreement (CMA) pursuant to which the IRS will disclose FTI to the Department, to maintain and secure the FTI obtained in this system.

DATES: Submit your comments on this new system of records notice on or before July 31, 2023.

This new system of records notice will become applicable upon publication in the **Federal Register** on June 29, 2023, unless it needs to be changed as a result of public comment, except for the routine uses. The routine uses, listed in the section titled “ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES,” will become effective on July 31, 2023, unless they need to be changed as a result of public comment. The Department will publish any significant changes to the new system of records notice or routine uses resulting from public comment.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at [regulations.gov](https://www.regulations.gov). However, if

you require an accommodation or cannot otherwise submit your comments via [regulations.gov](https://www.regulations.gov), please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments submitted by fax or by email, or comments submitted after the comment period closes. To ensure that the Department does 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](https://www.regulations.gov), including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the “FAQ” tab.

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 program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Pardu Ponnappalli, Technology Directorate, Federal Student Aid, U.S. Department of Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202–5454. Telephone: 202–377–4006. Email: Pardu.Ponnappalli@ed.gov.

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:**Introduction**

The FAS provides a confined platform consisting of three specific FSA information technology systems (namely, the FTI Module, FTI Datamart, and FTI Student Aid internet Gateway (SAIG), described in greater detail below), within which the Department uses and maintains FTI that the

Department receives from the IRS in accordance with the IRC, including sections 6103(l)(13)(A), (C), and (D) therein.

The FAS allows the Department to: (1) enhance the Free Application for Federal Student Aid (FAFSA®) experience by enabling the Department to obtain FTI from the IRS for each applicant, parent, or spouse who provides approval for the purposes set forth in section 6103(l)(13)(C) of the IRC; (2) improve program integrity for Income Driven Repayment (IDR) plans by enabling the Department to obtain FTI faster, and in a secure manner, from the IRS for individuals who provide approval for the purposes set forth in section 6103(l)(13)(A) and (C) of the IRC; and (3) provide an improved experience to applicable aid applicants and aid recipients, along with their spouses and parents, through the establishment of a matching program between the IRS and the Department.

To the extent that the Department determines it to be required by law or essential to the conduct of its matching program with the IRS, the Department may also use the FTI that the IRS discloses to the Department for the foregoing purposes for the following additional purposes permitted by section 6103(l)(13)(D)(i) of the IRC: (a) reducing the net cost of improper payments: (i) under IDR plans, and (ii) relating to awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA; (b) the Department’s OIG’s oversight activities as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions; and (c) conducting analyses and forecasts for estimating costs related to: (i) IDR plans, and (ii) awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA. This will improve the Department’s administration of programs authorized under title IV of the HEA by enhancing the FAFSA verification experience and eliminating multi-year certification for IDR plan applicants and aid recipients, which simplifies both online application experiences and prevents many aid recipients from defaulting on their Federal student loans.

The three FSA information technology systems comprising the FAS are as follows:

(i) FTI Module—The FTI Module is a centralized and secured platform that interfaces with the IRS to collect and maintain FTI via a matching program. It also serves as a database that contains

FTI where authorized Department users can view FTI and perform all FTI-related business functions. The FTI Module also houses the non-FTI information (e.g., last name, SSN/TIN, unique identifier, consent/affirmative approval information, date, and time stamp) needed to engage in the applicable matching program. In particular, the Department uses the FTI Module to perform calculations required for the Department to determine eligibility for, and amount of, Federal student financial aid under subpart 1 of part A, part C, or part D of title IV of the HEA, and eligibility for, and repayment obligations under, IDR plans with respect to loans under part D of title IV of the HEA, as permitted under sections 6103(l)(13)(A) and (C) of the IRC. More specifically, the Department uses the FTI Module to calculate the Student Aid Index (SAI), verify financial information, conduct eligibility determination checks, and calculate the IDR plan monthly payment amount. Further, the FTI Module produces outputs to FSA systems outside of the FTI Module's boundary that address those systems' required business needs, as permitted by applicable law and in a manner that complies with IRS Publication 1075, "Tax Information Security Guidelines for Federal, State, and Local Agencies." For example, the SAI calculation that is derived from FTI within the FTI Module boundary is transmitted to the FAFSA Processing System (FPS) covered by the Department's system of records notice entitled "Aid Awareness and Application Processing" (18-11-21). In addition, to determine eligibility requirements for loan repayment plans, the FTI Module calculates a monthly loan payment amount derived from FTI which is then transmitted to the Common Origination and Disbursement (COD) System covered by the Department's system of records notice entitled "Common Origination and Disbursement (COD) System" (18-11-02);

(ii) FTI Datamart—The FTI Datamart is a secure data warehouse that contains FTI maintained by the Department and utilizes analytics frameworks to support data analytics, budget service, and auditing analysis. A set of analytical tools included in the FTI Datamart provides users the ability to analyze data based on the users' needs and to the extent such analysis is authorized by sections 6103(l)(13)(D)(i)(I) through (III) of the IRC; and

(iii) FTI SAIG—The FTI SAIG is used for title IV, HEA data transmissions that contain FTI, as permitted by section 6103(l)(13)(D)(iii) of the IRC and

provided the Department has obtained the written consent of the taxpayer, to certain institutions of higher education (IHE), IHEs) State higher education agencies, and certain scholarship organizations solely for use in the application, award, and administration of financial aid awarded by the Federal government, by an IHE that participates in a program under subpart 1 of part A, part C, or part D of title IV of the HEA, by a State higher education agency, or by a scholarship organization designated by the Secretary of Education prior to December 19, 2019, under section 483(a)(3)(E) of the HEA.

Additionally, the FTI SAIG allows users the ability to send and receive files while maintaining complete compliance with applicable law and the requirements of IRS Publication 1075 regarding the transfer and storage of FTI.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotope, or compact disc, or other accessible format.

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 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.

Richard Cordray,
Chief Operating Officer, Federal Student Aid.

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

SYSTEM NAME AND NUMBER:

FUTURE Act System (FAS) (18-11-23).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Amazon Web Services (AWS) GovCloud West-1, 875 Howard Street, San Francisco, CA 94103-3009. (AWS GovCloud hosts the infrastructure that supports the FAS.) Federal Student Aid (FSA), U.S. Department of Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202-5454.

SYSTEM MANAGER(S):

FUTURE Act System Manager, Technology Directorate, Federal Student Aid (FSA), U.S. Department of Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202-5454.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070 *et seq.*); section 141(f) of the HEA (20 U.S.C. 1018(f)), and 6103(1)(13) and p(4) of the IRC and IRS Publication 1075 Tax Security Guidelines for Federal, State, and Local Agencies. The collection of Social Security numbers (SSNs) and Taxpayer Identification numbers (TINs) of individuals (including parents of dependent applicants and spouse(s) of independent applicants), who apply for or receive Federal student financial assistance under programs authorized by title IV of the HEA is also authorized by 31 U.S.C. 7701 and Executive Order 9397, as amended by Executive Order 13478 (November 18, 2008).

PURPOSE(S) OF THE SYSTEM:

The information contained in this system is maintained for the following purposes related to aid applicants and recipients under title IV of the HEA:

- (1) To provide an aid applicant's or aid recipient's financial aid history to aid applicants or aid recipients, IHEs, Tribes, and Federal, State higher education agencies, or local agencies, and third-party servicers;
- (2) To assess the administration of title IV, HEA program funds;
- (3) To identify, recoup, and prevent improper payments in title IV, HEA programs;
- (4) To help Federal, State, Tribal and local government agencies exercise their supervisory and administration powers (including, but not limited to licensure, examination, discipline, regulation, or oversight of IHEs, Department contractors, guaranty agencies, lenders and loan holders, and third-party servicers);
- (5) To respond to aid applicant or aid recipient complaints submitted

regarding the practices or processes of the Department and/or the Department's contractor;

(6) To update information and correct errors contained in Department records regarding the aid applicant's or aid recipient's title IV, HEA program funds;

(7) To support the investigation of possible fraud and abuse and detect and prevent fraud and abuse in title IV, HEA program funds;

(8) To determine an applicant's eligibility for the award of aid under title IV of the HEA, State postsecondary education assistance, and aid by eligible IHEs or other entities that have been designated by the Secretary, as currently permitted by Section 483(a)(3)(E) of the HEA (20 U.S.C. 1090(a)(3)(E)), and to administer those awards.

Pursuant to sections 6103(l)(13)(A) and (C) of the Internal Revenue Code (IRC) the Department will use the Federal tax information (FTI) disclosed to the Department by the U.S. Department of the Treasury, Internal Revenue Service (IRS), that the Department maintains in this system for the purpose of determining eligibility for, or repayment obligations under, Income-Driven Repayment (IDR) plans under title IV of the HEA, with respect to loans under part D of title IV of the HEA; and determining eligibility for, and amount of Federal student financial aid under, a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA.

To the extent that the Department determines it to be required by law or essential to the conduct of its matching program with the IRS, the Department may also use the FTI that the Department maintains in this system for the foregoing purposes for the following additional purposes permitted by section 6103(l)(13)(D)(i) of the IRC:

(1) reducing the net cost of improper payments:

(a) under IDR plans, and
(b) relating to awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA;

(2) the Department's Office of Inspector General's (OIG's) oversight activities as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions; and (3) conducting analyses and forecasts for estimating costs related to:

(a) IDR plans, and
(b) awards of Federal student financial aid under subpart 1 of part A, part C, or part D of title IV of the HEA.

The Department also uses the FTI that the Department maintains in this system to produce a Student Aid Report (SAR)/

FAFSA Submission Summary (FSS), Institutional Student Information Record (ISIR) and, as permitted by section 6103(l)(13)(D)(iii) of the IRC and provided the Department has obtained the applicable individual's written consent, to distribute the ISIR to authorized institutions of higher education (IHEs), State higher education agencies, and certain scholarship organizations solely for the use in the application, award, and administration of financial aid awarded by the Federal Government, by an IHE that participates in a program under subpart 1 of part A, part C, or part D of title IV of the HEA, by a State higher education agency, or by a scholarship organization designated by the Secretary of Education prior to December 19, 2019, under section 483(a)(3)(E) of the HEA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records maintains records on aid applicants, aid recipients, and participants (*i.e.*, parent(s) of dependent applicants and spouse(s) of independent applicants) who apply for repayment of their obligations under IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA, or who apply for Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records maintains information provided by aid applicants for and aid recipients, or participants (as defined above) of, title IV, HEA program assistance on the Free Application for Federal Student Aid (FAFSA®) including, but not limited to, the applicant's last name, date of birth, SSN and/or TIN, unique identifier, consent/affirmative approval information, and the date/time stamp of the consent/affirmative approval provided for the purposes set forth in section 6103(l)(13)(C) of the IRC, clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the IRC, and under section 494(a) of the HEA (20 U.S.C. 1098h(a)). This system also maintains similar information provided about participants (as defined above) on the FAFSA. For an aid applicant or aid recipient who is married, this system of records also maintains spousal income and asset information. For an aid applicant or aid recipient who is a dependent student, this system of record maintains their income and asset information as well as the income and asset information of their parent(s).

In addition, this system maintains data related to FTI transmission processing, such as when FTI batch data was transmitted and received by the FTI SAIG.

This system also maintains the following data on IDR applicants and their spouses, if applicable, to calculate and produce the output calculation of the monthly repayment amount for IDR-related plans: the applicant's last name, date of birth, SSN and/or TIN, and unique identifier, and the consent/affirmative approval including date/time stamp provided for the purposes set forth in section 6103(l)(13)(A) of the IRC, clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the IRC, and under section 494(a) of the HEA (20 U.S.C. 1098h(a)).

Further, this system maintains the following FTI to determine eligibility for, and amount of, Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA: SSA/TIN; tax year; last name; filing status code; adjusted gross income (AGI) amount; total number of tax exemptions; total number of dependents; income earned from work (sum of wages, farm income, Schedule C income); total amount of income tax paid; total allowable education tax credits; sum of untaxed IRA contributions and other payments to qualified plans; tax-exempt interest received; sum of untaxed pensions and annuities; net profit/loss from Schedule C; and indicator of filing for Schedules A, B, D, E, F, and H. This FTI will be used to generate a Student Aid Index (SAI), which will also be maintained in this system.

This system maintains the following FTI to determine eligibility for, or repayment of obligations under, IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA: SSN/TIN, tax year; last name; filing status code; AGI amount; total number of exemptions; and total number of dependents. This FTI will be used to calculate monthly payment amounts, which will also be maintained in this system.

Note: With the consent/affirmative approval of the applicants, an ISIR will be provided to the IHEs identified on the applicant's FAFSA indicating the applicant's SAI, application results, whether there is discrepant or insufficient data, or FPS assumptions that affect FAFSA processing. The SAI will be used by IHEs to determine the student's eligibility for Federal and institutional program assistance, by State higher education agencies to determine the student's eligibility for State aid, and, if provided by the aid applicant or aid recipient, the Bureau of Indian Affairs (BIA) for tribal assistance.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from aid applicants or aid recipients, the parent(s) of dependent aid applicants or aid recipients (for FAFSA purposes only), and the spouse(s) of independent aid applicants or aid recipients for title IV, HEA program assistance; the authorized employees or representatives of IHEs, institutional third-party servicers, and State higher education agencies; and other persons or entities from which information is disclosed following a disclosure of records under the routine uses set forth below.

This system maintains information added during FTI processing and receives information from other Department information technology systems or their successor systems, such as the National Student Loan Data System (NSLDS) (covered by the Department's system of records notice entitled "National Student Loan Data System (NSLDS)" (18-11-06)); Common Origination and Disbursement (COD) System (covered by the Department's system of records notice entitled "Common Origination and Disbursement (COD) System" (18-11-02)); Enterprise Data Management and Analytics Platform Services (EDMAPS) (covered by the Department's system of records notice entitled "Enterprise Data Management and Analytics Platform Services" (18-11-22)); Person Authentication Service (PAS) (covered by the Department's system of records notice entitled "Person Authentication Service (PAS)" (18-11-12)); Postsecondary Education Participants System (PEPS) (covered by the Department's system of records notice entitled "Postsecondary Education Participants System (PEPS)" (18-11-09)); and all information technology systems covered by the Department's system of records entitled "Aid Awareness and Application Processing" (18-11-21).

Information maintained in this system is also obtained through a matching program with the IRS.

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

The Department may disclose information maintained 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 pursuant to a computer matching agreement that meets the requirements

of the Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a). However, any FTI maintained in a record in this system of records may only be disclosed without the consent of the individual under the routine uses listed in this system of records notice if the disclosure is compatible with the purposes for which the record was collected and if the disclosure is permissible under section 6103(l)(13) of the IRC. Section 483(a)(3)(E) of the HEA, which will be in effect until June 30, 2024, also restricts the use of the information collected by the electronic FAFSA to the application, award, and administration of aid awarded under title IV of the HEA or of aid awarded by States, eligible IHEs, or such entities as the Secretary of Education may designate. Thus, until July 1, 2024, any such FAFSA information may only be disclosed under the routine uses listed in this system of records notice if the disclosure is compatible with the purposes for which the record was collected and if the disclosure is for the application, award, and administration of aid awarded under title IV of the HEA or of aid awarded by States, eligible IHEs, or such entities as the Secretary of Education may designate.

Program Disclosures. The Department may disclose records from this system of records for the following program purposes:

(a) To provide an aid applicant's or aid recipient's financial aid history, the Department may disclose records to IHEs, Tribes, and Federal, State higher education agencies, or local agencies, and third-party servicers;

(b) To facilitate receiving application and recertification information, calculating IDR plans monthly payment amounts, and calculating SAI, the Department may disclose records to IHEs, and Federal, State higher education agencies, or local agencies, Tribes, and third-party servicers;

(c) To assist the Department in assessing the administration of title IV, HEA program funds, the Department may disclose records to IHEs, third-party servicers, and Federal and State agencies;

(d) To support the Department in identifying, preventing, and recouping, improper payments in title IV, HEA programs, the Department may disclose records to IHEs, third-party servicers, Tribes, and Federal, State, or local agencies, State higher education agencies, and fiscal/financial agent designated by the U.S. Department of Treasury include employees, agents, or contractors of such agent;

(e) To help Federal, State, Tribal, and local governmental agencies exercise

their supervisory and administrative powers (including, but not limited to licensure, examination, discipline, regulation, or oversight of educational institutions, Department contractors, guaranty agencies, eligible lenders, and third-party servicers) or to investigate, respond to, or resolve complaints submitted regarding the practices or processes of the Department and/or the Department's contractors, the Department may disclose records to governmental entities at the Federal, State, Tribal, and local levels. These records may include all aspects of records relating to loans and grants made under title IV of the HEA, to permit these governmental entities to verify compliance with debt collection, consumer protection, financial, and other applicable statutory, regulatory, or local requirements. Before making a disclosure to these Federal, State, local, or Tribal governmental entities, the Department will require them to maintain safeguards consistent with the Privacy Act to protect the security and confidentiality of the disclosed records;

(f) To support the investigation of possible fraud and abuse and to detect and prevent fraud and abuse in title IV, HEA program funds, the Department may disclose records to IHEs, third-party servicers, Tribal, and Federal, State, or local agencies; and

(g) To determine an aid applicant's eligibility for the award of aid under title IV of the HEA, and to assist with the awarding and administration of aid, State postsecondary education assistance, and aid by eligible IHEs or other entities designated by the Secretary of Education and to administer those awards, the Department may disclose records to State agencies, eligible IHEs, third-party servicers, Tribal, Federal, State, or local agencies, and other entities that award aid to students that have been designated by the Secretary of Education.

(2) *Enforcement Disclosure.* If 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 to the appropriate agency, whether Federal, State, Tribal, or local, charged with investigating or prosecuting that violation or charged with enforcing or implementing the statute, 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 in sub-paragraphs (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 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 their official capacity;

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

(iv) Any Department employee in their individual capacity where the Department has agreed to represent the employee; and

(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 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 judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

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

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

(5) *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. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(6) *Congressional Member Disclosure*. The Department may disclose records to a Member of Congress in response to an inquiry from the Member made at the written request of and on behalf of the individual whose records are being disclosed. The Member's right to the information is no greater than the right of the individual who requested it.

(7) *Employment, Benefit, and Contracting Disclosure*.

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

(8) *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.

(9) *Labor Organization Disclosure*. The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations

recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(10) *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.

(11) *Research Disclosure*. The Department may disclose records to a researcher if the Department determines that the individual or organization to which the disclosure would be made is authorized and qualified to carry out specific research related to functions or purposes of this system of records. The Department 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.

(12) *Disclosure to the OMB and Congressional Budget Office (CBO) for Federal Credit Reform Act (FCRA) Support*. The Department may disclose records to OMB and CBO as necessary to fulfill FCRA 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, programs, and operations), 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.

(15) *Disclosure to the National Archives and Records Administration (NARA)*. The Department may disclose records from this system of records to NARA for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose the following information to a consumer reporting agency regarding a valid, overdue claim of the Department: (1) the name, address, TIN, 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 this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic applicant records, which may include optically imaged documents, are stored on Direct Access Storage Device (DASD) disks in a virtual disk library, in the computer facilities controlled by the Federal Student Aid Data Center.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system pertaining to a title IV, HEA loan aid applicant or aid recipient are indexed and retrieved by a single information element or a combination of the following information elements: SSN/TIN, name, date of birth, and/or the academic year in which the aid applicant applied for title IV, HEA program assistance.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records that constitute FTI that are maintained in this system are primarily retained and disposed of in accordance with the following records schedules:

(a) The Department will maintain FTI that the Department receives from the IRS pursuant to section 6103(l)(13)(A) of the IRC for the purpose of determining eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA, in accordance

with ED Records Schedule 072, "FSA Application, Origination, and Disbursement Records" (DAA-0441-2013-0002)(ED 072); ED Records Schedule 075, "FSA Loan Servicing, Consolidation, and Collections Records" (DAA-N1-441-09-016) (ED 075); and ED Records Schedule 051, "FSA National Student Loan Data System(NSLDS)" (DAA-0441-2017-0004) (ED 051). The Department has proposed amendments to ED 072, ED 051, and ED 075 for NARA's consideration and will not destroy records covered by these records schedules until such amendments are in effect, as applicable;

(b) The Department will maintain FTI that the Department receives from the IRS pursuant to sections 6103(l)(13)(A) and/or (C) of the IRC that the Department uses for the purpose of reducing the net cost of improper payments under such IDR plans and relating to such awards, and pursuant to section 6103(l)(13)(C) of the IRC for the purpose of determining eligibility for, and amount of, Federal student financial aid under the programs authorized under subpart 1 of part A, part C, or part D of title IV of the HEA in accordance with ED Records Schedule 052, "Ombudsman Case Files" (N1-441-09-21) (ED 052). The Department has proposed amendments to ED 052 for NARA's consideration and will not destroy records covered by this records schedules until such amendments are in effect, as applicable;

(c) The Department will maintain FTI that the Department receives from the IRS pursuant to sections 6103(l)(13)(A) and/or (C) of the IRC that the Department uses for the purpose of oversight by the Department's OIG as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions, in accordance with OIG "Office of Inspector General Simplified Records Schedule" (DAA-0441-2021-0001); and

(d) The Department will maintain FTI that the Department receives from the IRS pursuant to IRC sections 6103(l)(13)(A) and/or (C) of the IRC that the Department uses for the purpose of conducting analyses and forecasts for estimating costs related to IDR plans and/or awards of Federal student financial aid under the Pell Grant, FWS or Direct Loan, programs authorized under subpart 1 of part A, part C, or part D of title IV of the HEA in accordance with ED Records Schedule 057, "Office of the Secretary, Deputy Secretary and Under Secretary," (DAA-441-97-1) (ED 057), item 16a; and General Records Schedule 1.3, "Budgeting Records,"

items 040 and 041. The Department proposed amendments to ED 057 for NARA's consideration and will not destroy records covered by this records schedule until such amendments are in effect, as applicable.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All users of the system will have a unique user ID with a password. All physical access to the data housed at system locations is controlled and monitored by security personnel who check each individual entering the building for their 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 Department and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All interactions by users of the system are recorded.

In accordance with the Federal Information Security Management Act of 2002 (FISMA), as amended by the Federal Information Security Modernization Act of 2014, every Department system must receive a signed Authorization to Operate (ATO) from a designated Department official. The ATO process includes a rigorous assessment of security and privacy controls, a plan of actions and milestones to remediate any identified deficiencies, and a continuous monitoring program.

FISMA controls implemented are comprised of a combination of management, operational, and technical controls, and include the following control families: access control, awareness and training, audit and accountability, security assessment and authorization, configuration management, contingency planning, identification and authentication, incident response, maintenance, media protection, physical and environmental protection, planning, personnel security, privacy, risk assessment, system and services acquisition, system and communications protection, system and information integrity, and program management. The Department will maintain all FTI obtained from the matching program in accordance with section 6103(p)(4) of the IRC and comply with the safeguards requirements set forth in IRS Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, which is the IRS published guidance for security guidelines and other safeguards

for protecting FTI pursuant to section 6103(p)(4) of the IRC and 26 CFR 301.6103(p)(4)-1.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, FAFSA applicants and contributors are encouraged to contact their IHE financial aid administrators to access their record most efficiently. IDR applicants, and those recertifying their IDR benefits, may access their non-FTI information by contacting their Federal student loan servicer. Either set of individuals may gain access to their complete records from this system, including FTI, by contacting the system manager at the address listed above. You must provide necessary particulars such as your name, SSN/TIN, date of birth, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Alternatively, to gain access to a record in the system, you can make a Privacy Act request through the Department's FOIA Service Center at [https://](https://www2.ed.gov/policy/gen/leg/foia/request_privacy.html)

www2.ed.gov/policy/gen/leg/foia/request_privacy.html by completing the applicable request forms.

Requests by an individual for access to a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest or change the content of a record about you in the system of records, provide the System Manager with your name, date of birth, SSN/TIN, and any other identifying information requested by the Department, while processing the request, to distinguish between individuals with the same name. Identify the specific items to be changed and provide a justification for the change.

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 about you in the system of

records, contact the system manager at the address listed above. You must provide necessary particulars such as your name, SSN/TIN, date of birth, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Alternatively, you can make a Privacy Act request through the Department's FOIA Service Center at https://www2.ed.gov/policy/gen/leg/foia/request_privacy.html by completing the applicable request forms.

Requests for notification about whether the system of records contains information about an individual must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2023-13980 Filed 6-28-23; 8:45 am]

BILLING CODE 4000-01-P