

18-09-03

SYSTEM NAME:

Employee Conduct—Government Ethics.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Ethics Counsel Division, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW., Room 6E231, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information about current and past Department employees (1) who have requested and/or received advice or guidance in subject matter areas relating to employee conduct, or (2) who are required to attend ethics training.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains documents and records not covered by two government-wide executive branch Privacy Act systems of records of the Office of Government Ethics (OGE): OGE/GOVT- 1 and OGE/GOVT-2. These documents and records may include, but are not limited to, information relating to acceptance or offer of gifts, entertainment and favors, or outside employment; financial interests; use of government funds, property, or official information; partisan

political activity; compliance with ethics training requirements; or other matters relating to employee conduct.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 95-521, Ethics in Government Act of 1978; Pub. L. 101-194, Ethics Reform Act of 1989, as amended; and Executive Orders 12674, 12565, and 11222, as amended.

PURPOSE(S):

The records in this system are maintained in order for the Office of the General Counsel to provide advice and guidance in subject matter areas relating to employee conduct and to ensure that employees comply with ethics requirements.

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

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* 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 prosecutive responsibility within the receiving entity's jurisdiction.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records 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.

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

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

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

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

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

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation 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 of Education, or any component of the Department; or

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

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

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

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

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

(c) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate

disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, counsels, representatives and witnesses.*

If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) *Freedom of Information Act (FOIA) Advice*

Disclosure. The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(6) *Congressional Member Disclosure.*

The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(7) *Office of Government Ethics Disclosure*. The Department may disclose records to the Office of Government Ethics if the disclosure is relevant to the Office of Government Ethics' review of the Department's ethics program or if the Department seeks the advice of the Office of Government Ethics on matters relating to the Department's ethics program, including, but not limited to, the program's structure and staffing, education and training, counseling or advice, public financial disclosures, confidential financial disclosures, outside employment and activities, or post employment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:
STORAGE:

Paper records are kept in legal size files in filing cabinets; electronic records are kept in a database maintained and managed by the Ethics Division of the Office of the General Counsel.

RETRIEVABILITY:

These records are retrievable by name in most cases.

SAFEGUARDS:

These records are only accessible to staff of the Ethics Division of the Office of General Counsel. Paper records are kept in filing cabinets that are locked after

the close of the business day, and electronic records are kept only on authorized users' computers, which are password-protected.

RETENTION AND DISPOSAL:

The records in this system will be retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule (GRS) 25 for Ethics Program Records.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel, Ethics Division, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW, Room 6E231, Washington, DC 20202.

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 Department of Education's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

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

CONTESTING RECORD PROCEDURES:

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 at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from individuals who request advice and from employees and other Department records in connection with the administration of the ethics training program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.