

MEMORANDUM OF UNDERSTANDING BETWEEN
THE U.S DEPARTMENT OF EDUCATION
AND
THE SELECTIVE SERVICE SYSTEM

I. Introduction

This Agreement is entered into between the U.S. Department of Education (ED) and the Selective Service System (SSS) (collectively referred to as the “parties”) in order to comply with the Computer Matching and Privacy Protection Act of 1988, Public Law 100-503, October 18, 1988, 102 Stat 2507, and the Computer Matching and Privacy Protection Amendments of 1990, Public Law 101-508, November 5, 1990, 104 Stat. 1388, which were enacted as amendments to the Privacy Act of 1974 (Privacy Act) (5 U.S.C. §552a).

The Privacy Act establishes procedural safeguards affecting agencies’ use of Privacy Act records in performing computerized matching programs. The Privacy Act requires agencies to enter into written agreements that specify the terms under which computer matching programs are to be completed. Under the terms of this Computer Matching Agreement (CMA), ED will match its Privacy Act system of records entitled the “Federal Student Aid Application File,” 18-11-01, with SSS’s Privacy Act system of records entitled “Selective Service Registrant Registration Records,” SSS 9. The purpose of this matching program is to ensure that the requirements of Section 12(f) of the Military Selective Service Act (50 U.S.C. §3811(f)) are met.

II. Purpose and Authority

A. Authority

Computerized access to the SSS 9 enables ED to confirm the registration status of applicants for assistance under Title IV of the Higher Education Act of 1965, as amended, (HEA) (20 U.S.C. §1070 *et. seq.*). Section 12(f) of the Military Selective Service Act, as amended (50 U.S.C. App. §3811(f)), denies eligibility for any form of assistance or benefit under Title IV of the HEA to any person required to present himself for and submit to registration under Section 3 of the Military Selective Service Act (50 U.S.C. §3802) and who fails to do so in accordance with that section and any rules and regulations issued under that section. In addition, Section 12(f)(2) of the Military Selective Service Act specifies that any person required to present himself for and submit to registration under Section 3 of the Military Selective Service Act must file a statement with the institution of higher education where the person intends to attend or is attending that he is in compliance with the Military Selective Service Act. Furthermore, Section 12(f)(3) of the Military Selective Service Act authorizes the Secretary of Education (hereafter, the Secretary), in agreement with the Director of the Selective Service, to prescribe methods for verifying the statements of compliance filed by students.

Section 484(n) of the HEA (20 U.S.C. §1091(n)), requires the Secretary to conduct database matches with SSS, using common demographic data elements, to enforce the Selective

Service registration provisions of the Military Selective Service Act (50 U.S.C. §3811(f)), and further states that appropriate confirmation of a person's registration shall fulfill the requirement to file a separate statement of compliance.

B. Justification and Expected Results

1. Under the Solomon Amendment to the Military Selective Service Act Section 12(f), young men who are required under Section 3 of the Military Selective Service Act to be registered with SSS must fulfill the registration requirement in order to be eligible for Title IV, HEA assistance. This matching program enables ED to prevent improper payments to those applicants who are not eligible under the Military Selective Service Act to receive the benefits administered under Title IV of the HEA.
2. Matching computer records during application processing is the most efficient and expeditious means of obtaining the information needed to verify the statements of registration compliance filed by male applicants. This matching program also limits the number of individuals who must provide evidence of Selective Service registration by requiring evidence only from those applicants who certify that they are registered, but whose application does not match the information in the SSS database. Additionally, optional Selective Service registration enables a Title IV, HEA aid applicant who has not already registered with SSS to simply check a box on ED's Free Application for Federal Student Aid (FAFSA) to automatically register with SSS provided the applicant is within 30 days of his 18th birthday and has not yet reached age 26. This optional Selective Service registration portion of the matching program enables SSS to gain registrations from ED at no cost. These registrations would normally take place through State enacted driver's license legislation in support of the SSS registration requirement, through computer data exchange with other Federal Agencies, through the Internet at (<http://www.sss.gov>), through Selective Service registrar programs, Selective Service registration compliance programs, at local U.S. Post Offices, and by telephone.
3. The parties have conducted a cost/benefit analysis on information relevant to this matching program. The attached explanation of the cost/benefit analysis evaluated the costs associated with performing the match by ED and SSS, and the benefits (i.e., savings) derived by ED. As explained in the cost/benefit analysis, the total cost for performing the match was \$261,804. The adjusted "net" savings across all Title IV, HEA programs was \$9,203,205 (see Attachment) as a result of this matching program. However, it may be more appropriate to express the primary benefits of this matching program in terms of increased Selective Service registration compliance, timely service to the public, and prevention of Title IV, HEA funds from being disbursed to an applicant who does not comply with the Solomon Amendment to the Military Selective Service Act.

C. Records Description

1. Systems of records that will be matched:
 - a. ED's Federal Student Aid Application File (18-11-01), last published at 76 *Federal*

Register 46774-46781 (August 3, 2011); and

- b. SSS' Selective Service Registration Records (SSS 9), last published at *76 Federal Register* 58321 (September 20, 2011).
- c. ED will provide to SSS a file of selected Federal Student Aid applicant records. Each applicant record sent to SSS contains a code of "M" or "R". Records containing a code of "M" instruct SSS to match that record with the SSS 9 file. An applicant record, which matches the Selective Service record, is assigned an indicator of "Y" by SSS, and an applicant record not matching a Selective Service record is assigned an indicator of "N". If ED sends to SSS a code of "M," then the applicant records that SSS sends back to ED contain an indicator of "T" if the applicant is not within 30 days of his 18th birthday, and technically is not required to be registered.
- d. ED also serves as a record source agency for the SSS 9 file. On a strictly voluntary basis, an individual applicant for Title IV, HEA program assistance, who is required to submit to registration under Section 3 of the Military Selective Service Act and has not yet done so, may elect on the FAFSA to have ED send to SSS the information necessary to register him if he is at least 17 years of age and not yet age 26. When ED transmits files with these records to SSS via secured electronic file transfer of encrypted data, they contain a code of "R" which notifies Selective Service's Data Management Center to register the individual.
- e. These records are checked for duplicate registrations against the SSS 9 file. Once the applicant's request for SSS registration has been completed, the record is returned to ED with an indicator of "Y" in the record, noting that the individual is registered with SSS. If ED sends SSS a code of "R", then SSS sends back to ED an indicator of "T" for those "R" records that are before 30 days prior to the applicant's 18th birthday. SSS will hold the record and automatically register the applicant 30 days before his 18th birthday.
- f. Unregistered individuals will be notified by ED that, as a result of the computer matching program with SSS, they have been identified as a suspected non-registrant with SSS, and must register, or resolve their status with SSS or they will not be eligible for Title IV, HEA program assistance. These applicants may be subject to criminal penalties if they do not resolve the matter with SSS.

2. Data elements used in the matching program:

- a. ED will send data from the Federal Student Aid Application File (18-11-01) to SSS for matching.
- b. ED will transmit to SSS the first name, middle initial, last name, date of birth (if born after December 31, 1959), male (if the response is 'male' or blank), Social Security number, address, an "M" or "R" code for each verification request, the FAFSA signature flag (which indicates that the student, and if dependent, one of

the student's parents, signed the application), and the date the student signed the FAFSA (or the date used to determine the student's age, if the signature date is blank, invalid or unusable).

- c. SSS will match the following student data with elements in the SSS 9 file:
 - i. First name and middle initial;
 - ii. Last name;
 - iii. Date of birth (born after December 31, 1959); and
 - iv. Social Security number.
 - d. After SSS processes the verification request, it will return a file to ED with the following information: a code response indicating "Y" if the individual is registered with SSS an "N" if the individual is not registered with SSS, or a "T" if it is before 30 days prior to the applicant's 18th birthday. If ED sends SSS a code of "R", then SSS sends back to ED a code of "T" if it is before 30 days prior to the applicant's 18th birthday. If ED sends SSS a code of "M", then SSS sends back to ED a code of "T" if the applicant is not at least 18 years of age plus 30 days, and technically is not required to be registered.
 - e. Duration of the Program: 18 months--commencing on the date specified in paragraph M.3., Effective Date of the Agreement. As is detailed in paragraph M, the Data Integrity Boards of both agencies, prior to the expiration of the agreement, may approve an extension of the agreement of one year pursuant to 5 U.S.C. §552a(o)(2)(D).
3. Number of records to be matched: Average of 250,758 queries per month for the applicant match.

D. Notice Procedures

ED agrees to provide each male applicant for Title IV, HEA program benefits with direct notice of its intention to verify his registration status with SSS at the time of application by including the notice in the FAFSA. SSS agrees to provide general notice of this computer matching program by publishing a *Federal Register* notice describing this computer matching program.

E. Verification Procedures

1. ED may not suspend, terminate, reduce, or make a final denial of any financial assistance or payment under Title IV of the HEA to an individual, or take other adverse action against such individual as a result of information produced by this matching program until an institution participating in the program under Title IV of the HEA has asked the

student to produce evidence of his registration with SSS or allows the student to register with SSS. Under this matching program, an individual applicant's record is matched when the application for Title IV, HEA assistance is processed. Only the records of applicants who reported that they: (1) are a U.S. citizen, U.S. national, or eligible noncitizen; (2) were born after December 31, 1959; and (3) responded "Male" or "Blank" to the question "Are you Male or Female?" are sent to SSS. As a result of the match, a comment stating whether SSS has confirmed the student's registration compliance appears on the Student Aid Report (SAR) mailed to the student and on the Institutional Student Information Record (ISIR) electronically transmitted to the institution. If SSS cannot confirm his registration, then the student must provide proof of his registration to the institution before he may receive any Title IV, HEA program funds.

2. In accordance with the requirements of Section 12(g) of the Military Selective Service Act (50 U.S.C. §3811(g)) and 34 Code of Federal Regulations (CFR) 668.37(d), if an individual is age 26 or older, and was required to register but failed to do so, he cannot be denied funds under Title IV, HEA programs if he can show the institution by a preponderance of the evidence that he did not knowingly and willfully fail to register, or he received a DD Form 214, "Certificate of Release or Discharge from Active Duty," showing military service and indicating that the applicant's character of military service is any designation other than "dishonorable."
3. An important feature of this match is the volume and speed of the system. Consequently, the Federal Student Aid programs notification process is highly automated, making it virtually impossible to extract a single record or perform secondary verification of data. Individual students are required to personally resolve match discrepancies. Indeed, Office of Management and Budget (OMB) guidance anticipates such a situation, stating that: "It would be of dubious utility to apply the verification requirements equally to all matches and argue that a match that results in an adverse consequence of the loss of, for example, a tuition assistance payment should receive the same due process procedures as one that results in the loss of an AFDC payment or Food Stamp Program eligibility." 54 Fed. Reg. 25818, 25820 (June 19, 1989). OMB guidance further states the verification and notice steps can be combined into one step, particularly where the record subject is the best source of verification, but requires that the Data Integrity Boards of both agencies "make a formal determination of when to compress these two due process steps."
4. ED may not suspend, terminate, reduce, or make a final denial of any financial assistance or payment under Title IV of the HEA to any individual described in Paragraph E.1 or take other adverse action against such individual as a result of information produced by this matching program, unless such individual has received specific notice from his institution in accordance with 34 CFR §668.37(c), until the expiration of the time period allowed in 34 CFR §668.37(c), which is at least 30 days from the student's receipt of the notice. A student denied assistance by an institution because he has not proven to the institution that he has complied with the Selective Service registration requirement may seek a hearing by filing a request with the Secretary of Education in accordance with 34 CFR §668.37(f).

F. Disposition of Matched Items

1. ED will retain all identifiable records received from SSS for a period not to exceed 15 years after final repayment or audit of students' financial obligations, or after student record information is transferred to an alternate recordkeeping system (i.e. loan servicing system), whichever is sooner in accordance with the requirements of the Department of Education Comprehensive Records Retention and Disposition Schedule, 072 FSA Application, Origination, and Disbursement Records. At the conclusion of the mandatory retention period, these records will be destroyed. This procedure is consistent with legal retention requirements established by ED in conjunction with the National Archives and Records Administration.
2. SSS will use only those records of Federal Student Aid applicants that are identified as possible non-registrants. In such cases, the affected individual will be sent a series of registration reminder letters from SSS that solicit the individual's compliance with the registration requirement. If the individual responds to a registration letter by registering, submitting proof of his being exempt from the registration requirement, or indicating that he has already registered, his name will be removed from the Selective Service file of possible non-registrants SSS 9. If he fails to register with the SSS, his name will be referred to the Department of Justice for investigation and possible prosecution. No further disclosure of the records will be permitted. Currently, SSS retains all source records indefinitely regardless of code.
3. The institution will retain sufficient identifiable data to support its action to disburse or deny benefits in accordance with the record retention requirements of 34 CFR §668.24 and with the requirements found in each of the Title IV, HEA program regulations.

G. Security and Privacy Safeguards

1. SSS and ED will comply with all Federal requirements relating to information security, information systems security, and privacy, including the Federal Information Security Management Act of 2002, as amended by the Federal Information Security Modernization Act of 2014 (FISMA), section 208 of the E-Government Act of 2002, the Privacy Act, OMB Memorandum 08-05, "Implementation of Trusted Internet Connections (TIC)" and all subsequent related memoranda, OMB memoranda related to privacy, and National Institute of Standards and Technology (NIST) directives in the Special Publications (SP) 800 series (e.g., NIST SP 800-53, Rev. 4, and NIST SP 800-37, Rev. 1). Specific security requirements include, but are not limited to, the following:
 - a. Data must be protected at the Moderate system certification criticality level according to Federal Information Processing Standards (FIPS) Publication 199, Standards for Security Categorization of Federal Information and Information Systems.

- b. SSS's Registration, Compliance, and Verification System (RCV) and FSA's Central Processing System (CPS) have completed the security authorization process (formerly called certification and accreditation) within the last three years, using the required NIST guidance, and have an Authorization to Operate (ATO) with the appropriate signatures.
- c. Electronic files are encrypted using the FIPS 140-2 standard and are interoperable with ED's personal identity verification logical access control card (PIV LAC) for Government Employees and support contractors authorized to have an HSPD-12 card (HSPD-12 = Homeland Security Presidential Directive #12).
- d. Electronic files are encrypted while in transit, with the use of FIPS 140-2 product(s) that provide a secure tunnel between SSS and FSA sites.
- e. SSS and ED information systems reside behind a Trusted Internet Connection (TIC).
 - i. FISMA requirements apply to all Federal contractors, organizations, or entities that possess or use Federal information, or that operate, use, or have access to Federal information systems on behalf of an agency. SSS and ED agree that they are responsible for oversight and compliance of their own contractors and agents. SSS and ED each reserve the right to conduct onsite inspections of any contractor or agent who has access to matched data in order to monitor compliance with FISMA regulations during the lifetime of this agreement.
 - ii. ED and SSS will also comply with the personally identifiable information (PII) breach reporting and security requirements as required by OMB Memorandum M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information (PII)." ED and SSS also agree to notify each other as soon as possible, but no later than one hour, after the discovery of a suspected or actual breach involving PII. All incidents involving confirmed or suspected breaches of PII must be reported to the U.S. Computer Emergency Readiness Team (US-CERT) within one hour of discovering the incident.
 - iii. In addition, the agency experiencing the loss of PII will notify the other agency's Systems Security Contact named in Section III of this Agreement. If ED is unable to speak with the SSS Systems Security Contact within one hour or if for some other reason notifying the SSS Systems Security Contact is not practicable (e.g., it is outside of the normal business hours), ED will call Anthony Clark, Chief Information Security Officer, at 703-605-4140, aclark@sss.gov (primary), or Scott W. Jones, Chief Information Officer, at 703-605-4128, scott.jones@sss.gov (secondary). If SSS is unable to speak with ED's Systems Security Contact within one hour or if for some other reason notifying ED's Systems Security Contact is not practicable (e.g., it is

outside of the normal business hours), SSS will contact both the Education Security Operations Center (EDSOC), (202) 245-6550, EDSOC @ED.GOV and Daniel Commons, the FSA Chief Information Security Officer, at (22) 377-4240, Email: Daniel.Commons@ed.gov.

- f. Using established criteria, if the agency that experienced the breach of PII determines that the risk of harm to affected individuals or to the agency requires notification to affected individuals and/or other remedies, that agency will carry out these remedies without cost to the other agency.

H. Records Transmission Scheduling

1. SSS will receive a file each workday (Monday through Friday) from ED. Transmission of the file to SSS should be completed by 4:00 a.m. Eastern Standard Time (EST) daily. SSS personnel will be notified if the transmission of the file will be delayed, and will be given an approximate transmission time. SSS will process the file and return the data to ED as soon as possible, but not later than 11:00 a.m. EST the same workday.
2. Because Federal holidays may not always coincide with the non-Federal holidays of ED's contractor, ED's contractor will not submit a file of records for processing on Federal or non-Federal contractor holidays. The records for those days will be combined with the records for the following day's processing. ED will provide the holiday schedule of ED's contractor to SSS prior to the beginning of the calendar year.
3. ED's contractor will contact SSS immediately if the transmission of the file to SSS is delayed for any reason. SSS will supply to ED and keep current the contact names and job titles of people at the SSS processing center who are knowledgeable about the SSS and ED data match. SSS will contact ED immediately if the processing of the file is delayed for any reason. ED will not process until they receive the SSS transmission. ED will supply to SSS and keep current contact names and job titles of people at ED's Federal Student Aid Data Center who are knowledgeable about the SSS and ED data match. This will ensure 24 hour coverage in case problems with the data transfer occur.
4. ED and SSS will maintain a Disaster Recovery Plan and conduct annual disaster recovery testing. During an actual disaster recovery event, the communication links between ED and SSS will be appropriately routed to the recovery location(s) to maintain communications. During each system's annual disaster recovery test, the communication lines shall be tested from the recovery location.

I. Records Use, Duplication and Redisclosure Restrictions

1. ED agrees that any information it receives from SSS pursuant to this CMA will only be used, as necessary, to verify the compliance statements of applicants for benefits under the Title IV, HEA programs. Also, the information may be used to support criminal

investigations or prosecutions based on fraudulent applications, which may arise.

ED and SSS further agree that they will not duplicate or redisclose any such information, unless required by law to do so, with the following two exceptions that are essential to the conduct of the matching program:

- a. When duplication or redisclosure is part of the normal status verification process as required for internal management and administrative procedures; or
- b. When duplication or redisclosure is needed as evidence to support criminal investigation, prosecution, or other law enforcement activity.

J. Records Accuracy Assessment

The information contained in the systems of records being used in this matching program is personal identification data, including an individual's name, address, and date of birth, gender, and Social Security number. Selective Service registrants and the applicants for Title IV, HEA assistance provides this information directly to ED and, as a result of this Agreement to SSS. Because identifier information in ED's Federal Student Aid Application File is derived from information personally reported by the applicant, a high degree of accuracy in the information is achieved. Registrant data in SSS 9 has a high degree of accuracy because it is either personally provided to SSS by the registrant or it is acquired from highly reliable state and Federal agencies or by ED when a student elects on the FAFSA to have ED send to SSS the information necessary to register. In addition, accuracy is further assured because once a person is registered he is provided an acknowledgment card which requests that he correct any data that may be inaccurate.

K. Privacy Impact Assessment

Section 208 of the E-Government Act of 2002 (44 U.S.C. §3501 note) requires ED to conduct the following privacy impact assessment of this information collection:

The information collected by ED under this CMA is used to verify that male students from the age of 18 through 25 have complied with SSS registration regulations, for the purpose of assisting ED to satisfy its obligation to ensure that an individual applying for financial assistance meets the requirements imposed under the HEA. This verification is mandated by the HEA. The information obtained from SSS by ED will only be used as provided for under Paragraph I of this Agreement. The "Information on the Privacy Act and use of your Social Security Number" sections of the pdf FAFSA instructions and FAFSA on the Web Help Text provide notice that ED verifies an individual's SSS registration compliance through a CMA with agencies such as SSS, as do other Federal student loan program forms; submission of a FAFSA and participation in the Federal student loan programs is voluntary. The information obtained from SSS under this Agreement will be secured pursuant to the procedures described in Paragraph G of this Agreement. No new system of records is being created for this collection because ED's Federal Student Aid Application File system of records notice (18-11-01) already covers the data that ED obtains through this CMA, and there is a routine

use in this system of records notice that permits ED to disclose information from this system of records to third parties through computer matching programs in connection with the determination of program eligibility and requirements, such as SSS registration compliance. Thus, this collection comports with applicable Privacy Act standards and section 208 of the E-Government Act of 2002.

L. Comptroller General Access

The Government Accountability Office (Comptroller General) may have access to all ED and SSS records as necessary in order to verify compliance with this Agreement.

M. Approval, Duration and Modification of the Agreement

1. Transmittal Letter Begins Review Time. When this Agreement has been approved by the respective Data Integrity Boards of ED, as the source agency, and of SSS, as the recipient agency, SSS will transmit notice of this matching program to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB), as is required by Subsection (r) of the Privacy Act [5 U.S.C. §552a(r)] and OMB Circular No. A-108. The time period for review outside the agencies begins on the date of the transmittal letter.
2. Matching Notice Publication. SSS will forward the transmittal letters and the Report of the Matching Program to the Congress and OMB for review. SSS will forward the Public Notice of the proposed matching program for publication in the *Federal Register*, as is required by Subsection (e)(12) of the Privacy Act [5 U.S.C. §552a(e)(12)] and OMB Circular No A-108. The matching notice will clearly identify the records systems and categories of records being used and state that the program is subject to the review afforded OMB and Congress. SSS will provide to ED a copy of the published notice, the transmittal letters, and the Report of the Matching Program.
3. Effective Date of the Agreement. The re-established matching program will be effective on the latest of the following three dates: (A) July 2, 2017; (B) 30 days from the date on which SSS publishes a Computer Matching Notice in the *Federal Register*, as required by 5 U.S.C. §552a(e)(12) and OMB Circular No. A-108, assuming that SSS receives no public comments or receives public comments but makes no changes to the Matching Notice as a result of the public comments, or 30 days from the date on which SSS publishes a Revised Matching Notice in the *Federal Register*, assuming that SSS receives public comments and revises the Matching Notice as a result of public comments; or (C) 60 days from the date on which SSS transmits the Report of the Matching Program, as required by 5 U.S.C. §552a(r) and OMB Circular No. A-108, to OMB, the U.S. House Committee on Oversight and Government Reform, and the U.S. Senate Committee on Homeland Security and Governmental Affairs, unless OMB waives any days of the 60-day review period for compelling reasons, in which case 60 days minus the number of days waived by OMB from the date of SSS's transmittal of the Report of the Matching

Program.

4. Length of the Agreement. This Agreement shall remain in effect for eighteen (18) months from the effective date, unless earlier terminated or modified by agreement of the parties. This Agreement may be extended for up to one (1) additional year by the signatories or their successors if the Data Integrity Boards of both parties approve the extension within three months before the expiration date of this Agreement. The Data Integrity Boards may authorize extension of this Agreement only if (1) the program will be conducted without change, and (2) the parties provide written certification to the Data Integrity Boards of each agency that the program has been conducted in compliance with this Agreement. The parties understand that any new agreement must be reviewed and approved by the Data Integrity Boards of each agency.
5. Termination and Modification of Agreement. This Agreement may be terminated by either party upon written notice to the other party. The termination shall be effective 90 days after the date of such notice, or a later date specified in the notice, so long as such later date does not exceed the original completion date, or if extended, the extended completion date of the match. This Agreement may be terminated at any time with the consent of both parties.

The Agreement may be amended at any time by a written modification which: (A) satisfies both parties, (B) is approved by the Data Integrity Boards, and, (C) if necessary because the amendment will make a significant change to the matching program, provided that the amendment is not implemented until at least 30 days from the proper publication of a notice of a modified matching program in the *Federal Register*, and that, at least 30 days prior to the publication of the notice of a modified matching notice in the *Federal Register* a report of a modified matching program was transmitted to Congress and OMB, except if OMB grants a waiver of any days of OMB's 30-day review period for specific and compelling reasons shown in which case the report of the modified matching program would only have to be transmitted to OMB within the expedited review period approved by OMB.